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VcCLIR: MALI

Commercial Legal and Institutional Reform for Agricultural Value Chains in Mali

AGENDA FOR ACTION

February 2012






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EXECUTIVE SUMMARY

This Value Chain Commercial Legal and Institutional Reform (VcCLIR) diagnostic report addresses the conditions and opportunities for Doing Business in Mali's agricultural sector. Based on the well-known Commercial Legal and Institutional Reform (CLIR) methodology, VcCLIR examines the relevant laws, institutions, and social dynamics across four aspects of the sector. However, this tool adds a special focus on critical value chains. In the case of this Mali report, these subsectors are livestock, rice, shallots, and millet/sorghum. This report aims to inform the assistance decisions of the United States Agency for International Development (USAID), the Millennium Challenge Corporation (MCC), and other donors in the area of agricultural development, economic growth, and food security. This report also provides insights and recommendations for government officials, private-sector representatives, and other stakeholders directly involved with the sector.

The Mali VcCLIR team identified countless constraints to business growth and expansion in the rice, millet/sorghum, shallot, and livestock value chains, and a large number of possible legal or institutional reforms were considered. However, after assessing the feasibility and potential impact of these reforms, a select number were included in this report.

One of the most important reform agendas advocated is a **reduction in "food security" interventions in the markets for staples, particularly meat and rice, to a predictable, minimum level, based on objectives criteria and thresholds.** Currently, the government "negotiates" (and then establishes) prices at multiple stages along select value chains, such as meat and bread, a system that protects consumers in the short run but puts enormous constraints on these industries. In the case of rice, meat, and dairy, market opportunities are not being seized, since profit incentives to invest along the chain in higher value processing, modernization, or proper storage are limited. This report recommends a number of possible steps toward tackling this critical issue, including targeted advocacy and bureaucratic reform.

Two related themes woven throughout these recommended actions are the need for the Government of Mali (GoM) to directly and aggressively **facilitate private investment in agribusiness**, both domestic and international, as well as the critical need for **enhanced intra-industry linkages** along each of the four value chains studied. The relationship between government and Malian agribusinesses is broken; roles are poorly defined. For the commercialization and scale-up of production and processing that agro-industry desperately needs, this study found that public-private partnerships (PPPs), such as those envisioned for phase 2 of the Alatona Irrigation Project (PIA), that are market-driven and present robust operationalization plans have the potential to be transformative. However, the government must dedicate energy and resources to developing these arrangements, which take years to push through the bureaucratic and financing channels.

At the smaller scale, the government must restrict itself to setting guidelines and parameters for the market, while moving away from direct intervention and controls. Industry associations should be **private sector-led**, and **vertical associations** must be supported to take a sectorwide perspective of market opportunities and potential business-to-business linkages, including financing and contract mediation. Horizontal industry associations share common goals of policing and self-regulation, and have an incentive to collaborate and stimulate compliance where government enforcement capacity is weak. While there are clear limits to self-policing, it is advisable in instances where the government currently lacks the capacity, resources, or outreach to provide effective oversight.

Our review revealed a number of opportunities to **exploit competitive advantages and expand agricultural exports**. The private sector is not seizing market opportunities for live animals and grains because of government action (such as the implementation of *de facto* export bans on all cereals) and inaction (inability or unwillingness to dispute violations of regional trade agreements by neighboring countries). At the same time, additional costs, procedures, and inefficiencies make Malian exports less competitive. This report offers a number of specific actions that could facilitate trade at this nuts-and-bolts level.

This diagnostic also identified several concrete ways **to improve access to better quality seeds**. Current seed legislation recognizes only seed produced through a lengthy, certified, and expensive multiplication process. Good quality varieties and indigenous varieties exist within the country that are well suited to producers' needs and, if multiplied up in a less costly manner, could be sold at a lower price to a wider market. In addition, the law does not allow for the certification of seed by any agency other than the Direction National pour l'Industrie (the National Directorate of Industry, or DNI), which is a lengthy and expensive process. Supporting the private sector with legal reform and technical assistance would enable it to undertake its own certification. Increased availability of royalty-free seed would also allow the private sector to play a greater role in seed multiplication.

Another major constraint is the need to **improve access to credit for agribusinesses**, which is generally only available to preferred clients. The West African Monetary Union (WAEMU) interest rate ceilings, as well as the lack of reliable information on credit status and history of potential borrowers, were found to restrict agribusinesses' access to finance or new markets. In addition, despite a new secured transaction law, widespread skepticism about the practicality of using animals as collateral in the Malian context results in many livestock agribusinesses and rural livestock breeders relying on costly and insufficient informal sources of credit.

A final issue highlighted is the need to **encourage the enactment and enforcement of formal contracts**. The vast majority of transactions between cereal traders take place without any written contracts, which makes proving breach of contract difficult, and further constraining the expansion of business to partners without personal guarantees or relationships. The development of standardized, easily used written contracts based on commonly used informal contract terms could mitigate some of the reluctance actors along the value chain have to extend credit to their trading partners. Fostering a more transparent judicial system, publishing commercial court decisions, and training journalists on how to report on the judiciary could all help increase the use of formal contracts.

LIST OF ACRONYMS

AgCLIR	Agribusiness Commercial Legal and Institutional Reform
ALCO	Abidjan-Lagos Corridor Organization
AMEPROC	Association Malienne des Exportateurs de Produits de Cueillette (Malian Association of Wholesale Exporters)
ANSSA	Agence Nationale de Sécurité Sanitaire de L'alimentation (National Food Safety Agency)
AOPP	Association des Organisations Professionnelles Paysannes (Association of Farmers' Professional Organisations)
APBEF	Association Professionnelle des Banques et Etablissements Financiers (Professional Association of Banks and Financial Institutions)
APCAM	Assemblée Permanente des Chambres d'Agriculture du Mali (Permanent Assembly of the Chambers of Agriculture)
APIM	Association Professionnelle des Institutions Microfinance (Professional Association of Microfinance Institution)
API-Mali	Agence pour la Promotion des Investissements au Mali (Investment Promotion Agency of Mali)
ASSEMA	Mali Seed Association
ASCOMA	Association des Consommateurs du Mali
ATP	USAID Agribusiness and Trade Promotion Project
AU-IBAR	African Union – Inter-African Bureau for Animal Resources
BCEAO	Banque Centrale des Etats de l'Afrique de l'Ouest (Central Bank of West African States)
BEE	Business-enabling environment
BMS	Banque Malienne de Solidarité (Malian Solidarity Bank)
BNDA	Banque Nationale de Développement Agricole (National Agricultural Development Bank)
BVRM	Bourse Régionale des Valeurs Mobilières (Regional Securities Exchange)
CBPP	Contagious Bovine Pleuropneumonia
CCIM	Chambre de Commerce et d'Industrie du Mali (Chamber of Commerce and Industry)
CCS/SFD	La Cellule de Contrôle et de Surveillance des SFD (Unit of Microfinance Control and Supervision)
CECAM	Centre de Conciliation et d'Arbitrage du Mali (Conciliation and Arbitration Center of Mali)
CEMAPI	Centre Malien de Promotion de la Propriété Industrielle (Malian Center for the Promotion of Industrial Property)
CET	Common External Tariff
CGAP	Consultative Group to Assist the Poor
CIDA	Canadian International Development Agency
CILSS	COMITE Permanent Inter-États de Lutte contre la Sécheresse dans le Sahel (Permanent Inter-State Committee for the Fight against Drought in the Sahel)
CIP	Payment Incidents Center
CIRAD	Centre de Coopération Internationale en Recherche Agronomique pour le Développement (International Partnership in Agronomic Research for Development)
CMDT	Compagnie malienne pour le développement du textile (Malian Company for Textile Development)
CNGP	Le Comité National de Gestion des Pesticides (National Committee on the Management of Pesticide)

CNPM	Conseil National du Patronat du Mali (National Council of Malian Employers)
COBAS	Coopérative des Marchands de Bétail de Sikasso (Sikasso Cooperative of Animal Merchants)
COLAIBA	Cooperative Laitière de Bamako (Bamako Dairy Cooperative)
COMANAV	Compagnie Malienne de Navigation
CPI	Consumer Price Index
CSLP	Poverty Reduction Strategic Framework
CSP	La Comite Sahélienne des Pesticides (Sahelian Pesticide Committee)
CVL	Central Veterinary Laboratory
DGRC	Direction Générale de la Règlementation et du Contrôle (General Directorate for Regulations and Control)
DNA	Directorat National de l'Agriculture (National Agricultural Directorate)
DNCC	Direction Nationale pour le Commerce et la Concurrence (National Directorate for Trade and Competition)
DNI	Direction National pour l'Industrie (National Directorate of Industry)
DNS	Direction Nationale de la Santé (National Health Directorate)
DNSV	Santé Publique Vétérinaire et Inspections (Veterinary Public Health and Inspection)
DRA	Service Nationale de Vulgarisation (National Extension Service)
ECB	European Central Bank
ECOWAS	La Communitee Economique des Etats Ouest-Africains (Economic Community of West African States)
FAO	Food and Agriculture Organization
FEBEVIM	Federation Nationale des Producteurs de l' Elevage au Mali (National Federation of Livestock Producers in Mali)
GIIF	Global Index Insurance Facility
GMM	Grands Moulins du Mali
GoM	Government of Mali
HACCP	Hazard Analysis & Critical Control Points
HUICOMA	Huilerie Cotonniere du Mali
ICSID	International Center for the Settlement of Investment Disputes
IER	L'Institut d'Economie Rurale (Institute of Rural Economy)
IFAD	International Fund for Agricultural Development
IR	Initiative Riz
K-LIFT	Kenya Livestock Finance Trust
LABOSEM	Laboratoire de Semence (National Seed Laboratory)
LOA	Loi d'Orientation Agricole du Mali (Law on Agricultural Orientation)
MCA	Millenium Challenge Account
MCC	Millenium Challenge Corporation
MDG	Millenium Development Goals
MEF	Ministry of Economy and Finance
MFIs	Microfinance institutions
MIS	Marketing information systems
NGOs	Nongovernmental organizations
OHADA	Organisation pour l'Harmonisation des Lois de Commerce en Afrique (Organization for the Harmonization of Business Law in Africa)
OIE	Organization of International Epizootics (World Organization for Animal Health)

OJ	Official Journal of the European Union
OMA	Observatoire Du Marche Agricole (Agricultural Market Watch)
ON	Office du Niger (Niger Office)
OPAM	Office Des Produits Agricoles Du Mali (Malian Office of Agricultural Products)
ORM	Office Riz Mopti (Mopti Rice Office)
ORS	Office Riz Segou
PAMF	Première Agence de MicroFinance (First Agency of MicroFinance)
PASMIF	Microfinance Sector Support Project (Programme d'Appui au Secteur de la Microfinance)
PIA	Project d'Irrigation d'Alatona (Alatona Irrigation Project)
PNIP-SA	Plan National d'Investissement Prioritaire dans le Secteur Agricole
PNISA	Plan National d'Investissement du Secteur Agricole
PPPs	Public-private partnerships
QDS	Quality Declared Seed
RCCM	Registre du Commerce et Crédit Mobilier (Commercial Registry)
REC	Regional economic community
RFID	Radio frequency identification
SEZ	Special economic zone
SMEs	Small and medium-size enterprises
SNNCQ	Système National de Normalisation et de Contrôle de Qualité (National System of Standardization and Quality Control)
SNV	Netherlands Development Organization
SPS	Sanitary and phytosanitary standards
SSN	Service Semencier National (National Seed Service)
TADs	Transboundary animal diseases
TNTB	Tariff and nontariff barriers
TPR	Trade Policy Review
UEMOA	Union économique et monétaire ouest-africaine (West African Economic and Monetary Union)
USAID	United States Agency for International Development
USB	Foundation Seed Unit (USB)
VAT	Value-added tax
VcCLIR	Value Chain Commercial Legal and Institutional Reform
WAEMU	West African Economic and Monetary Union
WASA	West African Seed Alliance
WATH	West Africa Trade Hub
WB	World Bank
WFP	World Food Programme
WTO	World Trade Organization

INTRODUCTION

This Value Chain Commercial Legal and Institutional Reform (VcCLIR) diagnostic report addresses the conditions and opportunities for Doing Business in Mali's agricultural sector. Closely based on the well-known Agribusiness Commercial Legal and Institutional Reform (AgCLIR) methodology, VcCLIR examines the relevant laws, institutions, and social dynamics across four aspects of the sector. However, this tool adds a special focus on critical value chains. In the case of this Mali report, these subsectors are livestock, rice, shallots, and millet/sorghum. This report aims to inform the assistance decisions of the United States Agency for International Development (USAID), the Millenium Challenge Corporation (MCC), and other donors in the area of agricultural development, economic growth, and food security. This report also provides insights and recommendations for government officials, private- sector representatives, and other stakeholders directly involved with the sector.

