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**COMPARATIVE SURVEY OF
NIGER/NIGERIA TRADE REGIMES**

**Part II:
Customs Procedures and Tariffs of Niger and Nigeria**

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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COMPARATIVE STUDY OF THE LAWS AND REGULATIONS ON TRADE AND
CUSTOMS
PROCEDURES AND TARIFFS OF NIGER AND NIGERIA

(Part I: report by Mr. ROUSSEL)

PART II: CUSTOMS PROCEDURES AND TARIFFS

Preliminary note

The first, and most important, item of information we were given when we first established contact with the Ministry of Economic Promotion concerned the repeal of the licensing requirements for exports and imports under Decree No. 90-146/PRN/MPE, enacted on July 10, 1990. Given the importance of this new law, a photocopy is included in Annex (1). The dozen or so reports and studies which the Agency for International Development gave us for review all called for such liberalization of international trade. It was imperative for us to take this important decision into consideration in our thorough examination of these texts, and in all subsequent working meetings and interviews, even though we were only able to obtain the full text of the decree on September 4th, along with implementing regulation No. 28/MPE/DCE of August 16. The later is included in Annex (2). Articles 4 and 6 of the new law, No. 90-146, do in fact provide that imports, as well as exports and reexports, will be exempted from obtaining a title.

Preliminary comment: What is the exact meaning of the word "title"? According to Mr. J.L. MOURALIS, in his commentary on the laws and regulations governing Niger's foreign trade, such "titles" in international trade transactions are:

- special authorizations for import, export and transit;
- import and export licenses;
- certificates of importation, origin and packaging.

It would have been preferable had the Decree been more specific given that certificates of origin at least are still required (this has been confirmed by the Customs Service of Niger), in order to allow for preferential tariffs to be applied, for instance for products originating from the ECWA.

The implementing regulation of August 16, 1990 provides for a "single-stop" process to handle all the formalities required for any international trade operation. The text of this regulation further defines the responsibilities of this single-stop facility, which will have its head quarters at the Niamey Chamber of Commerce and will have departmental branches (affiliated "single-stop"

offices).

Obviously, this single-stop facility was not yet operational when this report was drafted, and the concerned Ministries will have to hold many more meetings before the person or persons in charge are appointed and able to assimilate all the regulations to be provided to economic operators. We believe that this single-stop facility should be staffed with several persons, including an experienced Customs officer. The staff will have to handle questions dealing not only with the formalities and requirements to carry out any operation, but with procedures for clearing customs, tariff schedule numbers, and various tax rates for merchandise. Given the importance of the information to be provided, it is crucial that it be correct. Furthermore it would be absurd if an economic operator did not obtain all of the information required on the spot, and that had to be sent elsewhere for information he was unable to get from the single-stop facility.

The single-stop facility should be operational in a few days. The Ministry of Economic Promotion, the Customs Office and other agencies are holding frequent meetings to settle any outstanding issues. As of today, Customs no longer requires licenses and is overseeing compliance with the other provisions of the implementing regulation:

- filing with the trade register
- payment of the patente (commercial tax required for the opening of a business)
- payment of dues to the Chamber of Commerce and to the Nigerien Council of Public Transport Users (CNUT)
- authorization to engage in trade for non-nationals.

It should be noted that previously each of the seven copies of the license had to be issued a tax stamp of 1000 CFA francs, totalling 7000 CFA francs. We were unable to determine how much the Treasury stands to lose as a result of the repeal of the licensing requirement. Will the State choose to make this a gift, or will it seek to find an alternate source of revenue?

The mandate of our mission was to carry out a comparative study of, first, the procedures to clear Customs in Niger and Nigeria, and, second, a comparison at the local level of trade operations at the border. This border extends over 2000 km and separates a nation of 7500000 inhabitants, of which over 4000000 live in the border region under consideration (source: statistical yearbook, 1988-89, April 1990), and a federation of States with a population of close to 120 million, a third of which (32 million as of June 87, out of a total population of 108 million) live in the border states of Sokoto, Katsina, and Borno. In actual fact the excellent road infrastructure extends far south into the country, through the hinterland, thereby increasing the number of people affected by trade with Niger.

Some background formation is in order at this point. There are significant differences between Niger and Nigeria. First of all

there is the spoken language. Very few people in Niger speak English, and even fewer people in Nigeria speak French. Furthermore, Nigeria, as a former British colony, and Niger, as a former French colony, developed according to widely different principles and customs, with vastly different administrations, and this is apparent at every step of the way. Their outlook and approach are completely different. This holds true in almost every respect, and in all areas of activity. There are very few direct contacts between the two countries, and there is no direct air service between Lagos and Niamey. ABUJA is soon to become the administrative capital of Nigeria, less than one hour's flight from Niamey. If, however, there are no changes in air service, passengers will have to stop over in Lomé, Cotonou or Abidjan as they presently do, leaving the next day, spending altogether over 24 hours in travel.

The only bright spot in terms of potential trade is the Niger-Nigeria Joint Commission. In the future it may be that ECOWAS can help to bring the two countries closer together.

However matters are quite different along the border between the two countries. This border was artificially created by the colonial powers. It is not the result of a naturally occurring obstacle such as a river. The peoples on either side of the border speak the same language, Haoussa, and not only belong to the same ethnic group but in some cases to the same families. A tradesman in Maradi may well have a brother, also in trade, in Kano. The different laws and regulations of both countries are frequently ignored and superseded by ancestral customs and traditions. This should be stressed.

A. CODE AND TARIFFS OF NIGER-CUSTOMS FORMALITIES

There is little use in comparing the Customs codes of the two countries point by point. For that matter we would have had neither the time nor the financial resources to do so, as we were unable to obtain the Code of Nigeria.

The "Code" of Niger is set forth in law No. 61-17 of May 31, 1961, and in the decree of October 14, 1961. Several other regulations which refer back to these laws were adopted in the intervening period, from November 1961 to March 1972, and it is probable that others have been enacted subsequently, even up to this day.

This code cannot be found. It has close to 180 pages of text. Thanks to Mr. Diallo Mamadou, who was most helpful and lent us his personal copy to make photocopies, we had access to the Code for the purposes of our study.

As to whether this document is up to date, it most probably is not. There have been many amendments, as well as new legislation since 1972, including executive order # 817 of November 18, 1986, on the

jurisdiction of the various customs offices.

The study conducted in parallel with this one on the legal aspects of legislative provisions brings out the inconsistencies, gaps and anomalies of the texts, as well as the lack of adequate information and legal publication. We do not wish to go over ground that will be covered in the other report. It is however understandable that the Customs Office is not able at this point to reliably update and publish a new version of the Customs Code, for lack of financial means. In addition, it should be noted that ECWA has developed a draft "Harmonized Customs Code" in Ouagadougou for its member states. This work was prepared in cooperation with the Customs Offices of the five countries, and most likely with the help of experts from the Customs Cooperation Council (CCC), although we were not able to get confirmation of this...It is not, strictly speaking, a legal "Code", but rather a set of standards for compliance which are consistent with those set forth in the Kyoto Convention of the CCC. This draft text is expected to be adopted, after review by the member states, toward the end of 1991. But each member state will then have to draft its own legislation and national code, in the framework of the standards developed. This is another extensive, time-consuming undertaking that the Customs Office will have to carry out with the help of a legal expert. It would be surprising if this work were to take only one or two years. It is therefore reasonable to expect that the new "Customs Code of Niger" will not be ready before 1994, unless work begins immediately. In the meantime, Mr. Diallo Mamadou has undertaken to compile a compendium of legal texts on customs clearing procedures currently in effect, which will be given to Customs agents and officers, first and foremost to the staff of the single-stop facility when it becomes operational, and will be made available to economic agents.

The first part of this study will therefore be limited, insofar as customs is concerned, to a description of both countries' formalities for clearing imported, exported and reexported goods (erroneously referred to as goods "in transit"), and will not venture into a detailed description of other customs regimes which do not have a direct bearing on our subject of inquiry.

The second part of this study will deal more specifically with trade, particularly at the border with Nigeria.

We will naturally consider the current situation in light of recent changes. Again, in Niger these concern trade liberalization.

I. REGIME COVERING IMPORTS OF CONSUMER GOODS

A) Imports at Customs offices handling all merchandise

Inland: all offices in Niamey (road-right bank and airport)
At border points: Agadez (Algeria); Diffa (Nigeria);

Birni/Mkoni (Nigeria); Gaya (Nigeria and Benin)

The offices at border points can only clear merchandise destined to these points, or to their immediate vicinity. Goods destined for localities which come under the jurisdiction of an office located inland (for instance Niamey or Maradi) must be sent to these offices, and may not be cleared elsewhere. Such merchandise must be accompanied by a DOMESTIC transit manifest, or a TRIE card (Inter-state transit) for ECWA countries, and be escorted by a Customs agent.

1. Customs formalities

-at the Customs office at the point of destination, or at the border point, provided that these formalities can be handled there (cf. restrictions above);

-Unloading the truck is not compulsory, unless the merchandise contains several shipments with different consignees. In this case, the importer has 21 days to clear Customs. Public warehouses do not exist. All major importers or forwarding agents come under the regime of fictitious warehousing, which is exempted from warehousing fees.

-Filing of a declaration by the importer or the forwarding agent, on a SYDONIA form.

-Validation of this declaration.

-Verification of the declaration, by checking the merchandise to establish that it fits the declaration, plus a physical inspection if deemed necessary.

-Removal of merchandise upon proper cash payment or payment in the form of "Removal credit" which is later recovered by the Treasury.

2. Any other procedures required by Customs

-The certificate of origin is still required for merchandise originating in ECOWAS

-Customs requires or may require various other documents such as originals invoices, bills of lading, lists of individual parcel numbers, technical specifications if necessary and other documents required by health laws and regulations.

-Going through an authorized broker is not required (there are five of them at present), but it is recommended given the complexity of customs tariffs.

-The import/export business only requires a prior authorization from the Regional Development Council in the case of non-nationals.

