

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) OVERVIEW

1. Sierra Leone has a relatively open trade regime. In recent years further tariff reductions have been undertaken, principally in line with its commitments to the Economic Community of West African States (ECOWAS). Sierra Leone's Interim Poverty Reduction Strategy Paper indicates a continuation of the liberalization process, especially the rationalization and reduction in external tariffs (Chapter II(6)(ii)(c)).

2. The customs tariff is Sierra Leone's main trade policy instrument and effective customs duties account for 45% of total government revenue (including grants). The average effective applied MFN tariff, which includes the excise tax and ECOWAS levy, is 14.9%. The average applied MFN tariff is 13.5% for industrial products and 16.5% for agricultural imports. About 52% of tariff lines are currently subject to tariffs ranging from zero to 10%, while another 47% is in the range of 20% to 30%. The customs tariff comprises seven rates (zero, 5%, 10%, 15%, 20%, 25%, and 30%) with the highest duties applied to final consumer goods. The tariff embodies a degree of escalation. The highest effective applied MFN tariff rate is 60.5% (mainly alcoholic drinks/preparations, tobacco, and arms and ammunition). All tariff lines are bound, which imparts a high degree of predictability to the tariff. However, the simple average of bound MFN tariff rates (47.5%) considerably exceeds the average applied MFN tariff rate (13.9%), thereby providing the authorities with significant scope for increasing applied tariffs within bindings. All applied tariff rates are set on an *ad valorem* basis, a feature that contributes to the transparency of the tariff.

3. Sierra Leone applies the ECOWAS supplementary duty of 0.5%, which is levied only on imports from third countries. Sierra Leone also applies an excise tax of 30% (included in its binding commitments) on certain imports and a sales tax of 17.5% on both domestic and foreign products.

4. Sierra Leone has not yet implemented the WTO Customs Valuation Agreement; it continues to apply the Brussels Definition of Value coupled with reference values intended to uplift import prices of sensitive items such as rice, flour, sugar, cement, plastic slippers, used-clothing, and used clothing accessories. Pre-shipment inspection is mandatory and related costs are born by importers.

5. Since October 2003 a "one-stop-centre" for the clearance of imported goods has reduced time at the quay. Import restrictions and licensing requirements for plants and seeds, are generally in place to preserve the environment. Concerning contingency measures, no legislative or institutional framework is in place.

6. Export procedures remain complicated and lengthy. As from October 2000 exports of gold and diamonds, which are subject to specific procedures, have been allowed only through registered and approved exporters. During 2002 and 2003, foreigners were charged higher diamond export licence fees than nationals to encourage the participation of nationals in this sector, but since 2004 a flat rate on all export licences has been applied. As from 2003, a certificate of origin (Kimberley process) has been mandatory for the export of rough diamonds. Plants and charcoal exports are restricted for environmental reasons. Export taxes are levied on cocoa and coffee (2.5%) and diamonds (3%).

7. Sierra Leone is not a signatory to the WTO Government Procurement Agreement; it has applied interim rules and regulations in August 2004, for a period of one year, pending the completion of a revised regulatory framework in this area; no preferences are currently granted to local suppliers. Fiscal incentives are in place for production and trade, including a local-content requirement on agri-processing activities; the payroll tax for non-ECOWAS citizens is ten times higher than for citizens

of the sub-region. State involvement in the economy still persists, due to lack of progress in the privatization process.

8. The regulatory and institutional framework for the protection of intellectual property rights (IPRs) is being strengthened; ratification of certain regional IPR arrangements (e.g. the 1999 Harare protocol for patents and industrial designs) and effective enforcement of protection measures seem to be impeded by institutional constraints and lack of means. Sierra Leone does not have a general legal framework relating to competition policy and consumer protection. Environmental concerns have been addressed by the introduction/enforcement of new legislation (e.g. the National Environmental Policy and the Environment Protection Act).

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration and documentation requirements

9. The main documents required for customs clearance are: a clear report of findings and an import duty report¹; a bill of entry²; commercial invoices; phytosanitary/fumigation certificate; certificate of origin; combined certificate of value and origin, and import declaration; packing list; special certificate for goods such as medicine, caustic soda, and salt; and an insurance certificate.

10. Sierra Leone require pre-shipment inspection (PSI) of imports (see below). A project to establish UNCTAD's Automated System For Customs Data (ASYCUDA) has not yet been completed, due to a shortage of external financing.³ A "one-stop-centre" for the clearance of imported goods has been operated by the Customs and Excise Department since October 2003 to reduce clearance time at the quay. According to the National Revenue Authority (NRA) the clearance time has been now reduced to an average of 12 working hours or one day; the previous average was 36 working hours or three days. Sierra Leone has post-entry audit arrangements and import declarations are checked after release. The post-entry audit report is prepared by the Internal Auditor and the result is communicated through the Commissioner to the importer/agent for any further action, if needed.

(ii) Pre-shipment inspection and customs valuation

(a) Pre-shipment inspection

11. Pre-shipment inspection (PSI) has been mandatory since 1990.⁴ On 29 March 2004, as the result of a public bid, this service was awarded to Intertek International (SL) Ltd, under the supervision of the Ministry of Finance and the NRA.⁵ Merchandise (including second-hand goods) of a minimum value of US\$2,000 f.o.b. is subject to inspection. Certain items and/or end-users are exempt from pre-shipment inspection requirements.⁶ An inspection charge payable by the importer is

¹ Those two documents are issued after inspection by the pre-shipment company in the country or port of shipment.

² National Revenue Authority, Custom & Excise Department.

³ According to the authorities, there is no certain date of implementation of the ASYCUDA System. DFID is providing support and conducting a comparative study between the ASYCUDA and Trade Net.

⁴ Between February 1994 and March 2004, the Bureau of Inspection, Valuation, Assessment and Control (BIVAC) International undertook pre-shipment activities for all commercial and industrial imports and exports of Sierra Leone; BIVAC had replaced SSI Company whose contract had expired.

⁵ Contract for three years, renewable for a further period of three years.

⁶ The exemptions: arms and ammunition; parts and accessories imported by the Government of Sierra Leone and intended for military or paramilitary use; explosives and pyrotechnical products; commercial samples; live animals; fruits; vegetables; eggs; and fresh, chilled or frozen meat (tariff chapter headings 1, 2,

set at 1.10% of the f.o.b. value⁷. The PSI charge is allocated as follow: (i) 0.89% to the foreign account in a local commercial bank; (ii) 0.11% to be transferred to the escrow account (see below); and (iii) 0.10% to be transferred to the Consolidated Revenue Fund of the Government of Sierra Leone. The inspection fee for rice is 0.25% (this is to cushion the effect of the high price of rice).⁸ Intertek is responsible for determining the relevant and accurate custom code to be used as the basis for calculation of customs duty and other ancillary taxes. Upon receipt of all required documents and satisfactory assessment, Intertek issues an Import Duty Report (IDR) to the importer and certifies the exporter's final invoices.⁹ Valuation is by the NRA Customs Officer who compares the value on the IDR, the importer invoice, and the customs valuation database¹⁰; the highest of the three is considered as the value for custom duty.¹¹ Value of goods is verified by an Intertek pricer abroad, prior to the goods being exported. Nevertheless, the Customs Department has the authority to up-lift the valuation if they detect cases of inconsistency in value. Intertek is responsible for ascertaining correctness of quantity, quality, and value of goods.

12. In the case of discrepancies with a consignment during the inspection process, and failure by the exporter to take corrective action within five working days of notification, Intertek may issue a Non-Negotiable Report of Finding (NNRF), which will prevent customs clearance in Sierra Leone.¹²

13. According to the agreement signed between NRA and Intertek (article 10), Intertek should identify training needs on customs valuation, (see below) and prepare a detailed programme for the training of NRA employees. The amount and cost of training, and the cost of information purchases would be limited to the funds available in the escrow account, managed jointly by the NRA and Intertek.

14. Sierra Leone has not yet submitted a notification on PSI to the WTO.

3, 7, 8 and 04.07); goods with an f.o.b. value not exceeding US\$2,000 or equivalent (partial shipments covering goods below the threshold value nevertheless shall be subject to inspection if the total value of goods under the shipment agreement is equal or superior to the threshold); newspapers and periodicals (HS 49.02); precious metals and precious stones (HS section 7101 to 7112); work of art, collectors' pieces, and antiques (HS 97); goods by courier and parcel post; personal and household effects; UN, diplomatic and consular goods imported specifically for their own use; electricity; goods belonging to NGOs; radioactive and nuclear substances. All government imports are subjected to pre-shipment inspection except where a letter of exemption has been issued by the Minister of Finance.

⁷ If f.o.b the value is lower than US\$20,455, importers will pay the minimum charge of US\$225. BIVAC preshipment charges were: 1.10% of invoice value or subsequent adjusted figure with a minimum charge of US\$250; import duty report charge of 0.15% of invoice or adjusted value; and the government share 0.10% of invoice value.

⁸ Rice shipments are subjected to documentary analysis and valuation based solely upon documentation supplied by the importer/supplier. Intertek does not guarantee information contained in the documents supplied by the importer/supplier or quality or quantity of any rice shipment. Intertek and NRA agreed that a review of this specific service would be undertaken six months after the start of the agreement.

⁹ IDR lists f.o.b value, freight, insurance, container number, seal number, importer and exporter name and address, description of goods dutiable value, and estimated duty payable.

¹⁰ The customs valuation database includes the value declared by previous importers or confirmed by Intertek on which duty has been paid.

¹¹ The Customs Officer can request records of examined goods, where description or packing is inconsistent with information in the valuation database. According to the authorities, this is done to maintain a level playing field for importers of the same products.

¹² Information available at: http://www.intertek-fts.com/section_02/index.htm [16 September 2004].