USAID's Feed the Future initiative, which prioritizes increased investment in agricultural and rural development as a lever for combating food insecurity and an engine for broader economic growth, prosperity, and stability, has reinforced USAID's focus on agriculture and food security. It is within this context that USAID commissioned this report. The goal of this report is to improve understanding of **why** key aspects of Mali's agricultural sector function as they do; **what** policy changes could lead the sector to greater productivity, security, and growth; and **who** among Mali's economic actors must lead or implement change. Specific recommendations arose from an in-depth analysis of key business-enabling environment (BEE) issue areas. These recommendations were prioritized, taking into consideration the feasibility, estimated cost, and potential impact of each reform.

The first field assessment took place April 1–April 22, 2011. A multidisciplinary team convened in Mali and met with more than 200 key informants across the four value chains and the broader agricultural sector, including national, regional, and local officials; farmers and cooperatives; domestic and international traders; owners and managers of agricultural enterprises; business associations; nongovernmental organizations (NGOs); court representatives; lawyers; accountants; and many others. At USAID's request, interviews and observations focused on the regions of Sikasso and Mopti, and interviews, focus groups, and field site visits were held in the communes of Tongorongo, Sevare, Bankass, Bandiagara, Fatoma, Koutiala, Djenne, Sofara, San, Loulouni, and Kadiolo. Two key borders posts were assessed: the border with Cote d'Ivoire at Zegoua and the border with Burkina Faso at Hèrèmakono. A follow-up assessment was carried out by four members of the original team. During this second assessment (October 24–November 8, 2011), more than 65 interviews and focus group discussions were conducted in Segou, Niono, the Alatona Irrigation Project (PIA) zone, and Timbuktu.

[1] For a full summary of the United States' government's *Feed the Future* initiative, see *Feed the Future Guide: A Summary*, available at http://www.feedthefuture.gov/FTF_Guide_summary.pdf.

VcCLIR: A TOOL FOR ENGAGING THE AGRICULTURAL SECTOR

AgCLIR tackles many of the same themes as the World Bank's *Doing Business* survey[2] of a country's legal and regulatory environment, but provides a much deeper, qualitative, sector-specific assessment of the enabling environment issues that constrain or define an entire agricultural sector. VcCLIR captures these universal issues as well but also hones in on the perspectives and experiences of key players along a single value chain. Targeted to address key issues long noted as "sticking points" in Mali's agricultural economy, this diagnostic drills down deeply into four of the 10 areas of *Doing Business* – Getting Credit, Dealing with Licenses,[3] Trading Across Borders, and Enforcing Contracts. Other *Doing Business* categories and BEE issues are addressed less comprehensively in special sections and woven throughout the analysis.

VcCLIR is based on an end-to-end view of the subsector – from critical inputs, through various streams and stages of production and processing, and through supply and trading networks as products are aggregated and change hands, on their way to the domestic market or point of export. The structure, conduct, and performance of the market at each stage (inputs, production, processing, and marketing) are considered, as are the opportunities and constraints faced by the sector. Borrowing largely from existing value chain and market analyses and the expertise of core team members, this information contextualizes the subsequent analysis of the business climate in which these industries operate. Summaries of our value chain studies are included in Appendix A of this report.[4]

The AgCLIR and VcCLIR methodologies are not based on empirical evidence but rather on the impressions and perspectives of hundreds of private-sector interviewees. Unless otherwise noted or cited, statements made in this report are based on information gleaned from primary source interviews.

THE MALI VcCLIR TEAM

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THE CLIR FRAMEWORK

The VcCLIR analysis is broken into chapters tackling particular themes in the BEE. Each chapter follows the same structure of the four CLIR dimensions, a framework that guides the inquiry for each issue area. The report's recommendations often target certain dimensions over others, based on where problems and opportunities are identified.

Legal Framework. The chapters first examine Mali's laws and regulations that serve as the structural basis for the country's ability to achieve and sustain market-based development in the agricultural sector. They discuss the following questions: How accessible is the law, not only to elite, well-informed groups but also to less sophisticated actors, rural constituencies, or foreign investors? How clear are the laws, and how closely do they reflect emerging global standards? How well does the law respond to commercial realities faced by stakeholders in the agricultural sector? What inconsistencies or gaps are present in the legal framework? This section examines key laws and regulations that apply throughout the economy and additional laws and regulations underpinning the agricultural sector specifically.

[2] Starting a Business, Dealing with Construction Permits, Employing Workers, Registering Property, Getting Credit, Protecting Investors, Paying Taxes, Trading Across Borders, Enforcing Contracts, and Closing a Business. In its most recent report, the World Bank has removed Employing Workers from its scored areas of inquiry, due to ongoing controversies over the issues it evaluates.

[3] Dealing with Licenses is the AgCLIR adaptation of Dealing with Construction Permits, covering a broader selection of permits and papers needed to operate and trade in the agricultural sector.

[4] There is no detailed summary of the shallot value chain in Appendix A, because the geographic focus was limited to Alatona, and the shallot chain is in development there (first season). However, more information can be found in the special section on shallots, p. 34.

Implementing Institutions. Next, the chapters examine those institutions that hold primary responsibility for implementation and enforcement of the legal framework. These institutions include government ministries, authorities, and registries, or, in certain cases, private institutions such as banks and credit bureaus. The role of municipal and district councils are of particular interest in Mali's agricultural sector and are addressed in these sections. Again, the indicators seek to uncover how implementing institutions function not merely with respect to mainstream business interests in the capital but also in rural areas and agricultural-based communities.

Supporting Institutions. The chapters then look closely at those organizations, individuals, or activities without which the agricultural sector in Mali cannot be fully developed. Examples include farmer associations, rural banks, professional associations, agricultural and law faculties, the media, and donors. The relative awareness of law and practice on the part of each institution is examined, along with the specific ways in which institutions increase public and professional awareness, work to improve the economic performance, and otherwise serve their constituencies.

Social Dynamics. As the final point of analysis, the chapters discuss key issues that impact the environment for growth in the agricultural sector. Roadblocks to reform, in particular, are considered, including those entities that may be undermining change. This discussion also identifies significant opportunities for bolstering the environment for agricultural enterprise – such as champions of reform or regional initiatives – as well as matters of access to opportunity and formal institutions. Social dynamics also concern important matters of gender, human capacity, and public health, each of which may have a significant bearing on how the business environment truly functions. Indeed, often a full understanding of legal and institutional issues cannot be achieved without a nuanced consideration of a country's social dynamics.

THE BUSINESS CLIMATE FOR MALIAN AGRIBUSINESS

The overall business climate in Mali can be described as a vicious circle between a weak and stagnant private sector and heavy-handed government administration. Government interventions in the market and bureaucratic oversight are touted as temporary measures designed to stimulate and structure the private sector. However, these interventions stifle genuine innovation and commercial activity. This diagnostic found numerous specific examples of this phenomenon, such as the government's intrusive role in regional chambres de commerce and public-sector-led producers associations with social and political mandates as well as commercial goals. Of course, fertilizer subsidies are a classic example of a misguided attempt to stimulate demand for agro-inputs and "crowd in" the private sector; in implementation, true private-sector activity seems to be pushed out, first because of the anti-competitive nature of government procurement, and second because inefficiency has resulted in consistently late payments by the government to agro-input dealers, providing little incentive for participation by small operators in the subsidy scheme.

Similarly, when it comes to enforcement of trade-enabling standards, from weights and measures to food safety, the government has strikingly little capacity, particularly outside the capital. Nor is private- sector compliance encouraged, despite clear incentives for industry to adopt such standards. The result is the comfortable informality so characteristic of Malian agribusiness: a casual, happy avoidance of registration, licensing, certification, and formal contracts. The private sector, particularly small-scale agribusiness, does not seem to recognize the danger of this culture of informality, which severely limits business growth and expansion into new networks and markets.

Largely due to this lack of trust outside small networks, the overall business climate is constraining, rather than enabling. Contracts are

rarely written, and while there is a fierce respect for oral contracts from government and industry, these must be backed up by personal reputation and guarantees. Industry stakeholders commonly bemoan that "your market is only as large as your personal network," and proudly state that they always "keep business at arms' reach." Without dedicated, generational reform to this multidimensional problem – meaningful commercial court reform, shifts in public attitudes toward formal recourse, and rollout of compelling risk mitigating financial products – Malian agricultural production and trade will not be able to expand to its full potential.

VALUE CHAINS AND THE ENABLING ENVIRONMENT

The VcCLIR diagnostic is not meant to serve as a comprehensive value chain study. Instead it offers a more focused analysis of the BEE within which the value chain operates. Existing market analysis and industry expertise were leveraged in order to paint a clear picture of the dynamics of each subsector, identifying the constraints and opportunities faced on a daily basis by key industry players. For purposes of this study, a value chain is defined end to end and comprises input producers and distributers, producers, processers, and all manner of aggregators and traders.

The following sections briefly describe the business climate for each of the four target value chains. More detailed value chain maps and summaries are included in Appendix A of this report.

LIVESTOCK

Livestock are of key economic and social importance to Mali at both the household and national levels. Livestock production accounts for approximately 30 percent of Mali's agricultural GDP, and around 85 percent of Mali's agricultural households own some form of ruminant.[5] The combination of low-cost animals reared on extensive rangelands and cheap cotton seed cake contributes much towards the competitive advantage of the Malian livestock sector. The GoM has the potential to transform the export sector and become a regional supplier of meat and animal byproducts. However, appropriate policy reforms are needed to increase investment in production and processing, increase interaction between stakeholders throughout the value chain, reduce transaction costs and road harassment in trade, and improve animal health delivery services.

Although there may be opportunities for investment in both meat and dairy subsectors, such investment is unlikely to occur in a business environment that is so completely based upon trust and that avoids the use of conventional contractual and dispute resolution mechanisms. The existing structure and conduct of livestock markets may be appropriate to low-output pastoral production, but it is a fundamental constraint to growth, which will require the adoption of more rigorous formal business procedures and linkages if it is to occur.

Not only do the structure and conduct of the market work against investment but GoM interventions, especially with regard to the indirect control of meat prices and the intermittent and unpredictable restrictions on livestock exports, do little to promote investor confidence. Local authorities are reported to limit, retard, or otherwise informally restrict export permits when livestock prices are rising. Although such policies are favorable to consumers (and butchers), they mitigate against wealth creation among livestock producers and effectively reduce GDP. This may be deemed socially acceptable but does nothing to enhance subsector growth.