-The government of Niger is apparently engaged in negotiations with an inspection firm (VERITAS). If an agreement is reached, the importer will be required, at least for certain goods, to show a "certificate of quality" issued by this firm. As the modalities for enforcement are not yet known, we are not in a position to comment on this measure. It may however add additional constraints given that these firms tend to set high standards.

B) Imports at offices handling only border traffic

There are one, and in some cases two, offices at the border with each neighboring country, Algeria, Burkina Faso, Mali, Lybia, Chad, but with Nigeria there are 20 offices along the 2000 km border, or an average of one office every 100 km, with no natural obstacles. In passing, it is worth noting that total import and export tax receipts from the offices along the Nigeria border amount to barely 10% of all Customs revenue (according to a Customs Service estimate).

Customs formalities

Imports are not subject to licensing requirements and are not limited as to value; most imports go to the informal sector.

-Verbal declaration by the importer to the Customs agent.

-Filling out by the later of a receipt in triplicate (one for the importer, one for the Customs Service and one for record keeping).

-The computation of duty is based on a schedule of values set by the Customs Service; given that importers are either not able to present invoices, or present illegible or convenience ones, the Customs Service instructs the directors of the regional Customs Offices to determine the sales price, in the neighboring country, of the merchandise likely to be imported, in this case Nigeria, to provide the Customs agents with a basis for taxation.

These schedules of taxable values are reviewed regularly.

C) Schedule of tariffs and taxes owed

The Nomenclature

The schedule of duty at entry and exit into and from Niger was published by ECWA on the basis of the CCC nomenclature but dates

back to 1975. It is therefore inconsistent with the so-called "Harmonized" System" adopted by the CCC on January 1, 1988. ECWA is currently preparing a new edition of the schedules, based on the Harmonized System, only expected to be published in 1991 or 1992.

The Niger schedule is published in the form of one volume, 40 cm long, 30 cm wide and 8 or 9 cm thick. Clearly it is not easy to handle. It weighs close to 2 kgs. It was at first designed to accommodate loose leafs, so as to replace pages as changes were introduced, but the replacement pages were never published. The schedule has therefore been written over many times, has had lines scratched out, and many additions which overlap. Over fifteen years, there have been many changes, and there have been many civil servants, some conscientious, some less so, making the entries. This explains why the information gathered may vary from one office to the next. Add to this the fact that the data had to be entered into the SYDONIA system, which, along with the variations in the degree of reliability of these entries, may explain why some offices seem to have neglected to diligently update their own schedules. This is one hint of the potential problems the staff of a "single-stop" facility could encounter without support from professionals in Customs.

It was not possible to determine the status of the ECOWAS project, which will have to be harmonized with the ECWA project in order to create a single nomenclature. It is clear, though, that ECWA and ECOWAS are each working separately and are not cooperating in this endeavor. This presentation will deal extensively with the codification of the "Harmonized System" which was covered, at the behest of the CCC, in the "International Convention on the Harmonized System for Designating and Codifying Merchandise", held in Brussels, where the seat of the CCC is located, on June 14, 1983. This convention has been adopted and ratified by many of the 112 member states of the CCC, including Nigeria, but unfortunately so far not by the ECWA countries.

There are, therefore, many discrepancies between the nomenclatures used by Nigeria and Niger.

To better understand the "harmonized system", a brief explanation of how it works is in order.

- the SH nomenclature is divided into 97 chapters which cover all possible categories of goods.

- the code number for each category always consists of three groups of two digits.

- the first group of three digits refers to the chapter where the merchandise can be found:

example 07.03: onions, shallots, garlic, leeks and other vegetables of the onion family, fresh or refrigerated.

- the third group of two digits points to the sub-position

within the chapter:

example 07.03.10: onions and shallots

An individual reporting to Customs, and wishing to export or import fresh onions only has to declare: "07.03.10 onions" and there can be no doubt as to the exact nature of the merchandise.

It may turn out that the third group of two digits will be allowed to expand to give each country the option to diversify these sub-positions for economic reasons, or for the purpose of applying different rates to certain goods. The code numbers for chapters and locations within the chapters on the other hand may not change.

Given that Niger's nomenclature is not yet in conformity with that of the SH, onions are included under code number 07.01.45, as with other ECWA countries, whereas in Nigeria, they come under category 07.03.10.

We can only hope that ECWA will not be long in bringing their system in line with the rest.

Tariffs

1. For goods not originating in ECWA

a) Customs duty (CD): set at 5% across the board, but collection may be suspended temporarily for certain products; eg. long conservation milk, cola nuts, sugar, salt, etc.

b) Taxes: basically variable, they have gone down substantially since 1988, and were readjusted upward as of August 10, 1990.

Customs duty and taxes, ad valorem, are calculated based on the CIF value of merchandise.

However, in some cases, the taxable value is set by the Customs Service; it then becomes a so-called market list-price value based on the CIF value if the goal is to promote imports, and set higher than the CIF value if the goal is to discourage imports. This is the case for milk and salt which is taxed on an amount below normal value, and for cement, taxed on an amount higher than the normal value in order to protect a local cement plant. Petroleum products are taxed on the normal value insofar as far as customs duty and taxes are concerned, whereas the TPP, or tax on petroleum products, is computed on a lower market list-price value. This is far from simple! In this respect, Niger does not comply with the CCC definition of value for customs purposes, and is in violation of the provisions of Decree No. 68-78 of June 21, 1968, which defines the customs value of imported goods.

These finer points will however probably disappear when the new Finance law is drafted, on January 1, 1991.

- c) V.A.T.: the standard rate is 17%
 the reduced rate is 10%
 the higher rate is 24%

As of August 10, 1990, some goods are taxable at the higher rate and no longer at the standard rate.

These rates are computed on the basis of the CIF value plus customs duty and taxes.

- d) The statistics tax (TST) of 3% is computed on the basis of the CIF value plus customs duties and taxes.

e) The taxes formerly known as "specific duties" (product specific) and which are equivalent to excise taxes in some countries just came under a substantial reform, under I.M.F. pressure. Under law 90-20 of August 6, 1990 which is in effect as of the date of enactment (August 10, 1990), these taxes are "ad valorem" and apply to petroleum products (TTC), alcoholic beverages (TBA), tobacco and cigarettes (TTC).

The taxable value is the CIF value, without factoring in any additional taxes; the market list-price value is the basis for calculating the tax on petroleum products.

f) The Community Solidarity Withholding Tax (PCS), instituted under Law No. 90/004, of April 10, 1990, is 1% of CIF value. It was instituted by ECWA for all products not originating in ECWA for the purpose of covering miscellaneous operating expenses incurred by ECWA.

- 2) For goods originating in ECWA:
 -The Regional Cooperation Tax (TCR): the rates are highly variable, and many categories of goods are exempted. A special rate is in effect for ECWA, which allows for the rates of each country to apply.

In actuality, the difference between real rates, that is customs duty plus taxes, for merchandise non-originating in ECWA, and the T.C.R. is calculated so that it may be retroactively recovered by the importing country. ECWA's debt to Niger stands currently at around 500 000 000 CFA francs.

-V.A.T.: goods originating from ECWA are subject to the V.A.T., as are goods originating from other countries.

D) Prohibited imports

Executive order, No. 26/MPE/DCE of July 12, 1990, henceforth determines all categories of merchandise that may not be imported.

Except as provided in a special authorization issued by the Minister of Trade, the following products are prohibited for importation:

-petroleum products designated by the following tariff schedule

numbers: 27.10.10 to 27.10.55;
-matches;
-laundry detergent (OMO) ex-Nigeria

Comment:

1. The mention of tariff schedule numbers 27.10.10. to 27.10.55 for petroleum products is extremely valuable for Customs as it makes it possible, simply by referring to the nomenclature, to determine precisely which petroleum oils and lubricants under number 27.10, are targeted in this measure;
2. For matches, there is no mention of the tariff schedule number 36.06.00. This particular category of merchandise does not lead to confusion, however we recommend that every time goods are specifically mentioned by name in a legal text which affects Customs, the tariff schedule number be included.
3. The tariff schedule number for laundry detergents is 34.02. However, when reading the added mention of "(OMO)ex Nigeria", Customs agents will have to infer that, *stricto sensu*, other brand name detergents, such as "Elephant", and that OMO detergent not manufactured in Nigeria are not prohibited.

II. REGIME COVERING IMPORTS IN TRANSIT, OR MORE ACCURATELY
"REEXPORTATION"

a) Description

95% of Imports designated as "in transit" in Niger are imported through Benin: from Cotonou to Parakou by rail, and from Parakou to Gaya and then to Birni N'Konni, Zinder and especially Maradi, by road.

There is no transit tax in Benin. Road transport is done by trucks, which belong to the joint Benin-Niger organization (OCBN), or by privately owned trucks, which operate under the OCBN umbrella.

Starting in Parakou, transport is covered by a "Road Transport Record", CTR, or TRIE (ECWA Inter-state transit), up to the declared point of destination. Let us use Maradi as an example. This involves domestic transit.

From Gaya, at the Customs check-point at the Niger-Benin border, the truck travels under Customs escort.

In Maradi, the CTR is checked, the truck is completely unloaded and the merchandise placed in a special warehouse, or in a fictitious warehouse under the name of the consignee, under Customs control, while awaiting a Customs destination.

To remove this merchandise from Customs facilities or the fictitious warehouse, the importer will declare part of its contents (around 20% according to the Customs Service estimate) for local consumption, and pay the duty and taxes owed accordingly.

The importer then declares the rest of the merchandise under a "reexporting declaration", with Nigeria as the destination, and pays the reexporting taxes. The merchandise is then sent on, under Customs escort, to the Customs office located at the border, on the Niger side, where Customs records the actual exit of the merchandise and validates the reexport declaration accordingly. Customs is in no way concerned with what goes on once the goods have crossed the border, but it seems to us more than likely that part of these shipments find their way back into Niger illegally. Clearly, as far as Customs procedures are concerned, the use of the term "transit" is incorrect. Goods in international transit status would be, for instance, a shipment being sent to a tradesman in Kano which would go through Benin and Niger, accompanied by a TIR (International Road Transport) up to its final destination, without payment of any taxes or any sort, except where applicable in exchange for services rendered along the way.