(b) Customs valuation and rules of origin

Customs valuation

15. Sierra Leone has not yet implemented the provisions of the WTO Customs Valuation Agreement, and continues to apply the Brussels Definition of Value.¹³ Sierra Leone invoked the five-year transitional period available to developing countries until 31 May 2000 (Annex III, paragraph 1), but the WTO Committee on Customs Valuation has not yet received a relevant notification or any information. Since 29 March 2004 Intertek has been expected to assist the Customs & Excise department in acquiring basic knowledge and equipment to facilitate the implementation of the WTO Customs Valuation Agreement. According to the NRA, non-implementation of the WTO Agreement is due to the lack of modern technology (for speedy confirmation of current market values worldwide), which is required for implementing the transaction value method. During 2004, Sierra Leone obtained technical assistance from the Commonwealth Secretariat on implementation of the WTO Agreement; in July 2004, one NRA officer participated in the WTO Regional Workshop on Customs Valuation, Trade Facilitation and Rules of Origin, held in Tanzania.¹⁴ At the time of completion of this Report no date or plan has been made available regarding the implementation of the WTO Customs Valuation Agreement.

16. Sierra Leone uses minimum and/or reference values (i.e., minimum customs values) for customs valuation purposes. Minimum and/or reference values requirements affect: rice (US\$235 per ton); flour (US\$225 per ton); sugar (US\$240 per ton); cement (US\$52.22 per ton); plastic slippers (US\$0.45 per pair); used clothing (US\$1 per kg.); and used clothing accessories (shoes, belt, bags, etc) (US\$1.4 per kg.). However, no official list seems to be issued and made publicly available. Agricultural-product values are updated seasonally.

17. Sierra Leone is a member of the World Customs Organization, but is not a contracting party to the Kyoto Convention on Customs Procedures, due to lack of funding and capacity.¹⁵ According to the authorities, Sierra Leone is looking forward to becoming a contracting party, and is seeking assistance from its development partners.

Rules of origin

18. MFN duties apply to imports from any origin, except for products covered by the ECOWAS transitional preferential tariff regime (Chapter II(6)(ii)(c)).¹⁶ Imports must be accompanied by an appropriate certificate of origin issued by the designated authority in the exporting country, in accordance with specified certification procedures.¹⁷ According to ECOWAS rules, a product is generally deemed to be of ECOWAS origin if it is wholly produced in any member state, or has a local content of 30%, or has undergone substantial transformation. West African Economy and

¹³ Section 12, of the Customs Tariff Act No. 16 of 1978.

¹⁴ Type of technical assistance received was: a consultant was hired with the assistance of the Commonwealth and his work will start shortly; partial computerize action of the valuation and computer section in the Customs and Excise Department. They are seeking additional assistance from the Commonwealth and other organizations in training customs officers.

¹⁵ Information available at: <http://www.unece.org/trade/kyoto/ky-02-e3.htm#Entry> [25 April 2004].

¹⁶ Article 54 of the ECOWAS Revised Treaty.

¹⁷ Regulation C/REG.3/4/02, 23 April 2002, establishing the procedure for the approval of originating products to benefit under the ECOWAS trade liberalization scheme; and Regulation C/REG.4/4/02 adopting an ECOWAS Certificate of Origin and Protocol A/P1/1/03, 31 January 2003, relating to the definition of the concepts of products originating from members states of ECOWAS.

Monetary Union (WAEMU) products, once certified by the ECOWAS Secretariat, receive the same treatment as other ECOWAS products.

19. There are 774 enterprises and 2,433 products on the list of approved industrial products and enterprises to benefit under the ECOWAS Trade Liberalization Scheme (ETLS) (December 2003). Sierra Leone has two enterprises (T. Choitthrams and Sons and Chellerams Chemicals) and three products (bubble gum, biscuits, and laundry soap) approved under the ETLS. According to the authorities, Sierra Leone does not implement the ETLS, seemingly due to limited awareness of the operators and uncertainty regarding forgone customs revenue.

20. Sierra Leone appears not to use any non-preferential rules of origin for the purpose of levying import duties. To date, no notification has been submitted by Sierra Leone to the WTO concerning preferential or non-preferential rules of origin.¹⁸

(iii) Tariffs and other duties and taxes on imports

(a) General features

21. Sierra Leone grants at least most-favoured-nation (MFN) treatment to all its trading partners. Import duties are exclusively *ad valorem*, levied on the c.i.f. (cost, insurance, and freight) value. No seasonal customs duties, tariff quotas or variables levies are in force. The Customs Tariff (as of March 2004), which consists of 5,577 tariff lines at the eight-digit level, is based on three different nomenclatures, i.e. the 1992, 1996, and 2002 versions of the Harmonized System (HS).¹⁹ The road map for the ECOWAS Common External Tariff/Customs Union (November 2003) stipulated December 2003 as the deadline for fully implementation of the 2002 Harmonized System (HS). Sierra Leone has not yet transposed its total customs tariff to the HS02.

22. Sierra Leone has undertaken tariff reforms since the 1980s when the rates ranged from 0% to 100%. In 1993/94 there was further reform in the tariff structure and the rates at that time were 5%, 15%, 20%, and 40%. Subsequently, reforms further reduced and rationalized the rates on various products, on a case-by-case basis.

23. According to the authorities, the tariff structure is being harmonized with those of other countries in the ECOWAS sub-region to reduce cross-border smuggling and foster official trade. This harmonization is expected to enhance tax compliance, improve the business environment, and generate higher tax revenues (see below).²⁰ The tariff on "social products", including all basic educational materials, and pharmaceutical products for primary health care and agricultural machinery, has been reduced from 20% to 5%. Since 2002, the rate or duty applicable in neighbouring countries is applied to cigarettes imported to Sierra Leone.

24. At present, Sierra Leone's customs tariff contains seven rates: zero, 5%, 10%, 15%, 20%, 25%, and 30%. The simple average applied MFN tariff is 13.9% (Table III.1 and Chart III.1). Details of applied MFN duties by product category are shown in Table AIII.1. The customs tariff is published in the *Official Gazette*, but is not available on the Customs Internet website.

¹⁸ WTO document G/RO/57 of 9 December 2003.

¹⁹ Sierra Leone's tariff was compiled in 1994 and the last change in its structure was in August 2003. To carry out its tariff analysis for this Trade Policy Review, the WTO Secretariat consolidated the tariff into the HS02 nomenclature.

²⁰ Ministry of Development and Economic Planning (2001).

Table III.1
Structure of MFN tariff in Sierra Leone, 2004
(Per cent)

| | MFN | Effective applied MFN ^a | U.R. ^b |
|---|-------|------------------------------------|-------------------|
| Bound tariff | | | |
| 1. Bound tariff lines (% of all tariff lines) | 100.0 | 100.0 | 100.0 |
| 2. Simple average bound rate | 47.5 | .. | 47.5 |
| Agricultural products (HS01-24) | 41.8 | .. | 41.8 |
| Industrial products (HS25-97) | 48.5 | .. | 48.5 |
| WTO agricultural products | 40.6 | .. | 40.6 |
| WTO non-agricultural products | 48.7 | .. | 48.7 |
| Textiles and clothing | 50.0 | .. | 50.0 |
| 3. Tariff quotas (% of all tariff lines) | 0.0 | .. | 0.0 |
| 4. Duty free tariff lines (% of all tariff lines) | 0.0 | .. | 0.0 |
| 5. Non-ad valorem tariffs (% of all tariff lines) | 0.0 | .. | 0.0 |
| 6. Non-ad valorem tariffs with no AVEs (% of all tariff lines) | 0.0 | .. | 0.0 |
| 7. Nuisance bound rates (% of all tariff lines) ^c | 0.0 | .. | 0.0 |
| Applied tariff | | | |
| 8. Simple average applied rate | 13.9 | 14.9 | .. |
| Agricultural products (HS01-24) | 17.2 | 18.6 | .. |
| Industrial products (HS25-97) | 13.3 | 14.3 | .. |
| WTO agricultural products | 16.5 | 17.9 | .. |
| WTO non-agricultural products | 13.5 | 14.4 | .. |
| Textiles and clothing | 22.0 | 23.3 | .. |
| 9. Domestic tariff "peaks" (% of all tariff lines) ^d | 0.0 | 0.9 | .. |
| 10. International tariff "peaks" (% of all tariff lines) ^e | 47.2 | 48.2 | .. |
| 11. Overall standard deviation of tariff rates | 9.5 | 10.4 | .. |
| 12. Coefficient of variation of tariff rates | 0.7 | 0.7 | .. |
| 13. Tariff quotas (% of all tariff lines) | 0.0 | 0.0 | .. |
| 14. Duty free tariff lines (% of all tariff lines) | 0.4 | 0.0 | .. |
| 15. Non-ad valorem tariffs (% of all tariff lines) | 0.0 | 0.0 | .. |
| 16. Non-ad valorem tariffs with no AVEs (% of all tariff lines) | 0.0 | 0.0 | .. |
| 17. Nuisance applied rates (% of all tariff lines) ^c | 0.0 | 0.4 | .. |

.. Not available.

a Including excise and ECOWAS taxes.

b Final bound calculations are based on the 2004 tariff schedule. Not including excise duties.

c Nuisance rates are those greater than zero, but less than or equal to 2%.