In both meat and dairy subsectors, industry development is further constrained by the poor degree of vertical coordination among stakeholders. Small milk producer cooperatives lack access to wider markets for dairy products, while meat producers receive little or no benefit from either quality premiums or fluctuations in the price of meat.

[5] Michigan State University Food Security Team, Department of Agricultural, Food, and Resource Economics, "Mali Agricultural Sector Assessment," April 2011.

Regulatory oversight, including veterinary certification, grading, registration, and standards, of this geographically dispersed subsector is particularly weak, leading to high rates of disease and cattle theft. This is also evident in the extent to which illegally slaughtered meat is widely sold and in the trade in unregistered vaccines and drugs. While access to vaccines may not be an issue, logistical and manpower constraints severely restrict the capacity of the Santé Publique Vétérinaire et Inspections (Veterinary Public Health and Inspection, or DNSV) to control a number of severe animal diseases. In the face of these challenges, livestock industry participants have no faith whatsoever in the police or the courts to provide redress.

PHOTO BY FINTRAC INC.

Finally, the fundamental basis of production – access to grazing – is uncertain. Land tenure rights of pastoralists have yet to be properly defined so that farmers and pastoralists find themselves in conflict over who is encroaching on a particular area of land. This uncertainty continues to erode the key element of production upon which the subsector's comparative advantage depends.

RICE

Rice is the dominant commercial food crop in Mali. From 1980 to 2004, total value added from rice production rose by an annual average of 9.3 percent and now accounts for 12.3 percent of agricultural value added.[6] This success has been fueled mainly by public-led investments in large-scale gravity-fed irrigation infrastructure and some improvements in the enabling environment, based around the liberalization of marketing and processing in the main production zone of the Office du Niger (ON) during the late 1990s and early 2000s. While most Malian rice cannot compete with standard imported rice on the basis of price, the production of specific local varieties, such as Gambiaka, that have a distinctive flavor is both competitive and profitable. Rice has also benefited from higher international prices and an increase in the demand for local rice.

While a niche local market may exist for the broken rice that is characteristic of Malian production, producers of higher-quality rice in other countries would regard such a market to be an opportunity to dispose of their poorer quality material and might well do so at a discounted price. Therefore, many stakeholders consider this niche market to present limited profitability. There is a clear regional export market for high-value Gambiaka rice that could justify investment in more intensive production. However, this opportunity is not currently exploited because of the climate of uncertainty created by intermittent and unpredictable restrictions on cereal exports imposed by GoM.

Uncertainties in the export market and the overall constraint to profitability engendered by the GoM domestic pricing policy render the subsector less attractive to investment than its fundamental economic potential would suggest. For instance, while there may be an export market for high-value Gambiaka rice, it is not exploited because of intermittent and unpredictable restrictions on cereal exports. Unpredictable and protectionist policy constrains development of all aspects of the rice value chain from processing to seed production and is only partially countered by the GoM's *Initiative Riz* interventions in

[6] Ibid.

THE ALATONA IRRIGATION PROJECT (PIA)

In keeping with government and donor interest in development of the rice sector, the PIA located in the ON was established to irrigate and develop 14,000 hectares of land. A grant agreement between the GoM and the MCC fully funded the first phase of the project. Phase 1 of the project consisted of building the main water and road infrastructure, developing the initial 5.200 hectares, and relocating "project affected people" to five-hectare plots on the developed land. Because MCC funding for the PIA is coming to an end in 2012, there is an urgent need to determine how the remaining 8,800 hectares will be developed. While numerous approaches have been brought forth, it seems likely that Malian investors (companies with greater than 50 percent Malian ownership) will be able to purchase parcels of land and obtain the land title. Size restrictions on land parcels have not been set. Investors with less that 50 percent Malian ownership will be able to obtain leases of up to 30 years. The main water channels have been rehabilitated, so there will be a water delivery system in place. In addition, no household relocation plans are required for the remaining 8,800 hectares.

There is strong interest in establishing some form of public-private partnership (PPP) among the Malian government, international financial institutions, and the private sector to support commercial rice production in this area. Although API-Mali is taking some interest in promoting the second phase of the PIA, at the time of this assessment, no government unit had yet taken on ownership for the development of a PPP. MCC and MCA have developed an action plan to solicit interests and proposals from the private sector, but the long-term plan for how this PPP process will move forward remains unclear. Those involved in the effort would do well in reviewing the experience of the nearby Markala Sugar Project, an ambitious and fledgling PPP that has been in the works for a decade. If successful, the sugar project will comprise a 14,000-hectares irrigated cane estate and an industrial component with a crush capacity of over 7,000 tons/day. For successful continuation of the second phase of the Alatona PPP, more than just high-level buy-in is required; the PPP needs to be placed under a government agency with a strong sense of ownership, determination, and the ability to oversee this project through the long run.

the supply of inputs. Indeed, these latter interventions have disrupted the fertilizer market by restricting the supply to a single company, removing any element of competition on quality or performance, while disrupting traders' cash flow through delays in payment. At the same time, the team was told by several interviewees that a large share of the fertilizer is used on other crops, or sold or exported despite efforts to mitigate leakage.

The dominance in the market of three large traders has a negative impact on competition, consolidating power and increasing the profit margins for these dominating traders. The market is far from perfect, and transaction costs are higher as a result. Government oversight in the immediate term, combined with a push to expand to a broader spectrum of buyers in the long term, will allow both producers and consumers to benefit from open competition.

A dependence upon personal networks and reputations for business contacts reduces rice-marketing options, and there is little collective marketing and negotiation among producers. Organization of growers into groups would enhance trader and processor interest, increase vertical integration, and reduce transaction costs. Nevertheless, for this to be achieved, existing oligopolies must be broken up.

MILLET AND SORGHUM

Millet and sorghum, when taken together, remain the most widely consumed cereals in Mali, particularly in rural areas and among low-income Malians. However, production and yield growth in recent years have been low, increasing much more modestly than rice and maize. There is very little commercial processing of these cereals, and therefore little consolidated industrial demand to stimulate production. The Malian government has launched cereal

production objectives that involve continued increases in the absolute amount of millet/sorghum production. However, because the sector is so subsistence based, "commercializing" the industry will require a number of policy and institutional reforms, such as removing the barriers to the accessibility and availability of improved seed varieties and developing export markets for both processed and unprocessed grain.

Policy uncertainty related to downward pressure on prices for domestic consumers has created a major disincentive to investment in the commercialization of the millet/sorghum subsectors. Little organic development of the subsector will occur unless demand is strong enough to elevate prices and the GoM states a commitment to free market prices, which would be politically untenable given fears of food price insecurity. The commercial development of the subsector suffers from other constraints, including the limited availability of improved seed, the inconsistent quality of agrochemicals, limited extension capacity, the limited availability of finance among both growers and traders, and a lack of storage capacity. In addition, ongoing uncertainty over export authorizations stemming in part from GoM policy and in part from corruption within local authorities is a substantial disincentive to potential exporters and to the market overall.

The availability of inputs for commercial production is limited. In particular, the quality of agrochemicals to improve yields is compromised by a lack of enforcement of standards and labeling procedures, while the availability of improved seeds is restricted by inadequate certification capacity and lengthy seed- production procedures. The social stigma often associated with the purchase of seed may inhibit traditional growers but is unlikely to be a barrier to commercial production of millet and sorghum.

Because millet and sorghum are produced mainly by smallholders and are rarely commercial crops, it is difficult for growers to access credit other than that made available against a donor- or government-funded contract. Some loans are made to groups purely on the basis of cooperative registration, an ill-advised lending strategy that has resulted in increased instances of non-repayment and an even greater reluctance on the part of banks to lend to the sector. The same holds true for traders and processors who have expressed difficulties in accessing the finance necessary to purchase the crop in economic volumes. However, in these cases the banks' reluctance to lend may be less justified. The neutral attitude of the GoM to the development of millet and sorghum has not helped the commercialization process, especially when compared with *Initiative Riz*. There is a lack of extension capacity for these crops and there is limited interest on the part of the government in PPPs; for example, local authorities might organize growers and collaborate with private-sector processors to provide the necessary extension and grower management. However, the current lack of private-sector interest in the millet/sorghum processing sector means that it will be difficult for the government to find a suitable processing partner through which to stimulate production. Direct government investment in processing is inadvisable until market demand and throughput can be guaranteed. However, supportive loans to interested investors in processing could help jump-start investment along the entire value chain.

Quality standards are poorly defined and enforced, leading to confusion and opacity within the market. This usually works to the detriment of producers but also contributes to an overall failure in terms of price signals and the efficient use of productive resources. The strong reliance upon relationship- or cash-based market transactions limits the potential markets for each buyer and seller, effectively segmenting the value chain and reducing its efficiency. Improved commercial linkages between producers, traders, and agro-processors may serve to promote quality standards and the use of formal contracts.

VcCLIR ANALYSIS

DEALING WITH LICENSES

While many aspects of Malian bureaucracy are "heavy," this does not seem to be the case for licensing. Agribusinesses report that most licensing processes are relatively simple and efficient and do not present a burden to their operations. Malian legislation on licenses is limited. However, businesses in the livestock, rice, and millet/sorghum value chains are required to obtain a number of forms and permissions. This chapter focuses on four key areas of regulation: business licenses, food safety standards, seed certification, and agrochemical licenses.

LEGAL FRAMEWORK

Business Licenses

Operating an agribusiness requires different forms of licensing, depending on the nature of the business (trading, food processing, agrochemical sales, etc.). However, no interviewees reported that licenses were a constraint or burden in Mali. Operators apply for and are usually granted licenses through a simple administrative procedure without regard for capacity or compliance. Relevant authorities follow up with consumer protection and safety inspections at semi-regular intervals. This process assumes compliance on the part of the operator unless it is clearly demonstrated not to be the case. Overall, the process of licensing of agribusiness activities in Mali contributes positively towards the development of an enabling environment for business. While it may not provide the level of consumer protection seen in North America or Europe, it does provide a modicum of control and responsibility, while allowing businesses to develop as freely as possible.

The GoM has sought to facilitate the participation of smallholder producers in the formal economy through registration. **Article 16 of the Loi d'Orientation Agricole du Mali (Law on Agricultural Orientation,** or **LOA)** describes the basis for the registration for a smallholder farmer, namely registration without fee with the local chamber of agriculture. This registration allows the smallholder farmer to operate as a juridical entity, i.e., to enter into legally binding contracts, to take out formal loans, and to participate as a member of the chamber of agriculture.

Larger commercial agricultural enterprises not only must be registered with the Chamber of Agriculture but also must undertake the normal business registration processes set forth in **OHADA regulation of 1 October 1997: Acte Uniforme Sur Le Droit Commercial General (Uniform Act on Commercial Law)**. This regulation stipulates the process for registration and the duties of a registered business, including compliance with various Organisation pour l'Harmonisation des Lois de Commerce en Afrique (Organization for the Harmonization of Business Law in Africa, or OHADA) regulations regarding entity types and accounting procedures.[7]

KEY POLICIES AND LAWS

GOVERNMENT OF MALI

- Article 16 of the LOA
- Law No. 10-032 Regarding Seeds of Vegetable Origin (July 12, 2010)
- Common Regulation for the Registration of Pesticides (1999)

OHADA

- Uniform Act on Commercial Law (1997)

WAEMU (UEMOA)

- Regulation No. 01/2005/CM/UEMOA Scheme for the Harmonization of the Activities of Accreditation, Certification, Standardization and Metrology in the UEMOA (January 2005)
- Regulation 07/2007/CM/UEMOA Relating to the Safety of Plants, Animals and Food in the UEMOA (July 2007)

[7] See **OHADA regulation of 1 October 1997: Acte Uniform Relatif Au Droit Des Societes Commerciales Et Des Groupements D'Interet Economique,** which stipulates the nature of the various types of company, joint venture, or economic interest group. See also **OHADA regulation of 20 November 2000: Acte Uniforme Portant Organisation Et Harmonisation Des Comptabilites Des Enterprises**, which sets forth the records to be kept by registered businesses, including statements of inventory and accounts. Different degrees of rigor are allowed according to the size of the business. At a minimum, double-entry bookkeeping is required to be implemented in a manner that cannot be retroactively adjusted.