One could also imagine a situation where, as was the case in the previous example, merchandise being shipped to Maradi leaves the fictitious warehouse (as provided by Article 83 of the Customs code) accompanied by a proper declaration of transit with a Nigerian tradesman as consignee. In this case the declaration of transit would be verified not just at the exit point out of Niger,

but would additionally require evidence of legal importation into Nigeria.

This type of transit would take place without payment of any taxes, save the statistics tax, set at 3%; in fact there wouldn't even be any fictitious warehousing fees.

By the same token, it is not hard to see why Nigerian traders would have little interest in making sure that their merchandise is "legally" imported into Nigeria, given the customs tax rates in effect in this country, and particularly in view of the fact that there are many prohibitions on imports.

This explains why the "declaration of reexportation" meets with their approval, although it is less than orthodox from the customs standpoint.

Current "reexportation" taxes are set forth in circular No. 5/DGD of February 1, 1990. The special reexportation tax (TSR) varies from 4% to 7.40%(!), and there is the additional 3% statistics tax. Because the later is computed on the basis of the value of the merchandise plus the TSR, circular No. 5/DGD sets forth a tax schedule, giving the cumulative applicable tax, as follows:

-synthetic fabric:	9.18%
-other textiles	7.12%
-clothing	7.12%
-cigarettes	10.68%
-second hand clothing	10.21%
-other merchandise	7.12%

It is worth noting, and this will be discussed in more detail later, that the importation of the five categories of merchandise just mentioned is prohibited in Nigeria, that second-hand clothing in particular is "absolutely prohibited", as are many other categories. A whole paragraph will be devoted to Nigeria's prohibitions on imports.

b) Report by the Maradi Chamber of Commerce (August 1990)

Traders involved in these types of trade patterns are complaining that these taxes are too high and that if they are not brought down they will have to stop doing business.

In Maradi we met with Mr. CHAIBOU LAWALY, the regional director of the Chamber of Commerce, who gave us a particularly pessimistic assessment of the situation. In a report on the economic situation in the Maradi Department, made in August 1990 before high ranking officials, which was brought to our attention (even though we were unable to have access to the only existing copy in circulation), he describes the situation as calamitous.

The prosperity of Maradi and other towns in the border region is tied to trade with Nigeria. According to him, customs "transit" revenue (by this we mean reexportation) over the last decade reached 25 billion CFA francs. The value of these transactions, in other words, are on a par with turnover in the banking sector, and the various economic activities connected with the movement of merchandise, such as transportation, hotels, restaurants, etc., are also estimated to be within the 50 billion CFA francs range. This comes close to a total of 100 billion CFA francs over ten years just for the Maradi region, and most likely close to 200 billion for the whole border region. It is of course impossible to confirm or discount these figures, but everything we heard was of a nature to confirm the fact that the local economy is in shambles. The JANGORZO hotel has 102 rooms. In the past Nigerian customers had to be turned away weekly, and now the occupancy rate barely reaches 15%, and is accounted for almost entirely by "technical advisors" passing through. In the past, Nigerians could book a room for 30 nairas; today the rate is 300, with the net result that they have stopped coming, and traders in Niger have lost their buyers.

The taxes on reexporting are not the only causes of this phenomenon. The low value of the Naira is the primary cause underlying the deteriorating market.

In addition, while it is in Niger that this type of trading started, other countries have hit on the opportunities it affords. Similar operations are now taking place along the border with Benin, Cameroon and even Chad, in many cases with lower transportation costs, thereby creating direct competition. Economic operators are dissatisfied with government inaction and wonder what might be done to remedy the situation. The Chamber of Commerce is bombarded with questions it cannot answer.

If nothing can be done in Niger to counter the low value of the Naira and competition from other countries, perhaps something could be done in terms of eliminating the tax on reexported goods. The loss of earnings in tax revenue would probably be offset by an economic upswing, or increased trading in the region.

Before we left for Nigeria, we were given to believe that the gap between the official and parallel rates of the Naira was closing. This information came from several sources. We cannot agree with this assessment. At the official exchange rate, the Naira was worth 0.795 USD, and at the parallel rate 0.95 USD. In relation to the CFA franc:

Official rate:	2500 CFA francs = 80 Na
	100 CFA francs = 3.125 CFA francs
Parallel rate:	2500 Cfa francs = 95 Na
	100 Na = 2650 CFA francs

This amounts to a 18% difference between the official and the parallel rates. This is by no means insignificant.

Of course, these figures are those of the week of August 20th. They can change from one day to the next.

C) The Niger-Nigeria road transportation Agreement of July 18, 1990

This agreement was just signed in the framework of the Niger-Nigerian Joint Commission. We were apprised of its content when we visited the Embassy of Niger in Lagos.

This agreement covers freight allocation, technical specifications for vehicles authorized to handle these types of shipments, administrative requirements for road travel, etc.

The agreement also determines which roads may be used for the transport of merchandise in transit, and which customs offices can handle such shipments.

Let us be perfectly clear: this agreement covers real transit, international transit, and not the process of reexporting as already discussed. Furthermore it should be pointed out that such transit is at present practically non-existent between the two countries, save for the occasional transshipment of donations or supplies provided by NGOs.

In Niger the authorized roads are the following:

Maradi-Dan Issa
Zinder-Matayeme
Zinder-Magaria
Agadez-Tahoua-birni N'Konni
Zinder-Goure-Maine Soroa-Fiffa-N'Guigmi-Bosso
Magaria-Sassoumbouroum
Niamey-Dosso-Gaya-Dioundiou
Niamey-Dosso-Doutchi-Konni-Maradi-Zinder

Vehicles carrying goods in international transit must be processed at the following customs points upon entering or exiting Niger:
Dan Issa-Matayeme- Magaria-Madaoua-Birni N'Konni-Dosso-Sassoumbourou-Dioundou and Gaya.

Because this agreement is recent, the Customs Office of Niger has not yet been apprised of its contents; as soon as it is, appropriate instructions will be transmitted in the normal way to the implementing offices and to the Regional Director. The Customs Service should stress that this only involves true international transit, even though it is almost non-existent, to avoid any confusion with the other form of international transit which amounts to nothing more than reexporting.

III. REGIME COVERING EXPORTS

a) Customs formalities

Export procedures, as with imports, are completed:

1) At duly authorized Customs offices, by filing of an export declaration, validated in accordance with the SYDONIA system, and upon payment of any duties or taxes owed, regardless of the country of destination even in the case of merchandise exempted from export duty.

2) At offices handling border traffic, with a verbal declaration by the exporter, and validation by the Customs agent of a receipt in triplicate, as with imports.

Export licenses are no longer required. New provisions are to be adopted to control the repatriation of foreign currencies.

In some cases (for instance for products intended for ECWA), the exporter will have to obtain a certificate of origin from the Chamber of Commerce and have it validated if he wishes to benefit from preferential tariffs in the country of destination. The exporter is also expected to comply with health, phytosanitary, veterinary regulations, etc...

Failure to produce one or the other of these documents shall not necessarily constitute cause for blocking the transaction, but the exporter will be informed of what may happen at the point of destination.

The same holds true for the certificate of quality, which may be required and would be issued by an inspection firm, in cases where such a document is required by the country of destination. This is true for Nigeria, where, in addition to the certificate of quality, a certificate of origin is required from the Nigerian Embassy in the country exporting the merchandise (we will deal with this at in more detail later).

In a report by Mr. M. Mouskoura, we read the following statement, made during an interview with the Director of Sonara, on March 16, 1989: "We should also mention our endless discussions with the inspection firm represented by the VERITAS office in Lagos. For each contract for the sale of our products, this outfit is responsible for checking the quality of our products coming from Niger, before they are exported, in the areas set aside for warehousing; they also check the existence of stocks and the price levels as compared to prices throughout the region. This requirement often holds things up for several months, but we must comply as otherwise we would stand to lose our markets." As we will see further on, conducting trade LEGALLY with Nigeria is anything but simple.

b) Schedule of duty and taxes owed on exports

-Uranium: one rate for exit duty of 1% a.v.

-Products manufactured by Nigerian industry: 3 % exit tax

-Farm and animal products: 3% exit tax

This 3% rate is, however, largely theoretical: it applies not to the real value of the product, but is based on a fictitious value far below the real value. The finance law of March 30, 1988, applicable to the 1989 budget, sets these taxable values as follows:

-Bovines:	10 000
-ovines:	3 000
-caprines	3 000
-camels	10 000
-fresh meat	300 CFA francs per kg
-dried meat	500 CFA francs per kg
-onions/garlic	30 000 CFA francs per ton
-niebe	40 000 CFA francs per ton

Thus, the value of a single head of cattle is set arbitrarily at 10 000 CFA francs when its real value is close to 120 000 CFA francs.

The exporter will therefore only be required to pay 300 CFA francs in exit taxes, when he should be paying 3 600 CFA francs. What is the reason for this measure? Its purpose is to keep the exit tax as low as possible in order to promote exports. Why not then do away with this tax entirely, lifting all tax restrictions on exports? Nigerien authorities feel that a very low rate of taxation is a psychological constraint for the exporter.

Indeed, the argument goes, if a product were totally exempted from duty, the exporter would not understand why he should still be under the obligation to go through Customs. At present, the exporter knows there is a tax, however insignificant, to be paid. We were not convinced by this argument.

The Customs Service of Niger nonetheless keeps detailed statistical records in order to determine the amount A.I.D. is providing in compensation for the loss of export duty.

-Reexportation of nationalized goods

Nationalized goods which are reexported should not be confused with merchandise in transit which is being reexported. Merchandise in transit is under constant customs control and does not give rise to the payment of any import duty. Nationalized merchandise has cleared Customs in the usual way, with all duty and taxes paid, for the purpose of being used in the country. From a custom standpoint, we consider that it is in "free practice". If such merchandise is reexported, even though all import taxes have been paid, it is treated in the same way as reexported goods in transit and consequently is taxable at the 6% + 3% rate.