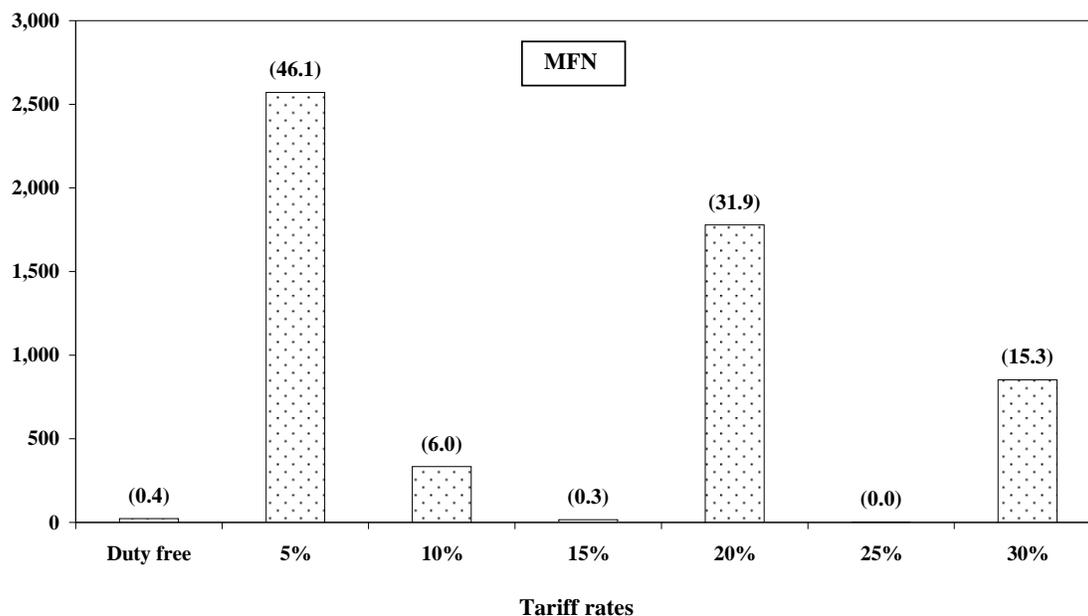
d Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate (indicator 8).

e International tariff peaks are defined as those exceeding 15%.

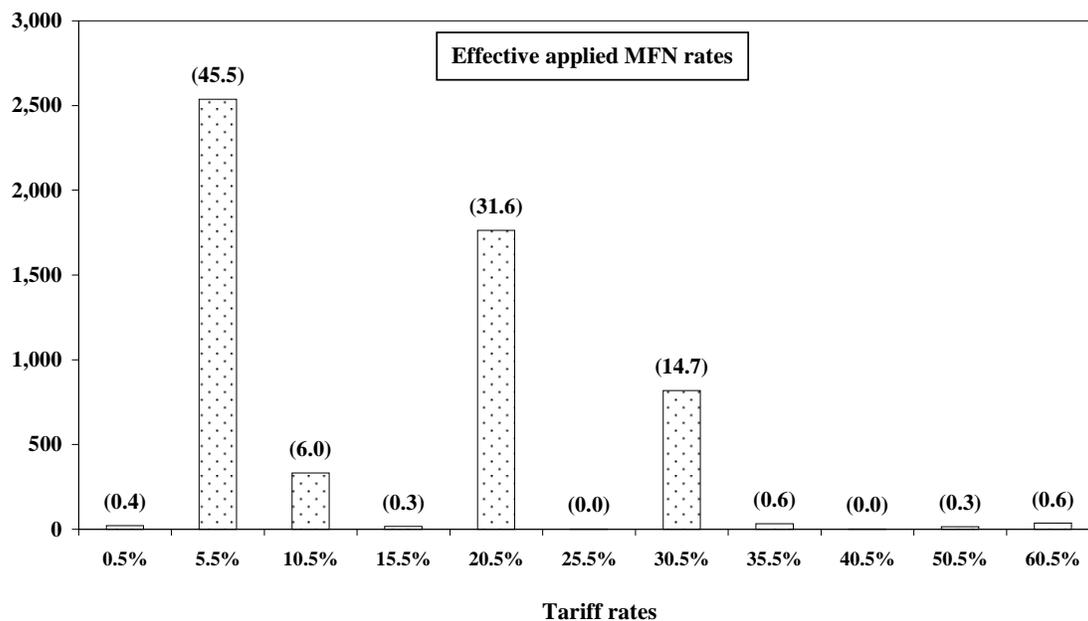
Source: WTO calculations, based on data provided by the authorities of Sierra Leone.

Chart III.1
Distribution of MFN tariffs and effective applied MFN rates, 2004

Number of tariff lines



Number of tariff lines



Note: Percentages in brackets denote the share of total lines. Effective applied MFN tariff rates include excise and ECOWAS taxes.

Source: WTO Secretariat calculations, based on data provided by the authorities of Sierra Leone.

25. An ECOWAS Common External Tariff (CET) should come into effect on the 1 January 2008. A transition period, to December 2007, has been agreed for ECOWAS non-WAEMU members to negotiate and adjust their national tariffs to the WAEMU CET (Chapter II(6)(ii)(c)). According to a recent study, potential revenue losses and external current account deterioration for Sierra Leone resulting from the implementation of the proposed ECOWAS CET will be minimal.²¹ In 2003, customs duties and excise tax (section (2)(iii)(e) and (4)(i)), provided around 45% of Sierra Leone's total government revenue, including grants (gross revenue from import duties were Le 191,915,000,000 or about US\$71 million).²² To compensate for the implied revenue loss from implementing the ECOWAS CET, the authorities envisage expanding the scope of other revenue sources, including the introduction of a value-added tax (section (4)(i)(a)).²³

26. Sierra Leone had not submitted its customs tariff to the WTO Integrated Data base (IDB) until the launching of preparations for its first Trade Policy Review.²⁴

(b) MFN tariff bindings

27. Sierra Leone's tariff lines are all bound (Table III.1). During the Uruguay Round, Sierra Leone bound tariffs on agricultural products at a ceiling rate of 40%, except for preparations of cereals, flour (HS sections 1902-1905), solid soup (HS section 2104), cotton linters (HS sections 5501-5504), which were bound at ceiling rates of 30%, and beer made from malt (HS section 2203) at 80%. Tariffs on non-agricultural items are all bound at a ceiling rate of 50% except for certain items with rates set at 30%, 35%, 70% and 80%.²⁵ Ceiling rates are bound for other duties and charges at 20% (sales tax), 30% (excise tax) or 50% (sales tax plus excise tax), depending on the product.

28. Many of Sierra Leone's bound rates are considerably higher than applied duties, thus imparting a degree of uncertainty to its applied tariff. The current gap of 33.6 percentage points between the average bound and applied MFN rates provides considerable scope for the authorities to raise applied rates within the ceiling bindings (Table III.1 and Chart III.2). The simple average of the effective applied MFN duties is below the levels contained in Sierra Leone's Schedule CXX under the Uruguay Round. All bindings are observed.

²¹ Barrie and Kaindaneh (undated).

²² Bank of Sierra Leone (2003b).

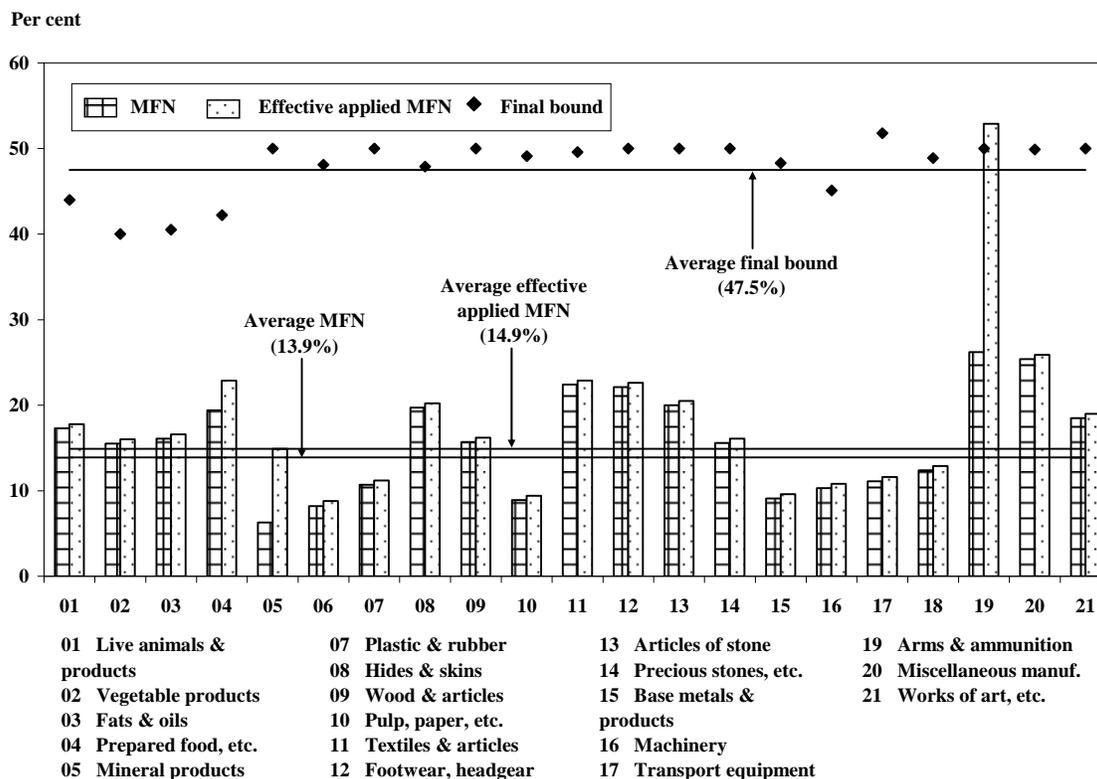
²³ The study of the modalities of a value-added tax system is a structural benchmark for 2004 (IMF Country Report No. 04/49).

²⁴ WTO document G/MA/IDB/2/Rev.18, 26 March 2004.

²⁵ The items bound at 30% are: pharmaceutical products; fertilizers; disinfectants, insecticides, fungicides, herbicides, pesticides; printed books, booklets, brochures, pamphlets and leaflets; children's picture books and printing books; maps; pumps for liquid; air pumps, vacuum pumps and air or gas compressors, fans; machinery and mechanical appliances, electrical equipment and parts; transmitters, colour televisions; tractors; buses, trucks and trailers; and medical, dental, surgical, and veterinary instruments and appliances. The items bound at 35% are: hand tools and implements. The items bound at 70% are motor vehicles with capacity up to 2,000 cc. The items bound at 80% are motor vehicles with capacity exceeding 2,000 cc.