OHADA business accounting requirements may well exceed the competence of many Malian businesses and, if strictly applied, would prevent many businesses from becoming formally registered.

In addition to formal registration, each business must register with the tax authorities for a professional patent, which effectively authorizes the undertaking of commercial activities. This registration can take place at any regional office and be completed within a day at a minimal cost. Larger businesses did not consider this registration process to be a constraint, although smaller operations considered it to be an additional and significant cost.

Each year, at relatively little cost, businesses must also obtain a vocational patent from the **Services Des Impôts**. Butchers and traders in market stalls pay annual fees to the local *mairie* (town hall, or mayor) for the right to trade within specific markets and may pay a daily tariff based upon the volume of goods brought to market. *Abattoirs* and milk-processing outlets generally pay nominal municipal taxes for the right to conduct their businesses. Apart from these minor instances, there are no significant additional licensing requirements for businesses, except with respect to the licensing of seed production and marketing, the licensing of agrochemicals, and procedures involving the general area of food safety.

Seed Certification

Good seed is critical to the performance of the rice and millet/sorghum sectors. The process of seed certification can vary in terms of the rigor of standards applied, depending upon the purpose for which seed is being produced.[8] Generally, the more rigorous the standards, the higher the costs of seed production. So for seed production to be economically viable, it is essential that the rigor of the applicable standard be appropriate to the production system of the end user. In this regard, there is a clear dichotomy within the Malian rice and millet/sorghum subsectors between prevailing seed-production practices as defined by existing legislation, and the needs of most farmers. As expressed by one leading stakeholder, "the paradox of the seed industry in Mali is that while many farmers want good seed, seed companies cannot find a viable market." The implication (and observation) is that the costs of producing good seed significantly outweigh the purchasing power of most small farmers. Economies of scale and improved seed distribution networks might reduce these costs, but at present the farm gate prices and yields achieved by growers are insufficient for them to be able to afford to use good quality seed.

The legal framework for the production, inspection, marketing, and distribution of seed is broadly outlined within the **LOA**. This law defines the role of state and private-sector stakeholders in the formulation of seed policy and places the results of seed research funded by public funds in the public domain. It encourages private-sector participation in seed breeding and multiplication and recognizes the intellectual property rights associated with new varieties produced by private stakeholders.

Loi No. 10-032 du 12 July 2010: Relative Au Semences d'Origine Vegetale establishes regulations for the production, marketing, and quality control of seeds. It defines certified seed based on an established seed-production sequence and reinforces the freedom of the private sector to participate in all aspects of seed production, multiplication, and marketing. It also defines the conditions to be fulfilled when importing seed, and places the control of the seed subsector under the aegis of the Ministry of Agriculture. All parties who wish to import, export, or distribute seed within Mali must register with the **Direction Générale de la Règlementation et du Contrôle (DGRC)** within the **Direction Nationale de l'Agriculture (DNA)**, the same unit in which

[8] Seed produced for pre-basic multiplication must normally meet much higher standards of purity than that produced for commercial use, although the converse may be true for germination capacity.

the Laboratoire des Semences (LABOSEM) is based. The DNA compiles an Official Catalogue of All Species and Varieties grown in Mali and restricts certification to those species and varieties listed therein. At present there are no established procedures for the accreditation of certification agencies or laboratories, which effectively limits all seed certification to the existing agency (i.e., the GoM) and precludes private-sector participation in the process.

Agrochemical Licenses

Agrochemicals share some licensing aspects with seed in that individual agrochemicals require registration before they can be imported into or used in Mali. The agrochemical dealer is also subject to procedural requirements that must be met if he or she is to retain the professional patent that permits the operation of the business. The agrochemical sector appears to be vibrant in Mali; most of the international agrochemical producers are represented, but 75 percent of the market is GoM/donor driven and only 25 percent is truly commercial. Most large suppliers import agrochemicals to bid for the GoM/donor contracts and pick up a small amount of business by selling to retail outlets. The larger companies are most concerned with the registration of agrochemicals, while the smaller retail outlets are more concerned with the proper handling of the products.

Mali's legislation on agrochemicals conforms to the **Common Regulation for the Registration of Pesticides (1999)** of the Permanent Interstates Committee for Drought Control in the Sahel (CILSS). This regulation details the registration procedure and labeling requirements for all pesticides to be used in the CILSS member states. The approval and registration of agrochemicals in Mali is delegated to the Sahelian Pesticide Committee (CSP), established under the Common Regulation. The Control Services of the Rural Development Sector, or the DGRC enforces the Common Regulation. **Decree No. 02-306/P-PM of 31 December 2003 Instituting the Registration and Control of Pesticides in the Republic of Mal**i lays down conditions for the handling, use, and storage of pesticides. Recent legislation also introduced a health and safety license requirement, which is obtained from the DNA and its branches in the region and stipulates standards and procedures to be followed, including the provision of a locked and ventilated warehouse, fire control equipment, and the daily maintenance of a stock inventory. These aspects are checked twice each year. The license is valid for five years at a cost of US$125.

Food Safety Standards

In Mali, food safety requirements are not detailed in the licenses of specific agri-food processing businesses. Rather there are food safety procedures with which all businesses are expected to comply.[9] Over the last five years, Mali has worked closely with the **Food and Agriculture Organization (FAO)** to enhance food safety through the adoption of standards and procedures based upon the **Codex Alimentarius**. However, progress has been constrained by the limited capacity for enforcement and ongoing confusion between the functions of certification and inspection.

A plethora of legal instruments relating to food quality (and, by implication, food safety) exists in Mali, including four international agreements, 20 national laws, 25 decrees, and 39 orders. National legislation in these areas is not, however, compliant with **Regulation No. 01/2005/CM/UEMOA** "Schema for the Harmonization of the Activities of Accreditation, Certification, Standardization and Metrology in the UEMOA."[10] The GoM has openly requested support in reviewing existing legislation and drafting implementation procedures to achieve compliance with the **Union économique et monétaire ouest-africaine (West African Economic and Monetary Union,** or **UEMOA)** sanitary and phytosanitary law, including UEMOA **Regulation 07/2007/CM/UEMOA** "Relating to the Safety of Plants, Animals and Food in the UEMOA."

[9] An example of such a procedural focus is the slaughtering of livestock. A butcher who intends to slaughter an animal presents the live beast for initial inspection at the abattoir by the DNSV. The animal is then slaughtered and dressed, and while the carcass is subject to a second post-mortem examination, the entire slaughter procedure is subject to continuous scrutiny by the DNSV. If all inspections are satisfactory, the carcass is marked with the *abattoir's* stamp containing the butcher's number. Under the law, only meat stamped in this way is deemed suitable for human consumption.

[10] Submission by GoM to the Joint FAO/WHO Food Standards Programme, FAO/WHO Coordinating Committee for Africa: 19th Session – Accra, Ghana: 1–4 February 2011.

The existing legislative environment for food safety is complex, but not yet comprehensive or satisfactory. Significantly, there is no law dealing with the traceability of agricultural products, the accreditation of laboratories, or the inspection or certification of agencies. Furthermore, neither the DNI nor any specific ministry is legally empowered to be the ultimate authority on food standards, leading to some overlap of responsibilities, especially between the Ministry of Industry and Trade and the Ministry of Health. Finally, the basis of all food standards in UEMOA and in Mali is the Codex Alimentarius, which is not always appropriate to the conditions under which the majority of the population live and requires modification if it is to become relevant. The team noted on a number of occasions that in an extremely price-sensitive market where local purchasing power is limited, the majority of Malian consumers look for the lowest-cost product, even if it is of a lower standard than that required by the Codex (albeit a standard that is acceptable to them). Unless regulations regarding improved standards can be rigidly enforced (and there is little evidence that this is the case), investment to meet Codex requirements will remain futile until such time as the market itself adopts and can pay for those standards. This will require a change in attitude on the part of consumers and/or an increase in local purchasing power.

IMPLEMENTING INSTITUTIONS

Business Licenses

The **chambers of agriculture** are not properly funded, and most observers found them to be decidedly political. Regional chambers of agriculture are, in theory, responsible for the registration of smallholder farmers. In practice, smallholder farmers do not register with the chamber of agriculture, or with any other government agency for that matter. Instead, the chambers of agriculture estimates the number of farmer and livestock cooperatives in the area and the number of local cooperative members, but individual members do not register with the chamber of agriculture. The chambers of agriculture are the primary distributors of subsidized agricultural inputs and livestock feed, and many producers view this as their sole function. Thus, the fundamental concept of smallholder registration as a basis for farmer empowerment has yet to be fulfilled.

The institution mandated to undertake business registration, the **Clerk of the Commercial Court of First Instance**, is beset by technical capacity constraints. Although the clerk in Bamako is able to register businesses within 24 hours, a clear lack of human resources results in poor maintenance of the registry itself, which includes duplications, omissions, and the registration of many defunct businesses. In Timbuktu, where there is an even higher level of informality than in other parts of the country, few businesses seek registration. As a result, Malian lawyers must search through a number of local registries to identify a specific business. A similar situation likely prevails among the registries maintained by clerks

KEY IMPLEMENTING INSTITUTIONS

- Chambers of Agriculture
- Commercial Court of First Instance
- National System of Standardization and Quality Control (SNNCQ)
- Services Des Impôts
- Customs Office
- National Food Safety Agency (ANSSA)
- National Food Safety Council
- Central Public Health and Safety Division (DNS)
- Division of Legislation and Phytosanitary Control (DNA)
- Veterinary Public Health and Inspection (DNSV)
- Ministry of Agriculture
- Service Semencier Nationale (SSN)
- Sahelian Pesticide Committee (CSP)
- National Committee on the Management of Pesticide (CNGP)

in the regions. To date, neither the single national registry nor the regional (multinational) document specified under the OHADA Act is truly functional. Donor support has been sought to streamline and computerize this procedure to allow for compilation of a single national registry on a real-time basis.

Seed Certification

The **DNA** and its regional counterparts at the **Division of Legislation and Phytosanitary Control** are charged with the inspection and regulation of all imported seed and the certification of all locally produced seed. Before any seed can be produced, it must be registered with the DNA in terms of source, variety, quantity, generation, and production site. Seed is inspected three times in the field, and the final seed is sampled for analysis. In practice, regional capacities to perform these functions are extremely limited. Agents report a lack of trained staff, insufficient laboratory equipment, and inadequate logistical infrastructure. While the use of "mini-laboratories" has allowed wider testing for germination and basic purity, all seed is currently certified in Bamako. Due to the geographical distance between Bamako and Timbuktu, collecting seed samples and communicating final results appears to take even longer for producers in Timbuktu. Clearly, quality seed production is still constrained by the capacity of the DNA to certify seed.