For this reason it is far more profitable to reexport merchandise which is supposedly in transit than to decide to reexport nationalized goods.

It should be pointed out that this circular specifies that this tax schedule is applicable to goods being shipped to Nigeria.

Merchandise that might be reexported to Mali, Burkina Faso or Benin would be taxed only at the 3% rate.

IV. OTHER REGIMES

A) TEMPORARY IMPORTS

Article 64 of Decree 61-211 of October 14, 1961 only covers certain items (for instance: personal vehicles), or certain travellers (or staff working on technical cooperation projects) temporarily residing in Niger, who may import certain goods for a limited period and under certain conditions. They are under the obligation to reexport within one year, with a possible extension.

Equipment used in connection with certain technical assistance projects may also, under the same conditions, benefit from this regime. This provision exists in most developing countries.

b) Drawback

Article 90 of the Customs Code provides that duties paid on products used in the manufacture of goods which are reexported are either partially or totally paid back.

Articles 61 and 62 of Decree 61-211 of October 14, 1961 sets out the conditions of such reimbursements.

Up until now not a single case has been recorded. But it may yet happen. This would in turn raise the issue of recovering the V.A.T., which technically should be allowed as it is with all other Nigerien products that are exported; however this possibility has not yet been considered.

V. COMPUTERIZATION-SYDONIA

The Academy for Educational Development (AED) recently conducted a study on the Système Douanier Automatisé (Automated Customs System). In addition to the previously mentioned customs offices which are already computerized, namely Niamey DG, Niamey Right Bank, Niamey-road, Niamey-hydro, Niamey-airport, Maradi, Zinder, Arlit, as of June, Tahoua is also computerized. The AED report looks into all of the technical aspects of the computerization process, and recommends that more be done to further strengthen the system in place in order to eventually create a "central data base for exports and imports" (BDCE).

The process has fallen behind schedule over the last several fiscal years, having gotten off to a slow start and lacking qualified personnel. So far it has not been possible to make up for the lost time and several more months are needed to produce reliable and up-to-date figures.

When the rates of duty change, the head of each Customs office can change the entries on the diskettes, and a computer specialist stops by each office at least once a month to make sure that the system is operating smoothly. However, operators complain that either equipment is still lacking or that it is not replaced as it should be, and that the intensive training effort recommended by AED has not materialized. Equipment is already obsolete and overused, and increasingly frequent system failures can be expected.

The Customs Service of Niger works very well in cooperation with the Internal revenue service of Niger (DGI), thanks to SYDONIA, and provides the latter with the necessary data for tax purposes on companies that import and export. This collaboration will be further strengthened as data gathering improves.

We do not wish to dwell on this topic, as efforts are under way with likely results in the near future. Furthermore this does not enter directly into the mandate of our mission. We chose to touch on this topic because Nigeria is also in the process of starting to computerize its own Customs data.

B. CODE AND TARIFFS OF NIGERIA-CUSTOMS FORMALITIES

In Nigeria, unlike most countries, the Customs Service comes under the Ministry of Internal Affairs, not under the Ministry of Finance.

As soon as we arrived in Lagos, we went to the federal government's printing office in order to obtain the code and tariff schedules. The schedule is contained in a supplement to the "Official Gazette", issue No. 1, of January 1, 1988, volume 75, and the corrigenda in issue No. 21 of April 11, 1990, volume 77.

The schedule (433 pages) and the corrigenda (14 pages) have been given to A.I.D.-NIGER.

The schedule is entitled "Customs and Excise Management Act 1958". It can no longer be obtained, either from the printing office, or from the "Nigeria Customs and Excise (NC & E Head Quarters) in Abuja. It has been amended many times. A public information pamphlet explaining the code is in the process of being drafted.

Through our discussions at the NC&EHQ in Abuja and talks with shippers in Lagos, and using the schedule available to us, we were

able to identify the following procedures and tax rates which apply in Nigeria.

I. REGIME COVERING IMPORTS OF CONSUMER GOODS

A) Procedures: Review of "FORM M"

Imports into, and exports from Nigeria are mostly handled through maritime ports (80%), with 15% going through airports and the remainder by road, mostly coming from Benin. There is very little trade across the border with Niger, and this is the reason that Niger wishes to encourage trade along its border.

For the purposes of importing, an importer will usually go through an authorized dealer, but this is not mandatory, and provided that the company has appropriately qualified staff, the following steps can be carried out directly without going through an intermediary:

- 1) A pro forma invoice must be secured from the foreign supplier
- 2) "FORM M" must be supplied to the importer's commercial bank (both sides of FORM M are included in Annex 3). The following additional documents must be attached:
 - 4 copies of the pro forma invoice
 - a receipt for maritime insurance
 - this insurance must be taken out with a Nigerian insurance company;
 - a provisional Customs declaration form must be filled out, to determine exactly the tariff schedule numbers and rates of duty.
- 3) The commercial bank must first present the documents to the Central Bank of Nigeria.
- 4) The Central Bank approves "FORM M", selects a firm to inspect the merchandise, and returns the documents to the commercial bank.
- 5) The commercial bank opens a letter of credit.
- 6) The importer sends his foreign supplier a copy of FORM M, indicating the company designated to inspect the merchandise by the Central Bank, along with a copy of the pro forma invoice and a copy of the letter of credit and any other documents pertaining to the shipment.
- 7) Using the services of a specialized firm for the inspection of merchandise is mandatory.
These firms are:

COCETNA, GRIFFITHS or OMIC (Swiss companies), for imports from the United Kingdom, Australia and Asia.

VERITAS or THIONVILLE (French firms) for imports from other

European and African countries.

SWEDE CONTROL or INTERTEK SERVICES INC (Swedish firms) for imports from North and South America.

The seller is under the obligation to provide all necessary assistance to these companies in the performance of their duties, namely by providing them with lists of comparative prices, catalogues, any technical specifications, and by facilitating any tests and sample analysis that may be required.

8) The designated company must inspect the merchandise for quality and value within fifteen days to ascertain that is in conformity with the pro forma invoice. The cost of the company's work is born by the owner (seller) of the merchandise, and paid for by the foreign exporter.

9) The company then drafts:

a) a "Clean Report Finding" (CRF)

b) an "Import Duty report" (IDR) establishing the exact amount of customs duty to be collected on the total CIF value of the merchandise.

If there is any discrepancy between the pro forma invoice and the merchandise, a "Non-Negotiable Report of Finding" is initiated, which can result in the Central Bank's refusal to make final payment.

10) These documents are then turned over to the importer in Nigeria, through banking channels. They must be accompanied by a "Certificate of Origin" issued by the Nigerian Embassy in the country of origin. Actually, the Embassy in question sends the exporter a blank form that he can fill out himself.

11) The goods can at this point be loaded and shipped to Nigeria.

12) When the merchandise arrives, the importer files with Customs a "Perfect Bill of Entry", along with two checks certified by his bank, one covering the amount of import duty, as it appears on the "Import Duty Report", the other the "Surcharge Account", specifically the "Surcharge Tax" of 7% on duties paid (not on CIF value). There is no statistics tax.

13) Customs then checks the merchandise for content and value, and to insure that it is in conformity with the final invoice.

If it is not in conformity with the invoice, an amended debit note is issued by Customs and a flat fine of 600 Na. is levied, regardless of the amount of duty outstanding. If the amount levied is in excess of the proper amount, a procedure to recover the excess payment from Customs may be initiated. (H.Q.)

14) The goods are cleared and may be removed by the importer or the

forwarding agent. As of this time, it is in "free practice".

If the importer detects in the "Import Duty Report" transmitted by the firm designated to inspect the merchandise an error in the amount of duty computed (see 9-b above), let us say for instance that the rate of 40% is given instead of 25% as it should be, he should request an amending document from the company.

The "Clean Report Finding" is not required for imports of a value less than 5000 USD, but there is talk of reducing this amount, and perhaps even completely doing away with this exemption.

The "Perfect Bill of Entry" must in all cases be presented to the Customs Office, with the mention "Exempted from Preshipment Inspection", and entry duty will be collected.

The Nigerian Customs Service is not very careful about using the correct tariff schedule number, so long as duty is computed on the basis of the actual nature of the goods.

At Customs Head Quarters there is a "Value Division", similar to what the CCC recommends, which carries out a posteriori investigations to determine whether declared value matches the actual CCC "Customs value".

Provided that all of these operations are properly executed, payment in foreign currency can proceed without restrictions, once the importer's bank supplies to the Central Bank of Nigeria all of the following documents:

- the original "FORM M"
- the Clean report Finding
- the bill of lading and transport documents
- the insurance certificate
- a statement of all other expenses
- the "perfect Bill of Entry"
- unloading log sheets

The companies appointed to carry out the inspections are said to be incorruptible, a reputation which unfortunately does not extend to Customs.

Despite these stringent measures, some importers who do not wish to be named, assert that close to 25% of imports are illegal, because of corrupt practices within Customs.

These procedures at first sight appear very constraining. However the shipper we spoke to seemed to have grown accustomed to them over time, and acknowledged that things go fairly smoothly in the end.

b) Tariffs

The "CUSTOMS, EXCISE TARIFFS ETC (CONSOLIDATION) DECREE 1988" was enacted on January 1, 1988, and is in effect for seven years. It is entirely in conformity with the Nomenclature of the CCC Harmonized System, up to and including the sub-positions within the chapters.

This tariff schedule includes:

- 1) Customs duty
- 2) The list of goods exempted (more by virtue of their destination than their nature, including among other exempted categories diplomatic immunity, passenger baggage, commercial samples, etc.)
- 3) The list of goods prohibited for economic reasons. We will review this list exhaustively later on, sub. litera c.
- 4) The list of goods "strictly prohibited" for non-commercial reasons as for example: security (weapons and munitions), morality (obscene publications), danger (white phosphorus matches, items made of inflammable plastic), etc.
- 5) The list of goods subject to excise taxes, which range from 5 to 30%; this list has 182 items. Many types of goods are exempted from the excise tax.