Chart III.2

Average MFN rates, effective applied rates^a, and final bound tariff rates, by HS section, 2004



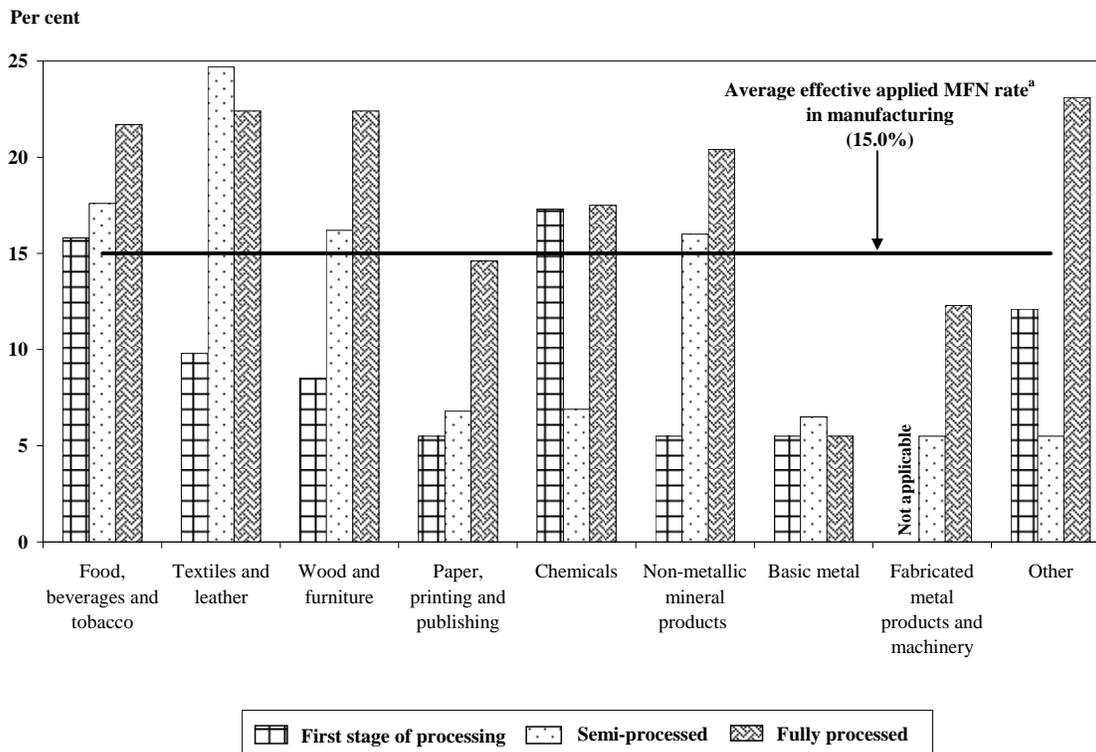
a Effective applied MFN tariff rates include excise and ECOWAS taxes.

Source : WTO Secretariat calculations, based on data provided by the authorities of Sierra Leone.

(c) Tariff dispersion

29. The potential efficiency losses associated with the customs tariff depend not just on the average effective MFN tariff rates, but also on the dispersion of those rates across products. Currently, 52.1% of Sierra Leone's tariff lines are subject to rates of 5% or 10% while another 47% is at rates of 20% or 30%, (thus reflecting a concentration in less than four rates out of the seven in force, in particular the lowest rates (Chart III.1 and Chart III.3). The effective applied duties (including excise and ECOWAS taxes) range between 0.5% and 60.5%. In 2004, 36 eight-digit HS02 items carried the highest effective applied tariff of 60.5% (mainly alcoholic drinks/preparations, tobacco, arms and ammunition) and four items were subject to the second-highest rate of 50.5% (fireworks and ammunition); two eight-digit HS02 (ammunition and tobacco) are subject to the third-highest rate of 40.5%.

Chart III.3
Tariff escalation by 2-digit ISIC industry, 2004



^a Effective applied MFN tariff rates include excise and ECOWAS taxes.

Source: WTO Secretariat calculations, based on data provided by the authorities of Sierra Leone.

(d) Tariff escalation

30. Sierra Leone's customs tariff shows pronounced escalation, reflecting national and sub-regional policy priorities (Chart III.2). Nevertheless, the average protection levels for fully processed textiles and leather products, basic metal, and fabricated metal products and machinery activities are lower than semi-processed items; average protection for semi-processed products of the chemicals industry is lower than at the first stage of processing.

(e) Other duties

31. Since 1979 in addition to the MFN customs duties, a 30% excise tax has been levied on the c.i.f value of imports of alcoholic beverages (HS sections 2204, 2205, 2207.10.90, 2207.20 and 2208), tobacco products (HS sections 2402.10, 2402.90 and 2403 (except 2403.10.10)), petroleum products (HS sections 2710, 2711, 2712, 2713, 2714, 2715, 2716), fireworks and pyrotechnic articles (HS section 3604) and arms and ammunition (HS sections 9301, 9302, 9303, 9304, 9305, 9306.21, 9306.90 and 9307). In 2003, excise on petroleum products provided around 20% of total income from indirect taxes.²⁶ According to the authorities, the excise tax is a protective measure for local

²⁶ Statistics Sierra Leone (2001).

industries producing the same or similar products. The combined effect of the applied MFN customs duties and the excise tax raises the simple tariff average to an average effective applied rate of 14.9% (Table III.1).²⁷

32. The excise tax applicable to luxury and related goods was abolished in 2002.²⁸

33. All commercial imports from non-ECOWAS countries are subject to an additional 0.5% ECOWAS levy on the c.i.f. value.

(f) Duty and tax concessions

34. Malaria and human immunodeficiency virus (HIV) drugs are exempt from import duty. According to the authorities, there is provision for tax concessions on the importation of plant and machinery and other equipment, specifically for the setting up of activities in the manufacturing, mining, agriculture, and tourism sectors. During 2003, customs duty revenue forgone as a result of duty concessions was Le 70.9 billion (about US\$22.6 million), mainly on imports by NGOs (30%), international organizations (21.5%), embassies (11%), and the Government (2%).²⁹ According to the authorities the basic reasons for government imports under the concession scheme is for economic and social development

(g) Tariff preferences

35. Sierra Leone is expected to grant preferential tariff treatment for products covered under the ECOWAS (Chapter II(6)(ii)(c) and section 2(ii)(b)).

(iv) Other levies and charges

36. According to the NRA, a stamp duty has been levied on bills of lading at a specific rate. Port charges on imports and exports, ranging from Le 500/t (US\$0.18) to Le 1,000/t (US\$0.37/t), are calculated on volume.³⁰

(v) Import prohibitions, restrictions, and licensing

37. Some import restrictions and prohibitions are maintained for health, safety and environmental reasons.³¹ A special permit, issued by the Ministry of Agriculture, Forestry and Food Security, is required for the importation of plants, seeds, soil other than sterilized peat and special rooting compost, and any material mixed with any soil.³² For security reasons, the importation of arms and ammunition and explosives is restricted.

38. So far no replies have been submitted by Sierra Leone to the WTO annual questionnaire on import licensing procedures.

²⁷ ECOWAS tax of 0.5% is also included.

²⁸ Government Budget Speech 2002. Available at: <http://www.sierra-leone.org/budget2002.html> [5 October 2004].

²⁹ Government Budget and Statement of economic and financial policies for the financial year, 2004.

³⁰ Information provided by the Sierra Leone Ports Authority.

³¹ Imports of narcotic drugs and pornographic films and displays are prohibited. Imports of caustic soda, pharmaceuticals, and local currency are restricted.

³² The Agricultural Act (Public Notice No. 66 of 1974) - (cap 185), 12 December 1974.

(vi) State trading³³

39. Total imports by state-owned enterprises (SOEs) were estimated US\$59.7 million in 2003; exports were US\$2.6 million. SOEs are thought to employ almost 6,000 workers. While efforts have been made to privatize or liquidate public firms (Table III.2), state involvement remains in place in certain strategic trade and trade-related activities.³⁴ In 2001, the authorities agreed to restart the divestiture process by approving the Strategic Plan for the Divestiture of State Enterprises, and in 2002 they established the National Commission for Privatisation (NCP) to implement the Plan with the support of the World Bank.³⁵ The role of the NCP is to act as a prudent shareholder, appoint independent boards of directors, manage and prepare all public enterprises for divestiture, and the delivery of efficient services.³⁶ To date no privatization has been concluded (Chapter I(4)(ii)).

Table III.2
State involvement in enterprises, 2004

| Entity | Activity and date of establishment / monopoly rights | Degree of state ownership | Privatization plans |
|--|---|--|---|
| Goods | | | |
| Forest Industries Corporation | Furniture and logging of timber (1964) | 100% | Divest 80% of its share to a strategic investor, 10% to the general public, and 10% to the Kenema District Council |
| Seabord West Africa | Flour mill | 0.01% shares, state owns the land. | Sell the Government's share |
| Services | | | |
| Sierra Leone Commercial Bank Limited | Banking (1973) | 100% | Look for a strategic international investor, with a proposed shareholding as follows: strategic investor 52%, Government 20%, employees 5%, and general public 23% |
| National Development Bank Limited | Banking (1966) | 98.98% | Sell the Government share |
| Rokel Commercial Bank | Banking (1998) | 51% | Sell the equity by offering 40% share to a strategic international investor, 6% to the public and 5% to the staff |
| National Insurance Company (NIC) | Insurance and life insurance (1972) | 100% | Majority of the shares to be sold to a strategic investor but making provisions for public participation by Sierra Leoneans |
| National Power Authority (NPA) | National state electricity provider (1982) (<i>de jure</i>) | 100% | Establish a management contract and a regulating body |
| Sierra Leone Telecommunication Company Limited (Sierratel) | Telecommunication (<i>de jure</i>) | 100% | The majority stake of at least 60% to be offered by international tender to investors who pre-qualify as those with a track record in investment in developing countries. The remaining government stake will be gradually divested |
| Guma Valley Water Company | Supply of potable water (1961) (<i>de jure</i>) | 98% and 2% City Council of Freetown | Restructure current management |
| Airport Authority (SLAA) | Airport facilities (1988) (<i>de jure</i>) | 100% | |

Table III.2 (cont'd)

³³ National Commission for Privatisation (2003).