Private seed certification agencies could alleviate this constraint, but accreditation of these agencies was omitted from the law. Accreditation guarantees to the buyer that the certification agency has the capacity to undertake the necessary inspections and analysis. Accreditation is normally undertaken by the ultimate standards authority (in Mali, this would be the DNI acting on the advice of the **National System of Standardization and Quality Control (SNNCQ)**. Currently the DNI has neither the mandate nor the capacity to undertake such accreditation, and private-sector seed companies must also depend upon the overstretched DNA to certify their seed-production process.

Agrochemical Licenses

As the agency approving all pesticides imported into Mali, the **Sahelian Pesticide Committee (CSP**) appears to have the capacity to conduct and oversee the necessary tests. The importing company bears the substantial costs of the registration process, although once completed the importer enjoys access into all CILSS countries for a three-year, renewable period. As a result, the number of chemicals that are approved for use in Mali is limited. The **Comité National de Gestion des Pesticides (National Committee on the Management of Pesticide,** or **CNGP)**, although active, is limited in its capacity to implement or enforce the law, which is largely the prerogative of the DGRC. This institution has regional branches and offices at the local level and is assisted in its work by the **Customs Office**, which is empowered to inspect shipments and to seize unregistered agrochemicals. Both institutions suffer from a lack of trained staffing, logistical capacity, and storage and disposal facilities. Customs, in particular, has no capacity to store or dispose of seized shipments, and interviewees reported that seized shipments are often either sold off or returned to their original importer. Given the costs and delays of registration and the inadequacies of the enforcement agencies, it is not surprising that as much as 60 percent of all agrochemicals are reportedly unregistered, while more than 30 percent of all distributors operate without a health and safety license.

Food Safety Standards

A number of advisory committees and agencies determine food quality and safety regulations. The SNNCQ is charged with the development of legal, financial, and technical control measures. Technical committees comprised of private-sector and (mainly) government representatives serve the SNNCQ, including the **Agence Nationale de Sécurité Sanitaire de L'alimentation (National Food Safety Agency,** or **ANSSA)**, which is tasked with the drafting of food standards within the framework of the Codex Alimentarius.[11] In addition, the

[11] The Codex Alimentarius forms the basis of all standards within the UEMOA and, in principle, within Mali.

PHOTO BY FINTRAC INC.

high-level **National Food Safety Council** oversees the work of the ANSSA and represents food safety interests to the SNNCQ. The mandates of the SNNCQ and the various technical committees in ensuring both food quality standards and food safety are not precisely defined by existing legislation.

The actual implementation of food safety standards (by inspection) falls under the aegis of three technical agencies: the **Central de la Sante Publique et les Divisions Securitaire (Central Public Health and Safety Division,** or **DNS)**, the **DNI**, and the **DNSP**.[12] These agencies should be fully represented at each of eight regional offices and in Bamako. They operate within control areas, at *abattoirs* and local markets, and monitor checkpoints at subregional and municipal levels. Veterinary inspectors and plant health inspectors control the quality of imports and exports through the inspection of goods and produce at border checkpoints.

Despite a multiplicity of legal instruments and committees, implementing agencies lack the capacity to fulfill their mandates due to a shortage of personnel, inadequate infrastructure and logistics, insufficient technical training, a lack of laboratory equipment for testing and storage capacity for seized products, inadequate direction concerning the interpretation of new legal instruments, and low staff motivation. Furthermore, in Timbuktu, which is a small and mostly informal economy, government personnel are embedded in the closely knitted social structure and therefore lack the motivation or ability to enforce what might appear to be stringent regulations.

As a consequence, while *abattoirs* and butcheries are obliged to maintain specific standards in order to retain their licenses, actual supervision of their operations is limited. Regional DNSV staff reported that although they inspect all animals brought to registered *abattoirs* prior to slaughter, and inspect all carcasses prior to butchering, they lack the capacity to assess the hygienic status of the establishments or to carry out any regular form of laboratory assessment. Millers and degey[13] processors reported that the annual DNS inspections were generally cursory, although some infrastructural and procedural requirements might be insisted upon for the license to be retained or for the annual vocational patent to be reissued. The GoM has requested support in strengthening and accrediting food control laboratories, building the capacity of inspection and certification services, and training inspectors.

SUPPORTING INSTITUTIONS

Business Licenses

The main institution supporting the registration of businesses is the **Guichet Unique**, an office within the **Agence pour la Promotion des Investissements au Mali (Investment Promotion Agency,** or **API-Mali)**. The Guichet Unique has been set up as a single entry point in Bamako for businesses looking to operate or investment in all sectors in Mali and to reduce costs and delays in obtaining approvals and permits under the Investment Code. As discussed in the section on Trading Across Borders, the Guichet Unique represents most relevant ministries, with the exception of Customs, meaning that there is

[12] Article 12 of Law No. 92-013 indicates that noncompliance can be punishable by imprisonment for up to two months or a fine of up to US$10,000.

[13] A blended drink based upon ground millet.

still no one-stop shop for trade-related papers and licenses. API-Mali accepts business registration forms and passes the completed forms and documents to the Clerk of the Commercial Court of First Instance in Bamako, who returns them within 24 hours, having duly registered the business. Businesses registering outside of Bamako must obtain the necessary registration forms from the local chamber of commerce, which may provide assistance in the process, although this is not always the case. The completed documentation must then be registered by the Clerk of the Commercial Court in the region.

KEY SUPPORTING INSTITUTIONS

- Local chambers of agriculture
- Permanent Assembly of the Chambers of Agriculture of Mali (APCAM)
- Association of Farmers' Professional Organisations (AOPP)
- Investment Promotion Agency (API- Mali)
- National Federation of Livestock Producers in Mali (FEBEVIM)
- The ASCOMA Network
- Private seed companies: Comptoir 2000, Nacosie and Fasokoba
- West African Seed Association (WASA)
- Foundation Seed Unit (USB)
- Laboratoire de Semence (LABOSEM)
- Institute of Rural Economy (IER)
- CropLife

Seed Certification

Three private-sector companies (Comptoir 2000 , Nakosie, and Fasokoba) and 137 small seed-production cooperatives working with the **Service Semencier Nationale (National Seed Service,** or **SSN)** are involved in seed production in Mali. The SSN was established under the DNA to assist cooperatives and farmers associations to grow seed, and is supported by the **Laboratoire de Semence (National Seed Laboratory,** or **LABOSEM)**. The government has placed considerable emphasis on increasing the availability of seed to the rice subsector, and the price of rice seed is subsidized. As a result, the demand for certified rice seed is high and seed production is a profitable enterprise. Well-managed cooperatives have been able to generate significant profits, which they have used to invest in rice growing and processing equipment and other diversified enterprises. However, seed producers complain that the certification process hinders their ability to market their seeds on time. For instance, seed producers in Timbuktu waited six months to get their rice seeds certified and were therefore not able to begin marketing their seeds until two months into the planting season.

Donor agencies, the government, and NGOs support the **Permanent Assembly of the Chambers of Agriculture (APCAM)** and the **Association of Farmers' Professional Organisations (AOPP)** to organize seed-exchange fairs where locally produced improved seed is sold to dealers. These seed-exchange fairs have helped to sensitize growers to the importance of good seed, and have trained cooperatives in the key aspects of seed production. The **L'Institut d'Economie Rurale (Institute of Rural Economy,** or **IER)** and the **West African Seed Association (WASA)** have been active in developing and demonstrating new varieties including hybrid varieties of sorghum and millet, as well as in supporting the participation of seed producers in the Seed Stock Exchange. The USAID-supported **Foundation Seed Unit (USB)** has also assisted in promoting the production, regulation, and increased availability of improved seed. The **Mali Seed Association (ASSEMA),** which was set up to represent commercial seed growers, has been somewhat sidelined by these NGO-driven initiatives.

Agrochemical Licenses

Few agencies support agrochemical distributors. **CropLife**, a substantial regional entity to which most large registered agrochemical dealers belong, is trying to regulate pesticide sales and imports and improve pesticide management. It

has held in Bamako workshops focusing on pesticide safety education and the responsible use of pesticides, and has supported the Africa Stockpiles Initiative that aims to dispose safely of stockpiles of banned chemicals.

Food Safety Standards

A number of institutions, including **APCAM** and **Federation Nationale des Producteurs de l' Elevage au Mali (National Federation of Livestock Producers in Mali**, or **FEBEVIM)**, assist the private sector in conforming to new food safety procedures. In addition, the ANSSA has organized training for agri-food processors in the principles of Hazard Analysis & Critical Control Points (HACCP) food safety management best health practices and has conducted countrywide seminars and workshops on the national food safety policy. In addition, the GoM has placed great significance on the role of consumers associations in generating the demand for improved standards in food safety. A network of consumer associations has been created with government support (the **ASCOMA Network**) together with local Food Hygiene Brigades. Consumer associations are represented on most institutions connected with food safety including the ANSSA, SNNCQ, and the National Food Safety Council, and are expected to participate in the development of standards within the framework of the Codex Alimentarius. Unfortunately, these associations are not strongly supported at the grassroots level and, though fostered by the GoM, lack the capacity either to fulfill their role in developing standards or to sensitize the general public to food safety requirements.

SOCIAL DYNAMICS

Business Licenses

Malian agribusiness is predominantly conducted by very small enterprises, and reliance upon an informal social fabric is very strong. Business registration is a not a difficult process, but many smaller agricultural businesses do not see the advantage of registration, and a large portion of the agricultural economy remains effectively unlicensed. As discussed above, smallholder farmers are not required to register as businesses, nor do they often register with the chambers of agriculture. Under these circumstances, a simple and expedient approach to agribusiness registration and licensing that provides registrants with clear benefits (in terms of access to contract and finance opportunities) that outweigh the costs of registration is clearly most appropriate. This approach appears to have been adopted within the LOA but it remains to be seen whether or not it will result in the increased registration of smaller agribusinesses. Nevertheless, the process of business registration exists not only to facilitate the participation of small and medium-size enterprises (SMEs) in the formal sector but also to provide the traceability required to allow for effective dispute settlement and contract enforcement. Currently, both professional and technical limitations prevent the business register from performing these functions effectively. Indeed, unless the registration of smallholders envisaged under the LOA can be undertaken with a much greater degree of stringency, trading will continue to be based upon informal agreements and dispute resolution systems, and financial institutions will remain uninterested in agriculture, except through social programs and subsidies.

Seed Certification

The social dynamics of seed production and use differ significantly between rice and millet/sorghum. In the case of rice, which tends to be grown on a more commercial basis and for which NERICA seed is subsidized, many growers recognize the value of improved seed and actively seek out the best seed available. By contrast, the majority of millet and sorghum producers remain committed to local uncertified varieties. Moreover, there is a stigma attached to the purchase of seed, which is regarded as a failure to maintain food security capacity. In many communities, including Timbuktu, seed is bartered and exchanged in

small parcels but rarely overtly purchased. When good seed is obtained, it may be retained for a number of generations.

There is a fundamental dichotomy between the costs of improved seed production in Mali and the capacity (or desire) of rice and millet/sorghum producers to purchase that seed. This dichotomy might be reduced in two ways. First, the costs of seed production might be significantly reduced if the private sector were allowed to participate fully in seed production, not merely through sponsoring seed multiplication but also through the generation of breeding lines and the certification of multiplied seed. This would allow the vertical integration of seed production, while freeing up GoM certification capacity, thus allowing the SSN to increase cooperative-based seed-production activities. This intervention would require legislation to empower the DNI/SNNCQ to accredit private-sector certification capacity and to train staff in the requirements and procedures for accreditation. Second, many rice, sorghum, and millet growers consider the risk/return ratio on commercially bred improved varieties to be too great to justify their purchase. By contrast, some existing indigenous varieties are well adapted to local conditions and are available in the public domain. Existing legislation prohibits the sale of certified seed of such indigenous varieties since they have not been generated through the legislated multiplication procedure and are not listed as recognized varieties. Their commercial availability is therefore restricted, even though they might represent to many growers a more appropriate alternative than the higher-priced improved seeds.