Import duties are set for the years 1988-89, 1990-91, 1992-93 and 1993 and 1994. However these rates may change, and sub-positions in the tariff schedule may be added or deleted, to reflect economic developments. This happened on April 11, 1990, with date of entry into force on January 1, 1990. These changes affected approximately 80 sub-positions; the list of prohibited and exempted items changed as well as the rate of excise taxes. Lastly, a paragraph was added with an "Export Prohibition List". We will be dealing with this list extensively in the section on exports.

C) Import Prohibitions

The exhaustive list of goods prohibited from import follows, taken from Annex 3 of the 1988 Customs Decree. A photocopy of this Annex is included in Annex 4. This list had one minor change made along with the amendment of January 1, 1990.

We felt that it was necessary to provide a complete and detailed translation of this list; the positions and sub-positions as they appear in the Nigerian schedule of tariffs are indicated in brackets. This list may appear haphazard but in reality it follows the format used in the Nigerian list. The schedule position numbers are not the same as in Niger on account of the differences in the two nomenclatures as already indicated.

- 1) Cigarettes (2402.10 to 2402.90);

- 2) Living cocks, hens, ducks, turkeys and guinea-hens, of the domesticated variety (0105.11 to 0105.99); Edible poultry meats and offal, fresh, refrigerated or frozen, position 0105;
- 3) Living plants and flowers (Chapter 6), vegetables, plants, roots and edible tubers in all forms (chapter 7); prepared vegetable (20.01 to 20.05); tomato ketchup and other tomato sauces;
- 4) Hardwood lumber; split stakes; sniped, wood pickets and posts not sawed length-wise; timber laid in or rounded, but not turned, nor compass timber or otherwise worked, for canes, umbrellas, tool handles or similar items; split wood, slats, strips and similar items (40.04);
- Fine wood shavings, wood dust (4405);
 - Sawed timber (4407), veneer (4408), profiled timber (4409), particle board and similar panels (44.10); wooden fiberboard and other ligneous matter (44.11), counterveneer and veneer and similar stratified timber (44.12); so-called "densified" timber in blocs, boards, slats or profiles (44.13);
 - Seats (except for dentists' chairs, medical chairs, hair stylists' chairs and similar items) (94.01), box springs, bedding and similar items (94.04), lighting fixtures and their non-labeled parts not included under any other tariff designation (94.05), prefabricated construction (04.06);
- 5) Bird eggs, shells or fresh, preserved or cooked (04.07.00) (including therefore poultry);
- 6) Edible fruits, rinds of citrus fruit and melon (chapter 8); fruits and the rinds of fruit and other plant parts preserved in sugar (20.06); fruits and other edible plant parts, otherwise prepared or preserved (20.08); fruit or vegetable juice, non-fermented, without alcohol (20.09);
- 7) All textiles fabric and items made of textile (chapters 50 to 63). (Except for some fabric items for industrial and technical use that would be tedious, and useless, to list exhaustively at this point).
- 8) Floor or wall covering, in plastic, rolls, tiles or slabs (39.18);
- bathtubs, showers, washbasins, bidets, toilets and similar items made of plastic (39.22);
 - China and silverware, other household items, hygiene and toiletry items made of plastic (39.24), except for formula bottles;
- 9) Evian water and similar mineral waters, natural or artificial,

carbonated water (22.01), the same waters with added sugar or sweetener or flavoring (22.02), malt beer (22.03), barley (10.03) and roasted malt or bran (11.07);

10) Waste from and fragments of precious metals or plated or lined precious metals (71.12), jewelry, gold plate and objects made of precious metals, costume jewelry (71.13 to 71.18);

11) Rice (10.06) and rice products (no tariff designation);

12) Corn (10.05) and corn products (no tariff designation);

13) Wheat flour and wheat and rye flour (11.01), grain flours other than wheat and wheat and rye (11.02);
Coarse wheat flour, semolina and compressed grains (11.03)

14) Fresh grape wines, bubbly and others (22.04.10 an 22.04.21 and 29);

15) Video games to be used in conjunction with a television set (95.04.10);

-Games played on coin or token-operated machines (95.04.30);

16) All vegetable oil (part of chapter 15), except for linseed oil and castor oil used as raw materials in industry;

17) Aluminum sulfate (28.33.22), alum (28.33.30);

18) Used tires or retreads made of rubber; strips, removable strips for tires, and flaps, made of rubber (40.12.10 to 40.12.90).

We will return to these prohibitions later in this report and will give the duty and taxes on the various categories of goods affected by the Niger-Nigeria trade agreement (lists A and B).

While Niger is considering promoting the development of its own industries and boosting domestic production through tariff-related measures, rather than through quotas on licenses, it should be said that Nigeria, for its part, is taking bold steps in the same direction.

We just gave the list of prohibitions on imports for economic reasons. The Annual Report and Statement of Accounts on December 31, 1989 of the Central Bank of Nigeria states that, in order to achieve these economic objectives, the following tax measures have been adopted as related to customs matters:

a) Certain products included on the list of goods prohibited may still be imported provided a prior, special authorization is obtained from the Minister of Finance and Budget. These goods are then subject to very high rates of tax:

Cigarettes:	200%
Jewelry and precious metals	200%
Coin-operated and slot machines	200%
Veneers and counterveneers	50%

b) Excise taxes on beer, stout, alcohols and wine were raised from 30 to 40%.

c) In order to boost local production:

1) Import duty on raw materials used by certain industries have been reduced:

-spare parts for batteries and electric battery chargers, from 45 to 25%

-iron or steel rolled plates, cold or hot process, from 20 to 10%

-tin and pewter sheets, from 45 to 20%

-spare parts for cars, from 25 to 0%

2) Import duties on certain finished products, also manufactured by local industry and which are competing with it, have been increased:

-needles and syringes, from 25 to 40%

-enameled items, from 40 to 55%

-mosquito-repellent burning coils, from 30 to 200%

-spare parts for motorcycles and bicycles, from 35 to 45%

d) Smuggling, transporting, warehousing, distributing or selling any other prohibited products (including food, beverages such as wine, rice, corn, flour, fruits and vegetables, poultry, used tires or retreads) is punishable by life imprisonment and confiscation of all of the offenders' possessions.

We did note many differences between this report by the Central Bank, produced in 1989, and the Customs Decree Amendment of 1990 (April 9, 1990). It is neither possible nor desirable at this juncture to identify all of the discrepancies: suffice it to give as an example the duty on batteries and parts of batteries (85.06.90), which has not changed, still at 45%, while on the other hand finished products under this same tariff position (85.06.11 to 85.06.20) go from 70 to 200%.

According to our analysis, the changes in the Central Bank's trade policy resulted in the adoption of new measures, at the same time that the tariff changes were introduced, all of which were in response to the same protectionist objectives.

(Regarding mosquito-repellent coils, we noticed that in Niger these items were imported from China. Would it not be more cost-effective, and more in keeping with ECOWAS, to import them from Nigeria?)

II. REGIME COVERING MERCHANDISE IN TRANSIT

For geographical reasons, transit, that is, true international transit, to Nigeria, involves primarily goods transported by truck, from Lagos or Port-Harcourt to N'Djamena (Chad) via Maiduguri. Transit toward Niger, via Kano, toward Maradi, is relatively unusual. The use of rail transport to Kano, and to points beyond, is nonexistent.

Merchandise in transit is entirely exempted from duty and taxes. All the costs to be covered by the consignee in Nigeria are: the cost of loading containers onto trucks (1900 Na), transportation (all the way to Kano, between 400 and 600 Na per ton) and the customs escort (minimal). Transit is of course subject to the payment of a bond to insure that it is properly carried out. This bond however is not in the form of an actual cash deposit, which would tie up large amounts of capital, rather it is provided in the form of a permanent guarantee negotiated by the forwarding-agent with his bank. The bank is under the obligation, as a consequence, to pay any duty or fees owed in the event of failure to execute the transit operation, up to a certain amount which is jointly negotiated with the forwarding-agent based on his volume of business. Naturally the forwarding-agent must be approved by Customs, and the guarantee is provided by the bank for a fee.

The forwarding-agent applies these bond charges to the foreign importer's account at the rate of .25% of the CIF value of shipped goods.

Customs requires endorsement, prior to any operation, from the Embassies of Chad, Cameroon, or Niger, certifying that the merchandise is indeed consigned to an importer in their respective countries.

As proof that transit is proceeding according to regulations, Customs also requires a visa stamp from the Customs Service of the country of final destination, on the "landing certificate", when the merchandise has reached its destination.

For merchandise in transit provided in the framework of international aid (donations, grants, foreign aid programs, etc.) the Embassy of the country of destination must obtain a transit authorization from the Ministry of Foreign Affairs. Foreign Affairs then informs Customs and the forwarding agent to facilitate and if need be to authorize the movement of goods.

Transit is therefore entirely tax-free, but subject to administrative constraints and transport-related risks.

Prohibited merchandise may not come under the transit regime.

III. EXPORT REGIME

A) PROCEDURES

Exports from Nigeria no longer require licensing, but do require prior action by the "Nigerian Export Promotion Council". This agency regulates all exchange and currency repatriation operations. The "Nigeria Maritime Authority" is also involved as it determines where to send maritime freight according to the flag of the freighter. Customs does not levy any duty, but an export declaration must be properly validated.

Physical inspection of merchandise is optional. Tariff schedule numbers that must be included on the declaration are those used in the Harmonized System nomenclature.

b) Prohibited exports

The 1990 "Customs Amendment Decree" sets out a list of products prohibited from exportation. These are:

1. Timber and unprocessed wood
2. Beans
3. Cassava and manioc roots
4. Corn
5. Rice
6. Yam roots
7. All by-products of items 2 through 6 above
8. All food imports
9. All unprocessed animal hides
10. Unprocessed cocoa beans
11. Unprocessed palm nuts

IV. OTHER REGIMES

a) Temporary imports

For equipment and machines used to carry out large-scale public works (road building for example), provided the companies undertake to reexport said equipment after use;

For such temporary imports there is no duty, however in some cases a bank guarantee may be required.

b) Drawback

In those cases where imported goods are used in the manufacture of a product in Nigeria, the company using the imported materials may obtain, provided certain conditions are met, reimbursement of duty paid (Customs Duties and Excise Tax), once proof is given that the finished product is reexported.