³⁴ In the early 1990s, about 44 public enterprises were engaged in virtually all sectors of the economy. A programme of public enterprise reform and divestiture was initiated in 1993. In 1996, the mandate of the Public Enterprise Reform and Divestiture Commission was terminated due to poor performance.

³⁵ National Commission for Privatisation (2003).

³⁶ Government of Sierra Leone (2002).

| Entity | Activity and date of establishment / monopoly rights | Degree of state ownership | Privatization plans |
|--|---|---------------------------|--|
| Port Authority (SLPA) | Port facilities including stevedoring (1964) (<i>de jure</i>) | 100% | |
| Sierra Leone Airlines (SNA) | National airline (<i>de facto</i>) | 100% | |
| Sierra Leone National Shipping Company Limited | Limited cargo clearing and forwarding services, but no stevedoring (1972) (<i>de facto</i>) | 100% | Sell 100% of the equity by tender and allow the management to bid |
| Sierra Leone National Workshop | Railway (1978) | 100% | Joint venture since 2004 (Chapter II(7)) |
| Sierra Leone Road Transport Corporation | Long-distance domestic bus services | 100% | Offer for sale by tender (100% equity) to domestic investors |
| Sierra Leone Roads Authority (SLRA) | Road construction and maintenance (1993) (<i>de jure</i>) | 100% | Sell 60% to a strategic investor and the remainder to the public |
| Mining and General Services Limited (MAGS) | Agent for: international shipping lines, Lloyds of London, clearing and forwarding (import & exports), and international airlines (travel agents) (1956) | 100% ^a | Sell 100% of the equity by tender and allow the management to bid |
| Hotels | Mammy Yoko Hotel | 100% | |
| Sierra Leone State Lottery Company Limited | Lottery (1962) (<i>de jure</i>) | 100% | |
| Sierra Leone Housing Corporation | Construction of houses (1982) (<i>de jure</i>) | 100% | Sell 100% of the equity by tender and allow the management to bid |
| Sierra Leone Postal Services Limited (SALPOST) | Postal services (1990) (<i>de jure</i>) | 100% | Restructure |
| Sierra Leone Broadcasting Department (SLBS/TV) | Broadcasting (<i>de facto</i>) | 100% | Transformation into a corporation |
| Sierra Leone Daily Mail | Newspaper publication (1952) | 100% | Closed, assets being evaluated |
| Government Printing Department | Printing and supply of stationery to Government, and manufacturing educational material to schools. Also small-scale activities for the public (department of the Ministry of Information and Broadcasting) | 100% | Divest between 60-80% of its equity to a strategic investor or through public tender |

^a In February 1994, the military government expropriated the 49% shares belonging to private investors, without compensation.

Source: National Commission for Privatisation (2003), *Strategic plan for the divestiture of public enterprises: Implementation Programme (2003-2006)*; and SLEDIC (2004), *An investors guide to Sierra Leone*.

40. Sierra Leone has not notified to the WTO any state-trading activities undertaken by entities within the meaning of Article XVII:4(a) of the GATT 1994.

(vii) Government procurement³⁷

41. Sierra Leone is neither a member, nor observer of the WTO Plurilateral Agreement on Government Procurement.

42. As part of the reform programme launched in 2003, with the support of the World Bank and the UNDP, plans seem to be under way to overhaul the regulatory framework for public procurement and to draft a new comprehensive National Public Procurement Law based on the United Nations Commission on International Trade Law (UNCITRAL) model law. To facilitate ongoing procurement until these comprehensive measures are in place, a set of interim rules and regulations

³⁷ Procurement Reform Executive Secretariat (March 2004).

has been in place since August 2004 to govern government procurement operations, for a period of one year. According to the authorities, during this period a comprehensive government procurement law will be prepared by consultants and approved for implementation.

43. The aim of the 2004 interim rules and regulations governing public sector procurement is to have a set of guidelines for the implementation of good procurement services and to achieve value for money at all times, by ensuring that public funds are spent in a transparent, efficient, and fair manner, based on the best practices in the public procurement arena. The interim rules and regulations must be adhered to by all ministries, government departments, public enterprises, and all other organizations and individuals who carry responsibility for procurement projects in the public sector. They are administered by the Procurement Reform Executive Secretariat, State House.

44. The authorities estimate the government procurement market of Sierra Leone to be about US\$200 million, including procurement through funds from donors.

45. The interim rules and regulations cover: (i) contracts for construction or renovation works of any type; (ii) supply contracts for purchasing, rental or leasing of goods needed for the operation of government services; and (iii) contracts for the supply of services.

Institutional setting and decentralization

46. Steps are under way to decentralize government procurement, which is temporarily centralized at the Interim Central Procurement Unit (ICPU). Since 2004, the institutional setting in this area has consisted of: (i) the National Procurement Reform Steering Committee (NPRSC), with overall responsibility for procurement policies and procedures until new rules are agreed and implemented³⁸; (ii) the Procurement Reform Executive Secretariat (PRES), for administrative support for the reform project, and coordination³⁹; and (iii) the Interim Central Procurement Unit (ICPU), until procuring entities are certified and authority is delegated for decentralized public procurement (not longer than 12 months). The ICPU is to undertake the procurement process for contracts of less than the revised threshold of Le 25 million (US\$9,250). At the end of the 12-month period, or when procurement is delegated to all the procuring entities, the ICPU will be disbanded and the staff reassigned.⁴⁰ The Public Procurement Board (PPB) is expected to review and approve submissions from the ICPU and procuring entities.⁴¹

47. Procurement is to be decentralized to the individual procuring entities within certain thresholds in a phased manner over a period of 12 months from the entry in force of the interim rules and regulations. Each procuring entity is to be examined by the Procurement Reform Executive Secretariat to assess its capacity for delegation in terms of sufficient qualified procurement staff and in accordance with the specified thresholds and procedures (Table III.3). Each procuring entity is required to identify and release for training sufficient procurement staff to be able to carry out public

³⁸ The Vice President of Sierra Leone is the Chairman, and the UNDP, the World Bank, the DFID and the European Union participate, as well as others Ministries.

³⁹ The secretariat will function as an information centre on procurement reform and oversee the work of the Interim Central Procurement Unit and the Public Procurement Board.

⁴⁰ The ICPU will be staffed by two full time procurement officials with supporting administrative staff as necessary. In addition, a shortlist of independent technical advisors (architects, engineers, medical experts, etc.) will be identified and contracted on a retainer basis to provide expert technical advice to staff of the Unit on an ad hoc basis.

⁴¹ Approval will comprise: (i) ensuring that each proposed procurement action is in accordance with the rules and regulations, procedures and instructions; (ii) reviewing the procurement process to ensure that it is transparent, fair, competitive, and provides best value for money; (iii) examining the financial and legal implications of the proposed contract; (iv) reviewing the evaluation process; and (v) ensuring the appropriate funds are available to cover the cost of the proposed contract.

procurement in line with the annual procurement plan; this is to enable them to obtain the required (procurement capacity) certification within 12 months of the entry into force of the interim rules and regulations (i.e. by August 2005).⁴²

Procedures

48. The interim rules and regulations provide for three procurement procedures depending on the contract value involved (Table III.3). All contracts are submitted to the Procurement Reform Executive Secretariat for approval by the Public Procurement Board.

49. Five procurement methods are available for awarding contracts for goods and public works: (i) international competitive bidding; (ii) national competitive bidding; (iii) limited competitive bidding; (iv) shopping; and (v) direct contracting (Table III.4). There are two methods for services contracts: request for proposal, and individual consultant.

Table III.3
Procurement procedures, as from 2004

| | Interim Central Procurement Unit | Public Procurement Board |
|---|--|--|
| Procedure I – Prior to certification of procuring entities, for all contracts valued at less than Le 25 million (US\$9,250) | | |
| Uncertified procuring entity | | |
| Submits an annual procurement plan ^a to the Procurement Reform Executive Secretariat | Reviews the annual procurement plan in consultation with the Budget Bureau of the Ministry of Finance | Approves the Annual Procurement Plan |
| Drafts specifications/terms of reference for each procurement case and submits the requisition to the Interim Central Procurement Unit | Evaluates the specifications/terms of reference | |
| | Prepares the procurement case and submits it to the Public Procurement Board | Reviews and approves the procurement case ^b |
| | Prepares the tender documents, advertises and sources suppliers, receives and opens bids, and evaluates the bids according to the procurement plan and the rules and regulations | |
| | Submits evaluation of bids to the Public Procurement Board according to the standard submission checklist | Reviews the evaluation, and submits its approval to the procuring entity |
| The procurement entity places the contract and is responsible for managing it, with oversight and monitoring by the Procurement Reform Executive Secretariat. | | |
| Procedure II – For procuring entities that have received certification, for all contracts valued at less than Le 25 million (US\$9,250) | | |
| Certified procuring entity^d | | |
| Submits an Annual Procurement Plan to the Procurement Reform Executive Secretariat. The plan is to be prepared in consultation with procuring entity's Procurement Committee ^d | Reviews the Annual Procurement Plan in consultation with the Budget Bureau of the Ministry of Finance | Approves the Annual Procurement Plan |
| Prepares a detailed procurement case plan for each procurement case and submits it to the procurement committee for approval ^b | | |
| The Procurement Committee reviews the detailed case plan and submits its approval to the procurement unit | | |

Table III.3 (cont'd)