Agrochemical Licenses

The social dynamics of agrochemical licensing balance the significant costs of registration/licensing against a limited appreciation of the risks of using nonregistered products, within a framework of limited enforcement capacity. Under such circumstances it is almost inevitable that the market will be dominated by unregistered, potentially harmful, or ineffective products, and will undercut the business activities of those who comply with existing regulations. One distributor estimated that his business would increase fourfold if the unregistered products were removed from the market. However, the expenses of a fully functional agrochemical registration, control, and disposal system would substantially increase the costs of agrochemicals and most probably reduce the range of chemicals available within the country.

The licensing of agrochemicals is clearly necessary, especially in a country where there is a limited appreciation of the risks involved. Reliance upon a regional registration process is an effective way to increase the potential range of products available while reducing registration cost overall, but the existing national enforcement mechanisms are clearly inadequate and limit the efficacy of the existing approach.

Food Safety Standards

The social dynamic underlying most food safety considerations in Mali derives from the low purchasing power of the consumer. Limited incomes encourage consumers to purchase the cheapest food available unless food safety risks clearly outweigh the cost advantages. Where food safety licensing requirements significantly increase the price of food beyond the point that the consumer deems justifiable, a black market in unlicensed product will inevitably develop. This is particularly true in Mali for meat, which is regularly slaughtered without inspection at informal *abattoirs* and smuggled past checkpoints for sale from urban outlets, and milk, which may be sold without pasteurization from uninspected informal outlets.

Food safety requirements must conform to the norms of society if they are to be appropriate and effective. In Mali, there is concern that a real private-sector voice is lacking in standards development because the institutions that represent the private sector on food safety

committees owe much of their capacity to GoM support. In addition, the capacity to enforce food safety standards is limited, so food safety will be achieved not through enforcement but through enticement, i.e., by consumer preference for the safer product. For this to be effective, consumers must be able to understand the key elements of food safety and make informed choices about the products they are purchasing. Thus, the emphasis of the GoM on the empowerment of consumer associations is well placed. Licensing requirements that seek to institute more complex or costly standards are inappropriate under current circumstances and could be counterproductive if they result in regulations that are only partially applied on a discretionary basis.

GETTING CREDIT[14]

In conjunction with its efforts to promote economic growth and diversify agriculture, the GoM has actively pursued financial sector reforms through liberalization, multilateral frameworks, and institution building. However, the banking industry's continued lack of depth, a problematic history of agribusiness investments, and persistent rural poverty contribute to widespread distrust and risk aversion among stakeholders, which ultimately impedes entrepreneurship, investment, and commercialization.

Due to the unique nature of the sector in which they operate, agribusinesses face specific industry risks that are difficult to mitigate.[15] Weather (and, increasingly in Mali, climate change), pests, disease, and the potential volatility in yields make it difficult for lenders to assess agribusiness cash flows. Government interventions to enhance short-term food security, such as price ceilings and/or subsidies, inadvertently create an unpredictable lending environment. These very real risks can reinforce perceptions of agriculture as a high-risk sector and make already skittish lenders even more nervous about exposing their portfolios to further uncertainty. In West Africa, most lending finances trade, which is seen as a safer activity than production; in 2009, only 3 percent of outstanding credit within the region went to agriculture, forestry, and fishing combined.[16]

LEGAL FRAMEWORK

Most of Mali's laws governing financial services (e.g., banking, microfinance, accounting, and payments) are housed within the WAEMU framework.[17] The **2010 Law on Regulation of Decentralized Financial Systems** (i.e., microfinance institutions or MFIs) strengthens standards for licensing, supervision, and reporting; permits greater flexibility in MFI organizational structures; and transfers the responsibility for monitoring larger MFIs from national governments to the **Banque Centrale des Etats de l'Afrique de l'Ouest (Central Bank of West African States,** or **BCEAO)**.[18] Stakeholders believe that it is still too early to gauge how the law will work in practice, but there is hope that it will encourage the development of private rural banks and for-profit MFIs.

The WAEMU **Law on Usury and Statutory Interest** establishes the maximum interest rate that lenders can charge borrowers, which is currently 18 percent for banks and 27 percent for MFIs.[19] There has been a great deal of debate over whether the law, meant to protect borrowers, actually limits their access to capital, particularly in the agribusiness sector where risks and lending costs tend to be higher. Many borrowers complain that rates within the established limits are too high. Although banks seem to operate comfortably within the usury limit, the overall dearth of credit extended to the agribusiness sector suggests that lending caps may constitute an additional barrier to financing. A recent study of interest rate ceilings, commissioned by the BCEAO, found that that the 27 percent cap for MFIs did prevent some MFIs from recovering loan costs, especially in agriculture. The BCEAO concluded that such lenders could reduce costs through better internal controls and use of technology. However, the report also revealed major constraints to agribusiness microfinance,

[14] Although this chapter is entitled Getting Credit to ensure consistency with the Doing Business indicator, it adopts a comprehensive view of the overall financial sector in Mali and its capacity to provide agribusinesses with a variety of credit, asset-building, transactional, and risk management products and services.

[15] For more on this topic, see Klaus Maurer, "Where is the risk? Is agricultural banking really more difficult than other sectors?" (draft), October 20, 2010, KfW Financial Sector Development Symposium 2010, "Finance for Food – Towards New Agricultural and Rural Finance," available at http://www.kfw-entwicklungsbank.de.

[16] Banque Centrale des Etats de l'Afrique de l'Ouest (Central Bank of West African States, or BCEAO), cited by West African Monetary Union Banking Commission, "Rapport Annuel 2009," 2010, p. 32.

[17] Although they share the same group of member states and are therefore effectively identical in a practical sense, technically the West African Economic and Monetary Union (WAEMU) and WAEMU are two different entities. Six countries within the franc zone (Benin, Burkina Faso, Côte d'Ivoire, Niger, Senegal, and Togo) created WAEMU in 1962 to enhance monetary coordination among themselves and France. Mali joined the group in 1984. Economic crisis during the 1980s propelled the members to pursue deeper integration, and in 1994 they signed the WAEMU treaty. Guinea-Bissau joined in 1997, bringing the total number of countries to eight. It is likely that members will eventually chose to merge both treaties, but in the meantime, most financial laws and policies officially refer to and operate under the domain of WAEMU structures and institutions, including the BCEAO.

[18] The previous law relating to MFIs, the 1994 PARMEC law, regulated MFIs according to their type of institutional structure; while it is credited with promoting the development of cooperative groups that mobilized savings (which not only created an asset base for low-income borrowers but also provided MFIs with a lower-cost source of funding), there was also criticism that the law and related regulations limited the emergence, spread, and outreach of private, for-profit providers. Microfinance Information Exchange, "MIX Microfinance World: 2010 WAEMU Microfinance Analysis & Benchmarking Report," p. 2.

[19] The rate refers to the effective interest rate, which can include not only nominal interest but also certain associated fees. The WAEMU Council of Ministers has the authority to revise rates.

including location (despite deposits, rural MFIs incurred higher costs by borrowing from banks) and target clientele (loans made to farmers were unprofitable). Also, local MFIs cater to clients in a limited geographic area, which subjects them to significantly more seasonal/climactic risk than if their borrowers were more dispersed. The study suggested that while charging an effective interest rate of 36.6 percent would allow institutions to cover costs over the short term, long-term sustainability would be achieved only through a rate of 53.5 percent.[20] Anecdotal evidence suggests that some MFIs are already charging borrowers more than the legal limit.[21] The possibility of increased inflation may provide additional impetus for the Central Bank and policymakers to revisit the discussion.

Within the WAEMU framework, the BCEAO designs requirements to maintain the stability of financial intermediaries and institutions that mobilize deposits from the public. The BCEAO requires banks to cover at least 75 percent of their long-term assets (two-plus years) with their long-term resources. Some have argued that this rule locks up necessary capital and thereby exacerbates the shortage of extended financing for businesses. Considering the potential for inflation, current prospects for the region's economy, and recent developments in the financial sector (particularly within the microfinance subsector), it seems unlikely that the Central Bank will relax prudential regulations anytime soon.

Although the rise of multilateral frameworks such as OHADA and WAEMU have reduced the GoM's official role in overseeing the financial sector, national policies still affect industry activity at the country level.[22] The **Financial Sector Development Strategy 2008–2011** calls for improving the legal and judicial framework and for strengthening and developing banks, capital markets, nonbank financial institutions, and microfinance providers.[23] **The (third) National Strategy and Action Plan for the Development of Microfinance 2008–2012** emphasizes three key areas: reinforcing the business and regulatory environment for microfinance; pursuing greater consolidation and professionalism throughout the subsector; and encouraging innovation and linkages among MFIs and banks.[24] In addition, the national government impacts the financial sector via regulations, policies, and strategies related to other sectors and activities, such as agriculture, land administration, and poverty reduction. Not all of these interventions are conducive to sustainable financial-sector

KEY POLICIES AND LAWS

GOVERNMENT OF MALI

- Land and Domain Code (1986, 2000)
- Pastoralist Charter (2001, 2006)
- Financial Sector Development Strategy 2008–2011 (2008)
- National Strategy and Action Plan for the Development of Microfinance 2008–2012 (2008)

OHADA

- Uniform Act Relating to General Commercial Law (1998, 2010)
- Uniform Act Organizing Securities (1998, 2011)
- Uniform Act Organizing Simplified Recovery Procedures and Measures of Execution (1998)
- Uniform Act Organizing Collective Proceedings for Wiping Off Debts (1999)
- Uniform Act Relating to the Rights of Cooperative Societies (2011)

WAEMU (UEMOA)

- Law on Banking Regulation (1990) and Uniform Law on Banking Regulation (2008)
- Law on Usury and Statutory Interest (1995, 1998)
- Regulation on Payment Systems (2002)
- Uniform Law on the Fight Against Money Laundering (2006)
- Instruction on the Issuance and Settlements of Electronic Money (2006)
- Law on Regulation of Decentralized Financial Systems (2010)

[20] Central Bank of West African States (BCEAO), "The Costs and Pricing of Services Provided by Microfinance Institutions in West African Economic and Monetary Union: Summary of Studies," 2009, p. 8.

[21] Based on conversations with USAID-Mali.

[22] Provided they meet all the requirements and specifications of WAEMU laws, member states are free to implement such legislation in a customized manner. In Senegal, for example, the Ministry of Women's Entrepreneurship and Microfinance oversees implementation. As discussed in the "Implementing Institutions" section of this chapter, Mali has opted for a different structure.

[23] International Monetary Fund, *IMF Country Report No. 11/37*, 2011, p. 36.

[24] Portail Microfinance, "Strategie/politique nationale de développement du secteur," available at http://www.lamicrofinance.org and http://www.lamicrofinance.org/resource_centers/profilmali/profilmali.

development. Tools such as subsidies and guarantees, when misapplied, can undermine commercial incentives and agribusiness activity.

Given the financial sector's aversion to risk and the difficulties related to enforcing contracts and recovering debt through the judicial system, lenders strongly favor land as collateral: it is permanent, accessible, and valuable. Nearly every stakeholder attested to the immense difficulties involved in acquiring the official proof of land tenure required to get a loan.[25] Lenders also bemoaned the complications that arise when defaults necessitate possession of property designated as collateral. In many cases, there are not only multiple claims on the same plot of land but also more than one formal document and titleholder. In traditional areas, Malian land law recognizes the authority of customary law, which further complicates the issue. For many agribusinesses, especially smallholder farmers, it is nearly impossible to get proof of land tenure and therefore to access credit.