This means that standard duty owed is paid when the goods are imported, and returned when they are reexported.

V. COMPUTERIZATION-STATISTICS

The computerization of the Customs Service has just begun, with only two offices computerized so far, on an experimental basis, and only for customs duty (and not excise taxes).

Computerization is done under the auspices of UNCTAD and should consequently lead to a system similar to, if not identical with, SYDONIA...

We were unable to obtain any more information on this topic. We were however able to gather some information about the compiling of statistical data.

When we visited the "Federal Office of Statistics" in Lagos, we were given several brochures, including the "Nigeria Trade Summary, June 1988", the most recent compendium of trade statistics for June 1988, covering all of the preceding year starting in June.

Needless to say we were more than surprised to discover that these figures were not compiled according to the HS nomenclature, but according to the Standard International Trade Classification, Revision 2", of the United Nations.

When we inquired about this discrepancy, Customs authorities in Abuja replied that the Nigerian Customs Service was only familiar with the H.S.; furthermore the text of the international convention which sets forth this nomenclature is appended, in extenso, to the Nigerian "Customs, Excise, Tariff etc (consolidation) Decree of 1988. This convention has in addition been officially ratified by Nigeria.

Customs does not maintain any commercial statistical data base. Statistics are compiled by the "Federal Office of Statistics", based on the "FORM M", which uses the Standard International Trade Statistics (SITS) code.

This discrepancy could be corrected in the near future and there is a good chance that statistics will eventually be based on the Harmonized System.

In the meantime it is almost impossible to draw a comparison between statistical data of Nigeria, and of Niger, the later being unfortunately over 3 years behind.

C. COMPARISON OF THE RATES OF DUTY AND TAX CURRENTLY IN EFFECT

IN NIGER AND NIGERIA FOR CERTAIN MAJOR PRODUCTS

As we explained above in chapters A and B, Niger taxes merchandise, especially imported goods, in several ways: customs duties, import taxes, V.A.T., statistical tax, and the Community Solidarity Withholding Tax, and in some cases the taxes which used to be called "specific" taxes (i.e. product-specific taxes), such as the tax on petroleum products (TPP), the tax on alcoholic beverages (TBA), and the tax on tobacco and cigarettes (TTC). In Nigeria, there are only three categories of taxes: duty, the surcharge tax and excise taxes. We also pointed out that in some cases taxes are computed on the CIF value, in other cases on the cumulated value, CIF plus customs duties and taxes, and as a further complication, in yet some other cases on a fictitious market price-list value. We don't believe this detailed breakdown presents much interest to the readers of this report. For this reason, we set out, in concert with supervisors from the Customs Service of Niger, to determine what has been called the Total Tax Liability (IG: Incidence Globale). For instance: canned vegetables are subject to the following import taxes: duty @ 5%+ import tax @10% (based on the CIF value) + V.A.T. @10% (based on CIF value plus duty and import tax) + statistical tax of 3% (also based on the cumulated value, CIF plus duty, import tax) + the Community Solidarity Withholding Tax @ 1% (based on CIF value). The total tax liability, or IG, will therefore be: (duty + import tax = 15%) + (V.A.T. + statistical tax = 13% of 115) + (Community Solidarity Withholding Tax 1% of CIF) = 30.95%. (Question: is it really possible to simplify all of this and to make all rates consistent?)

As for Nigeria, the same calculus produces: duty @15% + 7% of 15% = 15 + 1.05 = 16.05%, to which the excise tax must be added, if applicable. For this reason in the following tables we have only given the Total tax liability, while pointing out any peculiarities. At the top of these tables, we have indicated the tariff schedule number of Niger, and, if at all possible, the sub-position (last group of two digits). For Nigeria, we add the letters "PR" to indicate a prohibited category, and yet still give the tax rate as some of these prohibited goods may be eligible for exemption with a special authorization.

TARIFF SCHEDULE NUMBER OF VARIOUS CATEGORIES OF MERCHANDISE

I. EXPORTDUTY WITHHELD IN:

	<u>NIGER</u>	<u>NIGERIA</u>
01.02 Bovines	300 CFA francs/head	exempt
01.04 Ovines and caprines	90	" "
01.06 Camels	300	" "
02.03/04 Fresh meat	9 CFA francs/kg	" "
02.06 Dried Meat	15	" "
07.01.45 Onions	900 CFA francs/ T	" "
07.05.21 Niebe	1200 " "	" "
07.05.22 Woandzu	1200 " "	" "
07.01.45 Garlic	900 " "	" "
41.02/04 Hides and leather	10%	" "
03.02 Dried fish	3%	" "
55.01 Cotton	3%	" "
Misc. National products and industries	9%	" "

II. REEXPORTED PRODUCTS (erroneously referred to as merchandise in "transit")

55.09 Cotton fabric	7.12%	Exempt
56.07 Fabric made of synthetic material	9.18%	" "
Ch. 60 Clothing and hosiery	7.12%	" "
Ch. 61 Clothing made of fabric	7.12%	" "
63.01.90 Second-hand clothing	10.21%	" "
24.02 Cigarettes	10.68%	" "
Misc. Other products	7.12%	" "

III. PRODUCTS ORIGINATING FROM ANOTHER COUNTRY, REEXPORTED AFTER HAVING BEEN IMPORTED ACCORDING TO STANDARD PROCEDURE WITH PAYMENT OF DUTY AND TAXES, AND WHICH ARE IN "FREE PRACTICE"

	<u>Niger</u>	<u>Nigeria</u>
Miscellaneous	9%	Exempt

IV. IMPORTING

	%	%, but prohibited
04.02 Milk	7.09	21.4
10.06 Rice, plus in Niger a stabilization tax of 25000 CFA francs	<u>Niger</u> 23.57	<u>Nigeria</u> 21.4-PR

08.05.20	Cola nuts	15.13	42.8
16.02.90	Canned meats	39	53.15
17.01	Sugar	5.03	47.8
20.02	Canned vegetables	30.935	42.8-PR
20.05	Jams	47.40	69.2-PR
21.04	Prepared soups (Maggi/bouillon cubes)	51	47.8
22.02	Carbonated beverages	53.40	69.2-PR
22.03	Beer	72.40	47.8-PR
22.09	Alcoholic beverages and spirits	126.94	147
24.02	Cigarettes- -dark tobacco	52.18	+40%
	-light tobacco	26.18	Na 25 per 1000
25.01	Salt	6.06	16.05
25.03	Sulfur	30.60	16.05
25.23	Cement	30.95	21.4
27.10.32	Premium gasoline +54.4% on list-price market value	113.40	Producer no rate given
27.10.33	Regular gasoline +60.8% on list-price market value	81	--
27.10.51	Gazoil +25.5% on list-price market value	81	--
27.10.54	Heavy-grade oils +6.9% on list-price market value	27	--
34.01	Soap	02.77	--
34.02 7	Tensio-active? products for detergent	33.21	64.2

36.06	Matches	94.20	48.15
38.11	Disinfectants/insecticides in Nigeria:	39	
	mosquito-repellent		214
	burning coils;		5.35
	insecticides for agriculture, other insecticides		32.1
40.10	New tires	38.86	47.8
55.09	Cotton fabric	48.60	96.3-PR
56.07	Fabric made of synthetic material	60.60	96.3-PR
Ch.60	Hosiery	52.2	37.1-PR
Ch.61	Clothing	52.2	96.3-PR
63.01	Second-hand clothing	52.2	96.3-PR
62.03	Bags, bags for wrapping	30.95	37.1-PR
Ch.73	Iron, cast iron and steel works in general	27.56	from 32.1 to 42.8
Ch.84	Machines, mechanical devices in general	19.65	10.7
Ch.85	Machines, electrical appliances in general	39	26.4
	in Nigeria, the rates vary more, especially on batteries and chargers		214
87.02	Automobiles; in Niger:		
	-7 HP and less	47.4	
	-over 7HP	55.94	
	in Nigeria:		
	-less than 1500 CC		37.45
	-from 1500 to 2000 CC		53.50
	-over 2000 CC		107
87.08	Spare parts for automobiles except for specific parts covered by other schedule numbers, (shock absorbers,		

spark plugs, windows, belts, etc.),		
-under their own regime	38.86	
-if they are imported by assembly lines and garages		exempt
-imported by individuals		5.35

D. TRADE AT THE NIGER-NIGERIAN BORDER

1). The August 11, 1976, trade agreement, and the new draft agreement.

(a photocopy of the entire agreement is included in Annex 5).

a) Preliminary Note

We came to see that this trade agreement in fact an indication of good will by the two governments, and while many of the authorities concerned are aware of its existence, and refer to it, there is no real effort to implement it, and economic operators are not familiar with its provisions. It is up to the Customs Services of the two countries to act as affectively as possible to insure that it is carried out in practice.

Consequently it was the responsibility of top ranking Customs officials of both countries to issue specific administrative instructions so that implementing agencies could take the necessary steps to insure compliance with the agreement's provisions.

It is probable that fourteen years ago, at the time of signature, the agreement was not officially sent to said authorities through the required official channels, namely from the signatory parties at the Ministry of Foreign Affairs to the Ministry of Finance (in Nigeria, to the Ministry of the Interior), requesting its implementation, to be then transmitted to the Director of Customs so that he may issue circulars with specific and detailed instructions for Customs agents in the field. This may not be the exact "official" channel to be used in all cases; at any rate Customs can only act if it is formally urged to do so by the Ministry it comes under and can do nothing if the agreement remains buried in Ministry of Foreign Affairs archives.