⁴² The certification process is not automatic as all procuring entities are regarded as uncertified since the introduction of the interim rules and regulations. It involves an evaluation of each procuring entity by the Procurement Reform Executive Secretariat to ensure that the entity has sufficient resources, expertise and logistics to undertake public procurement. A procurement reform programme is also to offer procuring entities appropriate training and support, whether by outsourcing such functions to external procurement consultants or by mentoring and conducting an in-house programme to build capacity.

| | Interim Central Procurement Unit | Public Procurement Board |
|---|---|--|
| The procurement unit drafts specifications/terms of reference; prepares the tender documents; advertises and sources suppliers; receives and opens bids; and evaluates the bids according to the procurement plan and the rules and regulations | | |
| The procurement unit submits its evaluation of bids to the Procurement Committee according to the standard submission checklist | | |
| The Procurement Committee reviews the submission and, submits its approval to the procuring entity | | |
| The procurement entity places the contract and is responsible for managing it, with oversight and monitoring by the Procurement Reform Executive Secretariat | | |
| Procedure III – For procuring entities that have received certification, for contracts valued at Le 25 million (US\$9,250) and above | | |
| Certified procuring entity^c | | |
| Submits an Annual Procurement Plan to the Procurement Reform Executive Secretariat. The plan is to be prepared in consultation with the procuring entity's Procurement Committee ^d | Reviews the Annual Procurement Plan in consultation with the Budget Bureau of the Ministry of Finance | Approves the Annual Procurement Plan |
| Prepares a detailed procurement case plan for each procurement case and submits it to the Public Procurement Board for approval | | Review and approval of the detailed procurement case Plan ^b |
| The procurement entity drafts specifications/terms of reference; prepares the tender documents; advertises and sources suppliers; receives and opens bids; and evaluates the bids according to the procurement plan and the rules and regulations | | |
| Submits evaluation of bids to the Public Procurement Board according to the standard submission checklist | | Reviews the submission and, submits its approval to the procuring entity |
| The procurement entity places the contract and is responsible for managing it, with oversight and monitoring by the Procurement Reform Executive Secretariat | | |

- a Must be prepared by each procuring entity and submitted to the Procurement Reform Executive Secretariat at least three months before the close of the preceding financial year. Preparation of the plan must be linked to the annual budgeting process and be in line with budget allocations.
- b For high value cases, or for complex equipment, works or services it may specify that further approval must be sought for the tender documents and the supplier shortlist stages.
- c Includes procurement units (department formally established within the procuring entity to carry out procurement activities of that entity) and procurement committees (group within the procuring entity whose function is to oversee the activities of the procurement unit and to make procurement decisions ranging from review and advice to approval and award of contracts).
- d The Procuring Entity's procurement committee will review and approve submissions from the procuring unit. It will: (i) ensure that each proposed procurement action is in accordance with the rules and regulations, procurement plan, procedures and instructions; (ii) review the procurement process to ensure that it is transparent, fair, competitive, and provides best value for money; (iii) examine the financial and legal implications of the proposed contract; (iv) review the evaluation process; and (v) ensure, through the budget, that appropriate funds are available to cover the cost of the proposed contract.

Source: Procurement Reform Executive Secretariat (2004), *Interim rules and regulations governing public sector procurement in Sierra Leone*, March, Freetown.

Table III.4
Procurement methods, as from 2004

| Procurement of goods and works | |
|-----------------------------------|--|
| International competitive bidding | <p>Suggested threshold value of goods contracts US\$500,000 and over, and works contracts US\$1,000,000</p> <p>The notification shall be posted in an internationally widespread publication and/or media, and may also include internet sites; it should offer bidders sufficient time to respond.</p> <p>Bidding documents are distributed to all interested suppliers^a and issued at a nominal fee that covers only the actual cost of issuing, reproduction, and sending the documents.</p> <p>Bids shall be submitted in sealed envelopes.</p> <p>Bids are opened in front of suppliers or their representatives.</p> <p>The contract is awarded to the supplier who is most qualified, responsive^b, technically acceptable, and offers the best price.</p> |

Table III.4 (cont'd)

| Procurement of goods and works | |
|---------------------------------------|---|
| National competitive bidding | <p>The international competitive bidding process can be limited to national bidders only if (i) the advantages of an international open bidding are clearly outweighed by the administrative and financial burden; (ii) the contract value is low; (iii) works are geographically scattered; or (iv) the goods and works are available locally below the price of the international market.</p> <p>The procedures are the same as for international competitive bidding except that advertisement is only done nationally, as well as on the Internet. International bidders may compete.</p> |
| Limited competitive bidding | <p>Can be used only if there exists a genuine exigency for the required goods or works. Only a small number of supplier are invited directly to bid (always three or more).</p> <p>This type of bidding needs to be approved by the Public Procurement Board prior to initiating the procurement process. The application must include: a description of the urgency; an explanation of how the non-competitive purchase will meet the schedule; and an explanation of the adverse impact on the recipient if the delivery schedule were modified to permit a normal competitive process.</p> <p>Procedures are the same as for international competitive bidding except that qualified suppliers are invited directly to submit their bids.</p> |
| Shopping | <p>A simplified procurement process where at least three quotations are obtained and compared, and used in the following instances: (i) for standard off-the-shelf items with standard specifications; (ii) where the contract value is low; and (iii) to obtain supplies for continuation of existing works.</p> <p>If the items are required on a repetitive basis and the cumulative value of the contract is high, e.g. over Le 12 million (US\$4,400), shopping is not the appropriate method: a competitive bidding process must be used.</p> <p>The basis of an award in the case of shopping is price. A minimum of three quotations must be obtained to ensure that competitive prices are obtained.</p> |
| Direct contracting | <p>Only to be used in the following circumstances: (i) extension of existing works or continuity of successful services (e.g. from one phase to another on the same project, which would be of benefit to the project); (ii) standardization of equipment or spare parts that can only be procured from the original supplier; (iii) proprietary equipment that is available from only one source or the required expertise is unique or proprietary; (iv) the purchase of critically needed components required as part of a larger project; and (v) emergency arising from a disaster or accident, which requires prompt action.</p> <p>The procurement notice will be advertised on the Internet, stating that it is the intention to use direct contracting, stating the reason, and giving suppliers a limited amount of time to lodge any protest.</p> <p>Direct contracting can only be used with prior approval from the Public Procurement Board, and must include the appropriate detailed justification.</p> |
| Procurement of Services | |
| Request for proposal (RFP) | <p>Used when the inputs and/or outputs cannot be quantitatively and qualitatively expressed at the time the invitation is made, e.g. when consulting or similar services are sought. RFP may also be used for purchase of complex goods when the procuring entity is not sure of the functional specifications and wishes to seek proposals. RFP leads to the selection of the proposal that is most responsive to the specified requirements, including price and other factors. Where appropriate, the RFP may indicate that negotiation may be undertaken with respect to one or more proposals prior to the award of a contract.</p> <p>To avoid any bias, a detailed list of evaluation criteria should be developed. With this method, the two-envelope system must be used, i.e. a technical proposal and a financial proposal in two separate envelopes.</p> |
| Individual consultants | <p>To be employed for assignments when: (i) teams of personnel are not required; (ii) no additional outside (home office) professional support is required; and (iii) the experience and qualifications of the individual are the paramount requirement.</p> <p>Terms of reference are to be developed for individual consultants as for consulting firms, including the required qualifications of the consultants.</p> <p>An advertisement is to be published nationally or internationally depending on the requirements.</p> <p>Consultants are selected is by comparing a minimum of three qualified candidates; the most suitable is selected taking into consideration value for money.</p> <p>Individual consultants may be selected on a sole-source basis with due justification in exceptional cases such as: (i) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (ii) assignments lasting less than one month; (iii) emergency situations resulting from natural disasters; and (iv) when the individual is the only consultant qualified for the assignment.</p> |

- a The key guidelines for new supplier appraisal are: (i) technical capacity to deliver the goods and/or services as per schedule; and (ii) financial strength. For existing suppliers the performance rating at the post-contract stage is an aid to developing the list of reliable suppliers and developing long-term arrangements. This should concentrate on performance with regard to the following: (i) delivery schedule compliance; (ii) the quality of the product or service provided; (iii) the quality of the after-sales service provided; and (iv) accuracy of documentation, i.e. invoices and speed of response.
- b The term "responsive" means that the supplier meets all requirements i.e. specifications, delivery terms, government terms and conditions.
- c The urgency cannot be the result of slow administrative processing or a general lack of planning.

Source: Procurement Reform Executive Secretariat (2004), *Interim rules and regulations governing public sector procurement in Sierra Leone*, March, Freetown.

50. Basic information concerning the contract (content, method of award, invitation to tender) must be published widely, and appear on the Internet. The invitation to tender must specify the criteria for assessing the bids so that all candidates possess the same information. Several criteria (financial and technical) are taken into consideration for the assessment of bids.

51. The interim rules and regulations do not seem to contain any preferences for domestic suppliers or limitations for foreign bidders.

Procurements complaints

52. Under the interim rules and regulations the procuring entity is to deal with all procurement complaints by suppliers, contractors, and consultants in the first instance. If the matter cannot be resolved, the case is forwarded to the Procurement Reform Executive Secretariat where both the Interim Central Procurement Unit and the Public Procurement Board undertake to examine the case and make a decision. In case of failure, the Procurement Reform Steering Committee is the instance of the last resort. The above procedures, however, do not preclude a complainant from exercising his or her contractual rights in a court of justice or going to arbitration where the provision exists.

(viii) Contingency measures

53. Sierra Leone does not have a legislative and institutional framework for anti-dumping, countervailing or safeguards action. According to the authorities, Sierra Leone is considering developing a national policy and legislative framework for contingency measures in conformity with the ECOWAS harmonized framework. However, Sierra Leone is constrained by a lack of technical capacity to undertake such work. Under the EPA negotiations, ECOWAS has committed to developing a regional legal, policy, and regulatory framework for anti-dumping and safeguard actions. For countries without such a framework, ECOWAS will assist in developing one (Chapter II(6)(ii)(c)).