In 2010, the **OHADA Uniform Act Organizing Securities** was revised to clarify creditor rights to the asset(s) underlying a financial transaction. Although the original law permitted the use of moveable property as collateral and another (also recently revised) OHADA general commercial law established a national business registry – the **Registre du Commerce et Crédit Mobilier (Commercial Registry,** or **RCCM)** – to track such assets, implementation issues thwarted the development and use of secured transactions. Updates to RCCM were few and far between, rendering the registry ineffective. As lenders could not verify the status of or prioritize other claims to moveable property, they continued to operate conservatively and to focus on fixed assets as collateral. Under the new law, security rights are more specific: they include pledge without dispossession, which affirms a creditor's right to a secured asset while allowing the borrower to continue using that asset. In addition, the law allows for financial innovation: it is possible to secure future claims and future moveable property provided there is sufficient identification that is agreeable to both parties. This makes the use of livestock as collateral more legally feasible. In practice, however, lenders and policymakers tend to laugh at the idea of using animals to guarantee a loan. It remains to be seen whether on-the-ground efforts can make such transactions a reality.

IMPLEMENTING INSTITUTIONS

The **BCEAO** is charged with ensuring price stability, generating sufficient liquidity in the financial system, and balancing regional macroeconomic conditions while maintaining the CFA franc's peg to the euro.[26] The Central Bank also monitors banks and financial institutions. With the enactment of the new microfinance institutions, the BCEAO will oversee larger MFIs (i.e., those with aggregate deposits over two billion CFA). Through its Risk Center, the BCEAO collects credit-related information for outstanding debt of bank clients totaling over five million CFA. The BCEAO intends to establish a similar Risk Center to cover MFI clients and will eventually merge both databases. The Payment Incidents Center (CIP), also housed within the BCEAO, captures information about clients' negative credit and payment history (e.g., unpaid debts and bad checks). Banks are currently populating CIP with their data, and the BCEAO expects to give clients of financial institutions the ability to access and verify their records in 2012.

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Economics and Finance – Unit of Microfinance Control and Supervision (CCS/SFD)
- Central Bank of West African States (BCEAO)
- WAEMU Banking Commission
- WAEMU Council of Ministers
- Banks
- Nonbank financial institutions
- Microfinance institutions (MFIs)

[25] For a detailed description of the official process of obtaining land tenure rights documentation, see the "Registering Property" section in The World Bank & International Finance Corporation, "Mali," *Doing Business 2011: Making A Difference for Entrepreneurs*, p. 23. Several stakeholders noted that in practice, this process is hardly as clear or as timely as the law stipulates; in fact, land disputes are one of the primary types of cases brought for settlement in the judicial system.

[26] Although the BCEAO aims to follow the European Central Bank (ECB) inflation targets, it also has to factor in the reality of inflation in WAEMU countries, which are relatively more vulnerable to food price inflation. In many Sub-Saharan African countries, food accounts for 50% of the Consumer Price Index (CPI) basket. The Economist Intelligence Unit, "Country Forecast: Sub-Saharan Africa," March 2011, p. 19.

The **La Cellule de Contrôle et de Surveillance des SFD (Unit of Microfinance Control and Supervision,** or **CCS/SFD)** within Mali's Ministry of Economy and Finance previously supervised all MFIs in Mali. Now that the BCEAO will oversee entities with total deposits exceeding two billion CFA, the CCS/SFD will focus on issuing licenses to and overseeing the country's many smaller MFIs. Many stakeholders believe that the CCS/SFD needs increased funding and improved capacity to carry out its role more effectively. Since late 2010, the unit has been training staff on the requirements of the new microfinance law and is developing and disseminating a handbook on microfinance accounting procedures. While the CCS/SFD's external oversight role will complement that of the Central Bank and the Banking Commission, the need for stronger internal management and capacity building within the MFI subsector remains.

Almost all of the 13 **registered banks** in Mali operate on a commercial basis.[27] Several banks offer products and services relevant to agribusinesses, the most prominent of which are **Banque Nationale de Développement Agricole (National Agricultural Development Bank,** or **BNDA)**, **Banque Malienne de Solidarité (Malian Solidarity Bank,** or **BMS)**, and **Ecobank**. At the retail level, banks offer deposit and transactional services, but their credit activities focus mainly on commercial and wholesale markets.[28] A small range of commercial products pertains to agribusiness needs, including seasonal credit (for growing cereals or fattening livestock), input loans (for seed, fertilizer, herbicides, pesticides, and/or animal feed); inventory credit (for cereals); and equipment financing. However, many potential loan applicants find it difficult to qualify for or afford these products, as banks rely excessively on collateral (usually land titles), limit loan sizes, and charge high interest rates.[29]

As part of their wholesale lending activity, banks lend to MFIs. These transactions allow banks to fulfill their social missions and gain exposure to

PHOTO BY FINTRAC INC.

agribusiness investments while transferring borrower-related risks to the MFIs. BNDA currently charges MFIs approximately 8 percent interest on loans; MFIs that borrow from banks have reported paying interest rates as high as 12 percent.

Mali has a vibrant microfinance sector, comprised of approximately 600 individual institutions organized into at least 48 larger networks. There are three main types of MFIs within the WAEMU region: mutual or cooperative savings and credit groups (85 percent), which require participants to become members and deposit savings before being able to borrow on a short-term basis (these include the caisses and village banks); credit organizations (7 percent), which do not require savings; and projects that include a credit component for which credit is not a central activity (8 percent).[30] The latter two types of institutions tend to be funded by NGOs largely through grants and debt. Fifty-five percent of the financing for Malian MFIs originates from loans.[31] These funds improve MFIs' ability to lend but also contribute to expensive interest rates and limit institutional profitability. The MFI subsector has recently enjoyed growth but faces significant operational costs and a perennial

[27] SGI Mali, available at http://sgimali.com/etablis_fin.php. According to the BCEAO, the official regulator, the figure is 12. See http://www.bceao.int.

[28] Banks tend to extend individual credit only to "safer" borrowers such as salaried workers and government employees. To a more limited extent, banks extend credit to well-established and individual agribusinesses that have a record banking with the particular bank. Larger, well-established agribusinesses are also able to import input by using a credit letter issued by their bank.

[29] International Monetary Fund, "Poverty Reduction and Growth Strategy Paper (PRGSP) 2009 Implementation Report: Summary Report," *IMF Country Report No. 11/38: Mali: Poverty Reduction and Strategy Paper – 2009 Progress Report,"* 2011, p. 15.

[30] Central Bank of West African States (BCEAO), available at http://www.bceao.int.

[31] Microfinance Information Exchange, "MIX Microfinance World: 2010 WAEMU Microfinance Analysis & Benchmarking Report," p. 13.

need for improved management, greater efficiency, internal controls, and risk assessment. Investigations by supervisory bodies have resulted in at least two MFIs being placed under receivership, and in cases of extreme mismanagement, depositors have been unable to withdraw funds.

Group lending has played a major role in expanding access to finance within the Malian agribusiness sector. Borrowers form lending groups, such as cooperatives, based on similar economic activities or goals and their perceptions about each individual's character and capacity to pay. Lenders waive burdensome collateral requirements because each member of the group guarantees repayment by other members (in Mali this commitment is known as the *caution solidaire*). In some cases, cooperatives have borrowed on a group basis and lent funds to individual members. Although success stories do exist, a number of factors have compromised the credibility and effectiveness of group lending in Mali. Agribusiness-specific risks (e.g., crop damage, unexpected price fluctuations) have hurt yields and profits. In addition, borrower groups lack financial and management capacity and may face difficulty in excluding potential defaulters in rural areas where geographic isolation, a limited population, and prevailing social ties may trump purely credit-related considerations. One banker asserted that most groups and their members genuinely do intend to repay their loans but that they lack the necessary confidence and/or skills to speak out against unscrupulous individuals who abuse the group guarantee. Consequently, many lenders avoid dealing with borrower groups unless a credible partner (e.g., government, donors, potential buyer) is willing to provide guarantees, or forward financing takes on some of the risk.

The lack of reliable information on potential borrowers also severely limits the capacity of lenders to assess risks and provide agribusinesses with credit. This is not an unknown issue – several regional and national initiatives are addressing the lack of reliable information. The BCEAO plans to collect information from MFIs on borrowers' outstanding debts and is finalizing a system to track negative payment history. The World Bank/IFC is assisting the government with computerizing the RCCM, which will facilitate the use of secured transactions. The Ministry of Housing, Land Affairs and Urban Development is building a computerized registry to track land titles and include pertinent geo-referential data. In the past, banks have informally cooperated with each other to share information on potential borrowers. For example, in Segou, BNDA worked with MFIs on this front; in Niono, local MFIs shared information on current and potential borrowers; and in Sikasso, banks and MFIs ask loan applicants to show a certificate that they are not indebted elsewhere. However, the suspicion that not all lenders provided accurate information on their borrowers, and increased competition for clients, especially among MFIs, has hindered these collaborative practices. Despite these failed attempts in the past, local MFIs in Niono as well as in Alatona are planning to establish new risk-sharing centers. For these collaborative efforts to be sustained and effective, it will be crucial to put in place a mechanism that ensures data accuracy. This could be done through a neutral third party that has the ability to verify and scrutinize the information. However, if the planned regional and national **public registries** reforms are implemented properly, these reforms have the potential to truly engage financial institutions and facilitate lending to agribusinesses

Most stakeholders agree that the laws related to financial transactions – except for those involving land – are generally sound and can help improve agribusinesses' access to finance. Implementation and enforcement of the rules, however, are hampered by the limited staffing and technological capacity of supervisory institutions. Recent incidents and concerns over the state of MFIs suggest that oversight is still weak.

Going forward, policymakers should develop early warning systems and design exit strategies for financial institutions that are under government administration.[32]

Within the cereal value chain, larger traders enjoy a dominant position and face little competition in regional markets, which limits producers' profits and reduces consumers' negotiating power. When lenders do offer products such as equipment loans and other medium-term financing, their stringent collateral requirements and high interest rates restrict the number of viable borrowers. Adoption of inventory credit based on warehouse receipts (warrantage) has proven to be successful. For instance, a number of rice producers in Timbuktu access credit to purchase fertilizers through a donor-led warehouse receipt project. Nevertheless, industrywide constraints such as insufficient warehouse capacity and limited geographical availability effectively exclude many agribusinesses from participating.

The rapid success of mobile banking in countries such as Kenya and South Africa has raised hopes regarding its prospects in Mali. For livestock traders and exporters, many of whom travel on foot with their herds, the option of conducting mobile financial transactions could increase business activity. Mobile phone penetration is booming: as of 2010, 25.7 percent of Malians had access to a cellular phone.[33] The Central Bank is currently following a "wait and see" approach towards mobile services, which will allow for experimentation and adaption. Laws exist in the areas of payment services, electronic money, and anti-money laundering, but it remains to be seen how financial and telecom regulators will manage and share responsibility over this arena. Banks have begun to integrate mobile services with their operations. Also, through Orange Money, its clients can use their mobile devices to make deposits and withdrawals, transfer money, and manage their accounts. Already, cell phone SMS money transfers have begun to replace informal transfer methods for small, frequent cash transactions.[34] The service is in a nascent stage, but the services' convenience, synergy with existing behavior, and transparent and relatively inexpensive fee structure bode well for the likelihood of increased outreach; a recent Consultative Group to Assist the Poor (CGAP) study found that mobile banking appears to reach previously unbanked customers at a lower cost than banks.[35]

SUPPORTING INSTITUTIONS

The **Microfinance Support and Monitoring Unit (CCS/SFD)** within the Ministry of Industry, Investment and Commerce is responsible for developing national strategies related to microfinance (e.g., the National Strategy and Action Plan for the Development of Microfinance 2008–2012 described earlier). CCS/SFD also serves as the Secretariat for the Consultative Group to Develop Microfinance in Mali and works with donors to mobilize funding and coordinate projects.