Failing this procedure, the agreement remained dead letter, and the same will happen to the new agreement to be.

Indeed a new agreement is in the works. It will replace the current agreement and diplomatic notes have already been exchanged to this effect.

The Ministry of Economic Promotion has been consulted but not

Customs.

We were able to look over the new draft agreement in the Embassy of Niger, in Lagos, but in light of the then-still confidential nature of the document, Embassy officials deemed that it would be premature to release a copy to us at that point.

It is imperative that Customs officials of both countries be consulted as "technical advisors" to give this agreement a format and a form consistent with Customs practice; so that both list, A and B, if they are to continue to exist, be more practical in terms of how goods are designated, and the circulars that will be issued later on to the implementing offices in the field be compatible with the technology available to Customs offices at that time.

If things do not proceed in this way, the implementing offices will not be able to respect the spirit of the agreement, which therefore will be of no practical value.

When we asked Customs officials in Abuja (at the Head Quarters) whether they were aware of the 1976 agreement, if it was enforced, and if they knew of the work under way to draft a new agreement, they replied with a smile, simply stating that while agreements might exist, they are still superseded by the laws and regulations in effect in both countries.

When, in Mradio, we showed the agreement to the Director of the local office, he admitted having knowledge of it but knew nothing of the implementing measures.

Nothing can be changed as far as what has already been done, obviously, but we would hope that it is not too late to take the necessary steps to make the new agreement truly effective...in other words, that it is not too late to renegotiate the agreement.

While we were in Lagos we had an opportunity to review the new draft agreement. Article (4) is worded as follows: "Trade of goods and products between the contracting parties is subject, under this agreement, to the laws and regulations in force in their respective territories on imports and exports."

Conclusion: in the minds of Customs authorities in Nigeria (and we share this viewpoint, as it is the letter of this agreement that we want to be observed), NOTHING will change with respect to the Customs treatment of imports and exports, and goods prohibited in Nigeria will continue to be prohibited.

The Director of Foreign Trade in Niger asked us in Niamey, right before we left for Nigeria: "Why is it that, in spite of this trade agreement, in spite of the fact that our 'pagnes' of printed fabric are far superior in quality to Nigeria's, it is so difficult for us

to export our 'products'?" The answer is simple: because the importation of all textile products into Nigeria is prohibited... and the Trade Agreement will not eliminate any of these prohibitions.

If indeed the Joint Commission really wants to achieve something worthwhile, if it wishes to see this agreement become a positive and constructive tool for future trade between the two countries, then it must be entirely revised, as in its present form it will change nothing to the present situation.

For this trade agreement to be enforceable, both commercially and technically, by the Customs Services of the two countries, all products on lists A and B will have to be defined with greater accuracy, specifically mentioning the tariff schedule number.

This should be done anyway every time reference is made to a particular product in relation to a Customs procedure.

As we are not in a position to comment on the future agreement, we thought it nonetheless useful to take a critical look at the 1976 agreement, which will remain in effect until the new agreement is signed. We endeavored to establish a codification according to the tariffs in effect in Annexes A and B, in spite of the inadequate and at times even confused description of some of the products mentioned.

Upon examination, the new trade agreement does not appear to be significantly different from the existing agreement.

It should be born in mind that Niger has entered into various bilateral and multilateral agreements with many other countries and that these countries usually provide for most-favored nation status. This means that any facility, any favorable treatment granted to Nigeria will automatically apply to all of the other countries with which Niger has such an agreement...and the same probably holds true for Nigeria.

In the area of transportation, customs formalities are subject to a very liberal interpretation by the customs services of both countries; the same is true for persons crossing the border, provided that they are carrying the proper identity papers. Both countries tend to observe the spirit of ECOWAS agreements in these matters, even when these agreements have not been formally ratified.

b) Review of the agreement (from the Customs standpoint)

- Article 2: "The contracting parties shall grant,, subject to and in accordance with ,the laws and regulations in effect in their respective countries, and to the full extent possible, all the facilities required for exports and imports on their respective territories of the goods and products listed in Annexes A and B of

this agreement. Lists A and B are not exhaustive and..."

If lists A and B are not exhaustive, this implies that other categories of merchandise, possibly all other merchandise, come under the agreement. Why then bother with these lists? What is the point of only singling out certain products?

If imports and exports are to proceed in conformity with existing laws and regulations, which means in conformity with the Customs Code and tariffs, and all other statutory constraints...in what way is this agreement useful?

We can conceive of an agreement providing for reduced tariffs, even exemptions, or for the importation of certain prohibited goods, or waivers from certain constraints, but this is not the case, since existing laws and regulations must be observed. Given this, what then is meant by "grant, to the full extent possible, all the facilities?"

Article 8 on the importing free of duty samples, exhibit and trade show materials, etc...is deleted from the new agreement. This is as it should be, since these items are universally exempted from customs duty and taxes under an international agreement.

Regardless of the previous comments on lists A and B, we decided to review them thoroughly.

List A deals with products exported by Nigeria to Niger and list B products exported by Niger to Nigeria.

2) Review of list A

Products exported by Nigeria to Niger

What is important here is the import duty into Niger. As a reminder, all exports from Nigeria are exempted from all taxes. For entry into Niger, we give, as with the comparative list developed under heading C. above, the total tax liability which is the aggregate sum of all duty and taxes.

For the purposes of comparison, we give in the last column, the total tax liability for the same goods if they were to be imported into Nigeria, with the added mention "PR" if they are prohibited, along with the rates from the tariff schedule as some may be eligible for an exemption with a special authorization.

Description of the goods	Schedule Number in Niger	TTL in Niger	TTL in Nigeria
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		(as a%)	(as a%)
1. Natural rubber			
Note: this only covers natural rubber, and not finished products	40.01	26	10.7
2. Spare parts for automobiles, tires, inner tubes			
a. tires	40.11.53	51.29	32.1
b. inner tubes	40.11.53	51.29	32.1
c. the label "spare parts for automobiles" is too vague. For the purposes of the schedule, many of these items have their own number (eg. shocks, belts, spark plugs, etc.). Spare parts for automobiles, without classification:	87.06	38.86	
In Nigeria, if they are imported by assembly lines, or garages.			Exempt 5.35
3. Cola nuts	08.05.20	15.13	42.8
4. Sugar	17.01	4.03	47.8
5. Biscuits	19.08.10	47.05	47.08
6. Non-alcoholic beverages	22.02.00	53.40	58.5-PR
7. Tropical products and food (fresh or canned)			
Note: this designation is far too broad and includes far too wide a range of goods. It should be made more specific. Many products which are designated just as vaguely are prohibited in Nigeria			PR
8. Textiles			
Note: same comment as above. Textiles includes both fabric and assembled pieces. All of these are prohibited in Nigeria.			
-Some cotton fabrics	55.09	49.60	96.3-PR
-other fabrics,			
-cotton or synthetic	56.07	60.60	96.3-PR
-assembled pieces	61.01/02	52.2	96.3-PR
9. Products in fibro-cement			
Note: same comment as above depending on exact nature, same item can be found under Ch.68		30.60 19.65	42.8

35.40

10. Petroleum products Note: description is also very vague. We are assuming that this concerns only the following products:				
-premium gasoline, plus 54.4% on market list-price value;	27.10.32	113.40		
-regular gasoline, plus 60.8% on market list-price value;	27.10.33	81		
-gaz-oil, plus 25.5% on market list-price value;	27.10.51	81		
-heavy-grade oils, plus 6.9% on market list-price value but there are other petroleum products as well, No mention of tariff rates is made in the schedule of Nigeria.	27.10.54	27		
11. Pharmaceutical products	30.03	3	26.75	
12. Cosmetics and perfumes Note: this also covers a very wide spectrum of products	33.06	118.17	53.15	
13. Timber Note: designation is too vague Chapter 44 has 28 categories, and many sub-categories; these rates are for boards and counter-veneers:	44.05.15	35.4	21.4-PR	
14. Wood furniture	94.01-94.03	41.4	74.2-PR	
15. Plastic goods Note: designation is too vague; these rates cover household/cleaning appliances	39.07	43.80	53.15-PR	
16. Enameled iron utensils Note: same comment as re household/cleaning items	73.38	35.47	48.15	
17. Aluminum products Note: same comment as for household goods	76.15	39.89	58.5	
18. Galvanized corrugated iron	73.13	27.56	21.4	

19. Electrical equipment and spares

Note: applies to all of Ch. 85.

Rates vary widely.

20. Steel objects

Note: same comment

21. Matches

36.06.00	94.2	48.15
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22. Paper and paper products

Note: same comment as for items 19 and

20 above; this includes all products covered by Chapters 48 and 49

23. Other manufactured and semi-manufactured products

24. Miscellaneous items

Note: categories 23 and 24 could not be any vaguer. As we have already noted, in fact ALL merchandise, between 3500 and 4000 categories of goods, are concerned...so what is the point of designating some of them and not others?

3) Review of list B

Products exported by Niger to Nigeria

Products exported from Niger are liable for a 3% exit tax. For more details, please refer to the paragraph dealing with these exports.

For imports into Nigeria, we will give the total tax liability (TTL) for 1990-91, and the tariff schedule number of Nigeria, and will add the mention "PR" for prohibited merchandise. In the last column we will include the TTL if said products were imported to Niger.