(ix) Standards and other technical requirements

(a) Standards, testing and certification

54. The institutional framework for standards in Sierra Leone comprises the Standards Bureau (SLSB)⁴³ and the National Standards Council (SLNSC), which was created in 1996 but started operating only in 2000, mainly due to the civil conflict.⁴⁴ The SLSB develops and adopts standards as well as providing testing/quality control services.

55. According to the authorities, the SLSB is seriously under-funded, which has delayed the implementation of activities. Qualified staff need to be recruited and trained in areas such as metrology, standards testing, and quality management. A central laboratory needs to be created and equipped, in order to allow regional laboratories to provide testing services, to provide national coverage to metrology standards testing and quality management activities.

56. The National Codex Committee and the Industrial Standards Board were inaugurated in October 2002 and February 2003 respectively.

⁴³ Information available at: <http://slstandard.tvs.com/> [7 October 2004].

⁴⁴ Standards Act No. 2 of 1996; National Provisional Ruling Council Decree No. 2, 12 January 1996; and Public Notice No. 9 of 24 January 2000 of the Ministry of Trade, Industry and State Enterprises.

57. All standards are mandatory, and come into force 60 days after their publication in the *Official Gazette*. There are currently 82 national standards, awaiting final approval, for agriculture, food, animal and animal products. In principle international standards are used as the basis for the preparation of Sierra Leonean standards. No information was available to the Secretariat on the number, product coverage, and compliance with international norms of compulsory standards. The SLSB has obtained Cabinet's approval to levy charges for its services, but no information was available to the Secretariat on the fee, or the use of this service.⁴⁵

58. All codes of practice, regulations, standards should be published in English in the *Official Gazette*. To date (October 2004), Sierra Leone has not notified any technical regulations or its national enquiry point under the WTO Agreement on Technical Barrier to Trade (TBT). According to the authorities, notification of Sierra Leone's enquiry point (under Article 15.2 of the TBT Agreement) is to take place soon (Chapter II(5)). The SLSB is aware of the action required for meeting TBT and Sanitary and Phytosanitary (SPS) requirements.

59. Sierra Leone is not a member of the International Organization for Standardization (ISO), due to financial constraints. According to the authorities, the 2005 SLSB budget includes a special provision to apply for membership to the ISO.

(b) Sanitary and phytosanitary measures

60. The SLSB is mandated to coordinate all standards activities in Sierra Leone, and is the national Codex contact point. However, the Environmental Department of the Ministry of Health and Sanitation is entrusted with the implementation of sanitary regulation; and the Phytosanitary Division of the Ministry of Agriculture, Forestry and Food Security for phytosanitary measures. All food standards in Sierra Leone are based on Codex Standards.

61. According to the authorities, in 2004 technical assistance was requested from the Food and Agriculture Organization to develop a food law; Sierra Leone also requested the provision of four experts, four national counterparts, an equipped laboratory, and relevant monitoring and enforcement infrastructure.

62. As a least developed country (LDC), Sierra Leone had a transition period of five years (until 1 January 2000) to bring any measures not in conformity and affecting imports into line with the relevant provisions of the Agreement on Sanitary and Phytosanitary Measures. Sierra Leone has not yet notified the WTO of its sanitary and phytosanitary legislation.

(c) Marking, labelling, and packaging

63. Sierra Leone has no special marking, labelling, or packaging requirements other than the Price Tag Order 1956, which requires traders to display prices on the shelves to help reduce the exploitation of vulnerable or illiterate citizen, and the Weights and Measures Act 1961.⁴⁶

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Registration and documentation

64. All goods exports are subject to lengthy, complicated procedures (Table III.5).

⁴⁵ Standards Act No. 2 of 1996.

⁴⁶ Act No. 22 of 1961 (Part VI Sections 32 – 35).

Table III.5
Export procedures, 2004

| | |
|-----|---|
| 1. | The exporter submits sales contract/pro-forma invoice as proof of an export order to Customs Department. |
| 2. | The exporters fill out Exports Forms C1 and C2. These forms are prepared in seven sets. A repatriation of export proceeds form, addressed to the exporter's local bank, is also filled out. The forms are given to the exporter. |
| 3. | The exporter submits both forms C1 and C2 to his local bank. The local bank completes the repatriation form, signs and stamps it, confirming that export proceeds will be collected by the bank. |
| 4. | The exporters of agricultural products (cocoa, coffee, piassava, kolanuts, ginger, cashews) go to the Sierra Leone Commercial Bank to pay 2.5% of the export value into the "marketing fund account" of the Ad Hoc Committee on Produce, as required. This amount is payable in U.S. dollars or in the currency of the pro-forma invoice/sales contract if not denominated in U.S. dollars. |
| 5. | The exporter armed with all the documents and receipts from steps 1 to 4 proceeds to the Chamber of Commerce and applies for a mandatory Certificate of Origin which is issued for a fee of Le 50,000, only for agricultural products. |
| 6. | The exporter returns to the Custom Department and submits all forms and receipts from steps 1 to 5. |
| 7. | The customs Department issues an EUR I Form ^a to the exporter. Permission is then granted to the exporter to export his products. |
| 8. | The following institutions/departments are required to witness the stuffing/loading of the goods into the container(s): (i) customs office; (ii) shipping agency; (iii) produce ad hoc committee; (iv) produce inspection division; (v) bureau of standards, and (vi) insurance company (only for c.i.f. contracts). |
| 9. | The goods are transferred to the port of loading and loaded on board a ship. |
| 10. | The exporter collects bill of lading ^b from ship's master. |
| 11. | The exporter presents all shipping documents to local bank or posts them to the buyer, depending on the terms of trade. |
| 12. | The exporter presents all shipping documents to local bank or posts them to the buyer, depending on the terms of trade. |

a Form required for exports to the European Communities and ACP Countries.

b Bills of lading are usually issued in sets of three originals and three non-negotiable copies. When goods are carried by air, an air-consignment note will be issued. Both documents are issued free of charge.

Source: SLEDIC (undated), *The Beginners' Guide to Exporting*.

65. The Chamber of Commerce, Industry & Agriculture issues a mandatory certificate of origin and certifies other export documents against payment of a Le50,000 (US\$18,5) fee for exports to ECOWAS countries and to the EC.

66. Diamond exporters must be licensed by the Ministry of Mineral Resources. The Government's Gold and Diamond Office (GGDO) handles the certification procedures for all diamonds exported legally from Sierra Leone. As from 1 January 2003 a certificate of origin known as the Kimberly Process Certification Scheme has been mandatory (Chapter IV(3)(i) and Box IV.1).

67. To benefit from the African Growth and Opportunity Act (AGOA) of 2000, as from April 2004, Sierra Leone's producers or exporters of textile and apparel articles are required to register with the Ministry of Trade and Industry. A textile certificate of origin and a visa for textile and apparel articles that originate in and are exported from Sierra Leone is mandatory and is issued by the Commissioner General (Chapter II(6)(iii)).⁴⁷ An AGOA Secretariat has been established in the MTI and some 26 firms have registered under this scheme.

(ii) Export taxes, charges and levies

68. Most export taxes were eliminated in 1993. However, exports of cocoa and coffee products remain subject to a levy, currently set at 2.5% of the f.o.b. export value, payable to the Government via the state Ad Hoc Committee on Produce.

⁴⁷ Statutory Instrument - Export Control (textiles and apparel articles) Regulations 2004, *Supplement to the Sierra Leone Gazette*, Vol. CXXXV, No. 16, 11 March 2004.

69. As from 1980 a 3% tax has been levied on all diamond exports valued by GGDO, in conjunction with Diamond Counsellors International (Chapter IV(3)(i)(b)). Under the Mine Policy of 1998, revenue from this tax is spread over five destinations/recipients: income tax (0.75%); Diamond Area Community Development Fund (0.75%), Consolidated Fund (0.75%); Independent Valuer Fee (0.45%), and Monitoring Fee (0.30%) (Chapter IV(3)).

70. Diamonds exported under special dispensations are charged an extra 2% tax in lieu of a licence fee⁴⁸, in addition to the usual 3% export tax (Chapter IV (3)).⁴⁹

(iii) Export prohibitions, restrictions, and licensing

(a) Export restrictions and licensing

71. Export restrictions are maintained for health, safety, and environmental reasons. A special permit issued by the Ministry of Agriculture and Natural Resources is required for the exportation of plants and charcoal (Chapter IV(2)(iv)).⁵⁰

72. A phytosanitary/fumigation certificate has to be issued by the Ministry of Agriculture and Food Security certifying that shipments of perishable goods meet the relevant international health requirements, or have been fumigated with the prescribed chemicals under international requirements. The Ministry charges a fee for fumigating the goods, as well as for issuing the certificate.

73. Gold and diamonds, as well as any other goods or materials as may be prescribed by law, are subject to export licensing requirements (section (i) and Chapter IV(3)).⁵¹

74. During 2002 and 2003 foreign nationals were subject to higher fees for diamond export licences than those charged to locals. This discriminatory policy was adopted in order to encourage nationals to participate in the sector, which is considered vital to the economic development of Sierra Leone.⁵² A flat rate has been applied since 2004.

(iv) Export-processing zones

75. Sierra Leone is working on the development of export processing zones, but no legislation has been approved yet (Chapter II(7)).

(v) Export subsidies and promotion

76. According to the authorities, Sierra Leone does not operate any export subsidy scheme in as much as support for production is difficult to envisage because of limited budgetary resources. The authorities indicate that they do not provide any direct subsidies for the export of agricultural products. Nevertheless a series of fiscal incentives are in place (Chapter II(7)).

⁴⁸ According to the authorities, special dispensations are one-off exports by exporters who want to test the market (allowed to export once only) or tourists looking to export only one diamond.

⁴⁹ Government Gold and Diamond Office (2003).

⁵⁰ The Agricultural Act (Public Notice No. 66 of 1974) - (cap 185), 12 December 1974; and the Rural Area Act (Public Notice No. 16 of 1990) - (cap 75), 31 December 1990.

⁵¹ Article 9 of the Investment Promotion Act, 2004.

⁵² Government Gold and Diamond Office (2003).

(4) MEASURES AFFECTING PRODUCTION AND TRADE**(i) Taxation**

77. According to the Ministry of Finance, during the first half of 2003, Sierra Leone relied heavily on indirect taxation (including taxes on imports), which provided about 60% of government revenue; personal and corporation taxes accounted for 12% and 14%, respectively.⁵³

(a) Indirect taxation

78. At present, Sierra Leone levies a 17.5% sales tax (except on plant and machinery)⁵⁴, introduced in 1995, (reduced from 20% in August 2003); and excise taxes on the production, manufacture, and sale of petroleum products, certain alcohol, and tobacco, introduced in 1979 (section (2)(iii)(e)). These indirect taxes are applied on both domestic and foreign goods.

79. Other indirect taxes in force are the foreign tax (on travel), the restaurant tax (10%); the entertainment tax (10%); and the telephone tax on international calls (10%).

80. A move towards a broad-based consumption tax, such as a value-added tax (VAT), is under consideration, in the medium-term (by 2007), to enhance tax compliance, improve the business environment and generate higher revenues (Chapter I(4)(i)).⁵⁵

(b) Direct taxation

81. The corporate profit tax of 30% for all sectors, since 1 April 2004, and is yet to be implemented.

82. Since 1 April 2002, the threshold for personal income tax is Le 1,000,000 (US\$370), up from Le 800,000, and the top marginal rate for employees, self-employed, and property owners is 35%, down from 40%; the annual payroll tax is set at Le 1,000,000 for non-ECOWAS citizens and Le 100,000 for ECOWAS citizens (Table II.1). For 2004, the resulting tax revenues forgone of these changes in personal taxes was estimated at about Le 8 billion (US\$3 million); the estimated net revenue forgone on corporate tax is estimated at Le 3.8 billion (US\$1.4 million).⁵⁶

(ii) Production assistance

83. Sierra Leone has provided assistance to domestic producers across the board in the form of tax incentives; new legislation on these incentives entered into force on August 2004, replacing the 1969 legislative framework, and other laws.⁵⁷ Tax incentives for agri-processing activities are tied to a trade-related investment measure (TRIM) requiring 60% of local input or value added (Chapter II(7), Table II.1 and Chapter IV(2)(ii)(b)).

⁵³ Ministry of Finance (2003).

⁵⁴ The valuation basis for the sales tax is the ex-factory price of domestic manufactures and the c.i.f. price on imports plus duties (excise, and import).

⁵⁵ Ministry of Development and Economic Planning (2001).

⁵⁶ Government Budget (2003).

⁵⁷ The Non-Citizens (Trade and Business) Act of 1969.

(iii) Competition policy

84. Sierra Leone has no domestic legislation on competition, but the authorities intend to develop such a policy and move forward with a legislative programme. According to the authorities, a consumer protection agency was created, but is run by a non-governmental organization.

(iv) Intellectual property rights

85. Sierra Leone is a member of the African Regional Industrial Property Organization (ARIPO).⁵⁸ ARIPO was established by the 1976 Lusaka Agreement; its headquarters are in Harare (Zimbabwe).

86. Since 1986 Sierra Leone has been party to the Convention establishing the World Intellectual Property Organization (WIPO), signed in Stockholm (1967). In 1997, Sierra Leone expanded its commitments on protection of intellectual property rights (IPRs) by becoming a party to the WIPO Paris Treaty, the Patent Cooperation Treaty, and the Madrid Agreement concerning the international registration of marks⁵⁹, it now participates in three out of 21 treaties administered by the WIPO.

87. As a least developed country, Sierra Leone has been given an extended time-limit, up until 2006, for the full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). According to the authorities, the steps taken to comply with TRIPS obligations are: the creation of a committee for TRIPS issues⁶⁰; a draft Patents and Industrial Designs Act, which is being analysed; plans to amend the Trade Marks Act (Chapter 244); actions to sensitized stakeholders. The TRIPS obligation programme will first concentrate on Patents, then trade marks, followed by copyright enforcement and infringement.

88. According to the authorities, to date, the only technical assistance has been provided through WIPO; it comprises examining drafts and providing comments.

Institutional issues and enforcement action

89. Since 1913, the administration of IPR registration has been carried out by the Office of the Administrator and Registrar-General.

90. The authorities indicate that IPR rules on border measures were drawn up and included in the Copyright Act, 1965. It seems that, due to lack of means, there is no effective enforcement of this law.

91. According to the authorities, only around ten IPR-related cases have gone to court in the past decade. The majority of cases are settled before reaching court.

⁵⁸ The other members of the Lusaka Agreement are Botswana, the Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe. Information available at: <http://www.aripo.wipo.net> [23 May 2004].

⁵⁹ Information available at: <http://www.wipo.int/treaties/en/convention/index.html> [24 May 2004].

⁶⁰ The Committee is responsible for the computerization of records.

(b) Industrial property

Patents and utility models

92. Since December 1982, under ARIPO's Harare Protocol, the substantive examination of patentability is carried out by the ARIPO office.⁶¹ If the requirements for patentability are met, the examination creates a presumption of validity of the patent in the territories designated by the applicant; a territory must provide reasons in writing for rejecting the validity of the patent within six months. Legislation regarding patent protection does not cover agricultural or pharmaceutical products. On industrial designs, ARIPO examinations focus on questions of form (as opposed to those of substance considered in relation to patent applications). If these requirements are satisfied, then the industrial design is registered, conferring protection on the design amongst all ARIPO members. Sierra Leone has not ratified the Harare Protocol.

93. Patent registration involves the re-registration of patents that have already been granted in the United Kingdom.⁶² Any grantee of a patent in the United Kingdom, or person deriving his right from such grantee may apply to have the patent registered in Sierra Leone within three years of the date of its issue. All applications should be accompanied by a certificated copy of the specification of the U.K. patent and a certified copy from the Comptroller General of the U.K. Patents Office, giving full particulars of the issue of the patent. Upon payment of the prescribed fees, the Registrar-General issues a certificate of registration. No patents have been granted to date.

Protection of plant varieties

94. Sierra Leone has not ratified the International Union for the Protection of New Varieties of Plants (UPOV).⁶³

Trade marks

95. The Banjul Protocol on Marks establishes a trade-marks filing system along the lines of the Harare Protocol.⁶⁴ Under the Banjul Protocol an applicant may file a single application either in one of contracting states or directly with the ARIPO Office and designate in the application the states in which the mark is to be protected. Since 1997, the Protocol has been extensively revised in order to make it compatible with the TRIPS Agreement. According to the authorities, Sierra Leone is still considering its application. It is unsure whether the Banjul Protocol would be beneficial, especially as Sierra Leone has already acceded to the Madrid Agreement.

96. Under the Trade Marks Act⁶⁵, protection is afforded for 14 years from the date of application and may be renewed for an additional period of 14 years. Protection covers a word or device, and a stereotype block of the trade mark. The print of the trade mark is sent to the Registrar, and the application is allotted a number. The application should state the goods for which the trade mark is to be registered. The application is then advertised by the Registrar in the *Sierra Leone Gazette*, first as 'received' and then as 'accepted', unless the application is refused by the Registrar, in which the

⁶¹ In December 1982, the Administrative Council of ARIPO adopted the Protocol, it entered in force in 1984.

⁶² Patent Act No. 21, Chapter 247 of the Laws of Sierra Leone 1960, as amended by the Laws (Adaptation) Act No. 29 of 1972.

⁶³ Information available at: <http://www.upov.int/en/about/members/pdf/pub423.pdf> [11 June 2004].

⁶⁴ The Administrative Council of ARIPO adopted the Protocol in 1993, it entered into force on 6 March 1997 for Malawi, Swaziland, and Zimbabwe, and in 1999 for Lesotho and Tanzania.

⁶⁵ Chapter 244 of the Laws of Sierra Leone (Vol. IV, with the Trade Mark Rules in Vol. VIII).

reasons for such a refusal should be stated in writing. The decision of the Registrar is subject to appeal to the Courts.

97. When an application for registration of a trade mark has been accepted, or any opposition has been decided in favour of the applicant, the Registrar will register the trade mark. This will take about six to eight months. Failure to renew a trade mark will lead to its removal from the Register.

98. According to the authorities the Merchandise Marks Ordinance (Chapter 245), dated 13 February 1956 is still applied. There is proposed legislation on patents and designs (currently drafted and with the Law Officers Department) and trade marks (still under consultation)

(c) Other intellectual property

99. The Copyright Act of 1965 provides the legal framework in Sierra Leone for original works of sound recordings, cinematograph films, and broadcasts.⁶⁶ Copyright protection extends for fifty years from the end of the calendar year in which the author died. In 1972, national legislation/regulations on trade marks, geographical indications, industrial designs, and patents were amended by the Laws (Adaptation) Act No. 29.

(v) **Environmental issues**

100. Sierra Leone adopted a National Environmental Policy in 1994, and the Environment Protection Act in 2000, to achieve sustainable development through sound environmental management.⁶⁷ The major areas for implementation of this policy are: land tenure, land use, and soil conservation; water resources management; forestry and wildlife; biodiversity and cultural heritage; air quality and noise; sanitation and waste management; toxic hazardous substances; mining and mineral resources; costal and marine resources; working environment (occupational health and safety); energy production and use; settlements, recreational space, and green belts; public participation; quality of life; and gender issues and the environment. An Environmental Impact Assessment Licence needs to be obtained from the Environmental Department before any new business establishment may start operations.

⁶⁶ The Act No. 28 dated 6 August 1965, substitute the provisions of the Copyright Act 1911.

⁶⁷ Ministry of Lands, Housing, Country Planning and the Environment.