<u>Product description</u>	<u>Schedule number- Nigeria</u>	<u>TTL in Niger as a %</u>	<u>TTL in as a %</u>
1. Cotton fibre	52.01	PR-64.2	23.05
2. Cotton seed	12.07	PR-16.05	4.
3. Mebe Seed	07.13	PR-42.8	14
4. Dried tomatos	07.12	PR-42.8	15.17
Note: are these really "dried tomatos"?		<u>Nigeria</u>	<u>Niger</u>
5. Millet	10.08	21.4	Exempted
6. Sorgho	10.07	21.4	Exempted
7. Kapok	14.02	16.05	25.15
8. Natron			
Note: this is natural sodium carbonate in ; it is in point of fact bloc salt for animals	25 01	16.05	6.06
9. Rck salt	25.01	16.05	6.06
10. Dates	08.04	PR-42..8	24.17

11. Gum arabic	13.01	16.05	6.06
12. Dried and smoked fish	03.05	53.5	35.4
13. Horses	01.01	21.4	13
14. Henna	14.04	16.05	39
15. Mats	46.01	21.4	39
16. Melted butter	04.05	74.9	28.69
17. Livestock			
-bovines	01.02	32.1	33.21
-ovines	01.04	32.1	28.69
		Nigeria	Niger
-caprines			
	01.04	32.1	
27.56			
18. Meat	Ch.02	32.1	52.20
19. Millet flour	11.02	PR-32.1	Ex.
20. Bean flour	11.022	32.1	29.40
21. Textiles		PRT	
Note: designation is far too vague-			
as a reminder all textiles and			
textile products are prohibited in Nigeria			
22. Cosmetics and perfumes			
Note: designation is too vague			
	Ch.33	53.15	118.17
23. Cement	25.33	21.4	30.95
24. Matches	36.05	48.15	94.20
25. Unprocessed pewter	80.01	16.05	33
Note: we consider this to truly			
be unprocessed pewter			
26. Other products			
Note: same comment as for list A			

We would like to stress the fact that for those categories not specifically protected under the trade agreement, Nigeria's Customs Service will not deviate from the prohibitions. In the two lists above the following products are PROHIBITED FROM IMPORTATION into Nigeria:

List A: non-alcoholic beverages
tropical products and food
textiles and textile goods
wood and objects made of wood
plastic items

List B: cotton fibre
cotton seed
niebe seed
dried tomatos
dates
millet flour
textiles and goods made of textiles

As a reminder, the complete list of goods prohibited for

importation into Nigeria is the subject of a special paragraph in this study, and the English-language text is appended to this document in the form of an annex.

This only confirms that lists A and B are of not practical use whatsoever.

4) Prospects offered by ECOWAS

At the most recent meeting of the Heads of State of the ECOWAS member states in Ouagadougou, the wish was expressed to completely liberalize the movement of goods within the Community 1990.

In the part of the report prepared by Mr. ROUSSEL the program adopted at the meeting of Central Bank governors, held in Banjul in May 1990, is mentioned. This program calls for the creation of a single monetary zone by 1994.

The signing of the ECOWAS treaty, on May 28, 1975, provided for the following:

1. Customs duty and taxes with like effect would gradually be phased out over a period of ten years, as regards imports and exports;

2. Quantitative and administrative restrictions on trade between member states would gradually be phased out over a period of 15 years;

3. A joint Customs tariff structure and trade policy toward third-countries would be gradually instituted over a period of 13 years...etc;

(summary of Article 2 of the ECOWAS Treaty on Community objectives)

We are today in 1990, and nothing has been done.

In the area of Customs procedure, ECOWAS is in the process of preparing a common customs tariff schedule, but ECWA is also preparing a new common schedule for its member states, and there is no cooperation between the two Communities.

ECWA's members are Cote d'Ivoire, Benin, Burkina Faso, Mali, Mauritania, Niger and Senegal, all members of the former UDEAO (Customs Union of West African States), and former French colonies.

ECOWAS brings together these same seven countries, and Ghana, Guinea, Guinea-Bissau, Gambia, Sierra Leone, Togo, and the Cap Verde Islands, former French, British and Portuguese colonies.

It is understandable that this would be something of an unwieldy alliance; it is very difficult to achieve full integration, and the economic and political options differ widely.

According to our assessment, it will require still much effort and

good will from all countries to achieve these objectives.

Problems arising from the "clearing house" are dealt with in the first part of the report, drafted by Mr. ROUSSEL.

In Customs matters, no progress has been made and everything remains to be done.

CONCLUSIONS

The main problem we came up against was the vagueness and inaccuracy of legal texts, and the gaps therein.

On several occasions we received from different people, of absolute good faith, inconsistent, and sometimes downright contradictory information. We had to sort out what was true and what was false.

We can only stress the importance of the "single-stop" process, in the hopes that it really will be a "single" stop, a place where one can obtain all the necessary information for a given transaction, so the staff of this facility will not end up having to send their customers elsewhere for the information they need.

We undertook this mission at a time when trade liberalization was entering into an active phase. At the time of the writing of this report, this process is in full swing. Not all implementing measures are yet in place; the rates of duty and taxes may yet change.

While it appears that import taxes into Nigeria have stabilized, at least as far as 1990-91 is concerned, the same can not be said for Niger. In the comparative tables, the data provided, especially the Total Tax Liability, were calculated with great accuracy with the help of Mr. LAOULI TASSIOU, the Director General of Customs, whom we wish to thank wholeheartedly. As of September 1, 1990, they are accurate, but it one should bear in mind that they can change as early as tomorrow.

RECOMMENDATIONS

1) The new Niger-Nigeria trade agreement should be entirely reworked. It should be more specific as regards the designation of merchandise on lists A and B;

The Customs Service should be consulted, so that these lists may be made as specific as required by Customs procedures;

these lists should not be given as examples, but should be exhaustive as regards goods that Niger wishes to export or import; the authorization to import these goods into Nigeria should be negotiated, in spite of the general prohibitions on imports into Nigeria;

the application of preferential rates should be made possible for these goods.

2) The Customs service should be consulted before any law, decree

or executive order is adopted concerning imports and exports to give it an opportunity to provide, from the Customs technical view point, the information required to accurately and effectively identify goods, and to release to the staff in the field and to economic operators clear and specific guidelines.

3) A subscription system should be set up by the Customs Service to disseminate all of its circulars and information documents. These circulars would of course be provided free of charge to administrative offices, while interested economic operators could be charged a modest subscription fee to cover the cost of dissemination.

4) At least one qualified Customs officer should be assigned to the "single-stop" facility in order to provide the tariff schedule number of a given merchandise, as well as duty and taxes owed. In order to deal with special cases in a thorough manner, this person should be able to consult the explanatory notes of the CCC nomenclature, and of the Harmonized System when it goes into effect. If there is some fear that this would not be a full-time position, and assuming that a truly competent person is assigned, why not give him/her the task outlined in paragraph 9 below, should that person have any spare time?

5) A special agency should be created under the Presidency, or, in the event that one already exists, it should be strengthened; it would be tasked to coordinate the activities of the different ministries and to insure follow-up through official channels of all legal texts enacted, all the way down to the implementing agencies and offices.

As a general rule, the Nigerian administration is handicapped by extreme compartmentalization. No one knows, or wants to know, what goes on next door.

6) All taxes, however minimal, on exports of goods manufactured by local industry, should be eliminated, and ways to entirely do away with the V.A.T. on such products should also be examined.

7) All merchandise in so-called transit should be eliminated, or at the very least traders at the Nigerian border should be informed that Customs regulations allows them, after goods have been removed from a fictitious warehouse approved by Customs, to declare straightaway in transit the goods they have sold legally to a trader from Nigeria (from the Customs standpoint, a fictitious warehouse is treated as foreign territory). In this fashion, they would not be liable for reexporting taxes, and perhaps the statistics tax could be reduced. Of course they would be under the obligation to provide adequate proof of legal importation into Nigeria. This would justify a new international trade agreement, or a treaty of mutual administrative assistance between the Customs Services of Niger and Nigeria.

As regards points 6 and 7 above, it should be noted that the main reason for the very poor situation at the border with Nigeria is the low value of the Naira. Niger is powerless to do anything in this respect, being bound by the UMOA agreements, and therefore unable to balance its currency in relation to that of a neighboring country. If products from Niger are going to be exported to Nigeria, they must be competitive in Nigerian markets, and for that to be possible, the cost factors that increase the value of the goods must be reduced. Perhaps Customs fears losing tax revenue collected in the past, when Niger fared better by these markets. On the other hand, what will happen to Customs tax revenue amount to tomorrow if exports drop off entirely?

8) The various import duty and taxes: customs duty + import taxes + V.A.T. + statistical tax + Community Solidarity Withholding tax (plus in some cases the tax on petroleum products, or on tobacco and cigarettes, or on alcoholic beverages) should be merged. It should not be too complicated for the Ministry of Finance, Budget Division (?), to determine a posteriori the proportional allocation of these taxes, based on tax receipts of past years, and to make budget forecasts, if it is deemed necessary to allocate these tax receipts to different budgets, which is far from being obvious. As far as the taxes on petroleum products, alcoholic beverages, tobacco and cigarettes are concerned, the computerized system (SYDONIA) makes it possible to determine the value, or market price-list, of goods imported yielding these revenues, and consequently to determine the taxable quota.

Streamlining the tax structure would not necessarily simplify the work of Customs, just because SYDONIA relieves Customs officers from engaging in elaborate computation. It would be useful for economic operators who want to know the exact amount of duty and taxes they are liable for, and couldn't care less how the overall amount they pay is broken down into and allocated to various budgetary items.

9) The Customs Service of Niger should not wait for the official adoption of the draft "Harmonized Customs Code" proposed by ECWA. It could working start right now on the drafting of its own national customs code, in the framework of this presentation. This would speed up publication by one or two years.

10) The Customs Service of Niger should look into actually implementing the "Drawback" regime authorized by the Customs Code: "Article 90: The total or partial return of duty paid on products used for the manufacture of goods exported can be granted by decree (executive order)".

This regime is conspicuously absent in Niger, and yet it could provide local industries with an opportunity to increase their production for export, since they could get the V.A.T. back as well.

11) The Ministry of Economic Promotion, which commissioned this study, mandated us to look for new opportunities to boost trade. This is not an easy task. Yet there is one avenue which merits thorough examination. This involves the creation of a free-trade zone at the Niamey airport, the first major airport reached in sub-Saharan Africa, where various non-perishable products in great demand could be brought, duty-free. Wholesalers from other ECWA and ECOWAS countries could come to Niamey to stock up, instead of waiting for shipments from Europe and other continents.

It is obvious that such a possibility should be studied by qualified experts, to avoid launching into a project that could end up being costly and risky.