Two professional associations represent the financial sector in Mali: **the Association Professionnelle des Banques et Etablissements Financiers (Professional Association of Banks and Financial Institutions,** or **APBEF)** and the **Association Professionnelle des Institutions Microfinance (Professional Association of Microfinance Institutions,** or **APIM).** Both groups disseminate information about

KEY SUPPORTING INSTITUTIONS

- Ministry of Industry, Investments and Commerce – Microfinance Support and Monitoring Unit (CCS/SFD)
- Professional Association of Banks and Financial Institutions (APBEF)
- Professional Association of Microfinance Institutions (APIM)
- Multilateral donors and development banks
- Private donors (NGOs, foundations)

[32] Microfinance Information Exchange & CGAP, "MIX Microfinance World: Sub-Saharan Africa Microfinance Analysis & Benchmarking Report 2010," pp. 7–8.

[33] The World Bank, 2010: *The Little Data Book on Africa*, 2010, p. 63.

[34] Business Council for Africa West and Southern, "Mali Country Report," *Monthly Country Report November 2010*, 2010, pp. 22–23.

[35] CGAP Branchless Banking Study, 2010, cited in MIX Market, "2010 WAEMU Microfinance Analysis & Benchmarking Report," p. 5.

laws and regulations, play an advocacy role, and organize training that pertains to their respective subsectors.[36]

One of the primary reasons agribusinesses find it so difficult to get credit is that Mali's **judicial system** has a poor record when it comes to enforcing contracts. As one observer commented, "credit is a contract." As described in more detail in the Enforcing Contracts chapter, the judicial process for debt recovery is often unpredictable and can be arduous, time-consuming, and expensive. Moreover, it is often hard to locate creditors in order to summon them to court. Thus, even though the desks of bailiffs are littered with files on past due loans and land disputes, financial institutions cannot be confident that judges will uphold their claims or that a bailiff will be able to execute the decision. One individual involved in debt recovery noted that judges are often swayed by personal beliefs and opinions: "In the case of interest rates, if you send the loan document to court, the judge will say that the client's interest rate is too high and reduce it!" Given such an unsupportive judicial environment and the uncertainty over whether decisions can be executed, many lenders would rather forego transactions altogether. Ultimately, the success of reforms such as the new secured transactions law will depend on their ability to be enforced in court.

Government and donors have occasionally adopted policies and implemented programs that inadvertently distort perceptions and undermine commercial incentives. These efforts often aim to accomplish simultaneously different goals (i.e., relief vs. financial sector development) when the better solution might be separate remedies that take more time and may be perceived as more difficult, costly, and time-consuming. For example, faced with a rapid rise in food prices in recent years, the GoM introduced *Initiative Riz* to ensure the staple grain's affordability by boosting local production. The program has offered producers input credits to encourage fertilizer use. During the first year of *Initiative Riz,* MFIs were encouraged to extend credit to all producers, including those who were otherwise ineligible due to past failure to repay their loans. However, repayment of the loans was poor and credit recovery declined that year. It is estimated that approximately one third of the producers in the ON zone has defaulted on their loans and were as a result considered ineligible for credit during the subsequent season.[37] The intervention was reviewed and for the next season, credit suppliers were allowed to choose their clients, which meant that producers who could not repay their production credit did not receive any further credit. Hence, the measure intended to boost access to credit has instead reinforced existing negative perceptions about agribusiness lending. Government and donor programs could benefit from better design and application of incentives based on existing behaviors and expectations.[38]

Although this report has noted the potential of secured transactions to help livestock breeders unlock the value of their existing assets, most breeders are more concerned with access to land. Many breeders feel the livestock subsector has been neglected compared to other subsectors, such as cotton or rice. Disputes between farmers and breeders over property and grazing rights are on the rise due to population growth and the increased desertification of pastoral lands. Legal policies such as the Pastoralist Charter affirm the right of pastoralists to access land and resources, but this access is difficult to ensure in practice.[39] As an alternative to court settlement of disputes, the government is forming local conflict management committees that will include a range of stakeholders, including government officials. However, the implementation has proved to be difficult.[40] Stakeholders interested in supporting the sector should explore innovations in improving breeders' access to finance but should also prioritize efforts to improve access to land tenure that can facilitate access to credit.

[36] Although APBEF and APIM represent their respective subsectors' concerns to the government, they technically exist under the government (they are mandated by law). As a result, their advocacy role is based more on achieving consensus than confrontation.

[37] Linnéa Ödén, "Efficiency of the Rice Market Channel in the Office du Niger," June 2011, pp. 24 & 30, available at http://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=2063629&fileOId=2063630.

[38] See, for instance, Richard Mayer, Joint Discussion Paper (The World Bank, BMZ, FAO, GIZ, IFAD, and UNCDF), "Subsidies as an instrument in Agricultural Finance: A Review," June 2011.

[39] The Alatona Irrigation Project has taken innovative steps to mitigate potential conflicts over water access between farmers and herders by constructing watering points for livestock; future initiatives should consider such an approach.

[40] USAID-Mali, Mali: Land Tenure Assessment Report, September 2010, p. 9.

SOCIAL DYNAMICS

Despite the constraints to investment in the agribusiness sector, lenders expressed a keen interest in financing viable ventures. Bankers' main complaint is that there are not enough commercially oriented and profitable businesses to support. Given that the majority of Malian agriculture occurs at or near the subsistence level, this argument bears weight. Proprietors of smaller agribusinesses are more likely to be concerned with earning sufficient income rather than seeking rapid and extended growth. In addition, although potential borrowers view interest rates as exorbitant and consider bankers to be overly conservative, they exhibit a high aversion to risk as well. Borrowers view lenders as a source of funds rather than as investors who are helping to build their businesses and need to realize returns.

PHOTO BY FINTRAC INC.

In order for the industry to realize its potential, this climate of mistrust must change. The necessary catalyst will be the emergence of pioneering entrepreneurs who take risks and not only seize but also create market opportunities. Activities that help agribusinesses take initiative, develop a tolerance for risk, and adopt a commercial outlook will help to create a virtuous circle of opportunity based on properly aligned incentives. Recently PlaNet Guarantee and IFC's Global Index Insurance Facility (GIIF) launched a project to provide farmers in West African countries (including Mali) with products to help them mitigate weather risk. Lessons learned from this project and similar ones should be applied to the design and implementation of new financial products and services.

Nearly all stakeholders acknowledged that the failure of borrowers to repay loans and the widespread perception that agribusinesses were more likely to default pose a key challenge in widening financial access. Lack of financial and planning skills on the part of borrowers, problematic group dynamics, insufficient risk management within financial institutions, information asymmetries, and poorly designed subsidies all contribute to this problem. Cooperatives now encounter stricter terms for group lending; for example, after a dismal performance of agricultural loans to associations and cooperatives (with a repayment rate of only 75 percent), BNDA in Segou stopped making group loans and now only lends to individuals with secure guarantees. Interestingly, when a loan product is connected to a government or donor initiative, including guarantees, participants' perception of the "loan" shifts; the words "loan" and "grant" become interchangeable. In such cases, borrowers may perceive fewer negative consequences for missing payments or not repaying a loan.[41] In one example, even though the donor and its grantee took rigorous care to explain the nature of the guarantee, potential borrowers gave the impression that repayment terms were not set in stone. To counter this problem, projects may need to incorporate tougher mechanisms and penalties for borrowers who do not comply with loan terms and reward those who do.[42] Potential borrowers are deterred by the readiness of banks to seize collateral and take a defaulter to court. While the increased capacity and use of public credit

[41] The GoM is creating two guarantee funds of five billion CFA each – the National Guarantee funds and the National Investment funds to improve businesses' access to credit. Specific details about these funds' design and implementation were not available, but, as noted above, stricter terms may be needed to ensure the funds' success.

[42] Mathias Fru Fonteh, "Agricultural mechanization in Mali and Ghana: strategies, experiences and lessons for sustained impacts," Food and Agriculture Organization of the United Nations, Rome, 2010, p. 45.

agencies may help change incentives, the nature of informal finance in Mali is likely to still influence borrowers' expectations. For example, agribusinesses may regard interest rates as unacceptable in part because when they borrow from people they know, they generally do not pay interest or incur penalties. Formal products and services must take these dynamics into account if they are to add value to consumers.

Agribusinesses rely on informal financing throughout the value chain, both horizontally (e.g., participants may be willing to help out fellow trusted associates) and vertically. For example, exporters will offer credit and extended payment terms to buyers with whom they have a good transaction history. Typically they do not charge interest, nor do they require fees for late payment. Nevertheless, there are instances where actors along the value chain charge interest in informal financing arrangements. For example, a rice seed cooperative in Timbuktu provided small-scale seed growers with starter seeds at the beginning of the planting season. For the seed growers to qualify for the credit, one of the members of the cooperative had to guarantee the repayment. Upon harvest, the seed growers repaid the loan in kind with 25 percent interest. Although the system worked well for the cooperative, the potential to expand the effort was restricted to personal connections since members were only willing to vouch for a limited number of growers. In general, if a buyer runs into unexpected difficulties, traders will be flexible. As one exporter put it: "When you trust someone and he has difficulties, you forget the case and continue to trust him. He will agree to pay." In some cases, traders said that they waited as long as five or six months to collect their money.

The continued practice and viability of informal finance results in part from the failure of the formal financial sector to serve a majority of the population. The interest rates, fees, and collateral requirements of financial institutions dissuade potential applicants – in some cases, the associated paperwork alone is a major deterrent. Many borrowers feel more comfortable doing business with people they already know, despite the potential unpredictability and cost of informal transactions. Similarly, lenders do not face the same information asymmetries when they know their clients and their circumstances. Stakeholders should examine informal financial mechanisms to understand the underlying dynamics that foster trust and reinforce repayment and, if appropriate, incorporate success factors into program design and lending innovations.

SPECIAL SECTION: TERMS AND TRADE CREDIT

Trust is the basis on which traders (including input providers, wholesalers, and processors) decide whether or not they should grant trade credit and terms. A trader will typically only extend terms or grant credit to a limited number of suppliers. The supplier must prove that he or she is trustworthy and does so by delivering quality grain at the right quantity and at the right time. The trader might also get recommendations from other traders and visit the supplier's business premise or farm to determine whether the supplier is serious and is planning to remain in the business. It is important for the trader to establish that a supplier is interested in a long-term business relationship as the trader's "promise" of future terms or trade credit is what entices the supplier to deliver grain according to the agreement. The wholesaler will typically advance a smaller amount of money to their suppliers or collector and then increase the amount when the collector has proven that he is reliable and delivers the agreed-upon grains.

Traders take care and maintain relationships that are of value, particularly relations where the trader is extending terms or trade credit. One large importer of grain explained: "Sometimes there is a problem with the quality [of the imported grain] but we don't complain as we value the relation." There is also ample room for

contract flexibility when a supplier is unable to deliver the grains and the cause for the delay is outside of his or her control. For instance, one seed producer that contracts with farmers to produce seeds provides the starter seeds on credit. If a producer is unable to deliver the seeds due to bad weather or some other circumstances outside of his or her power, the seed company might give the producers an additional year to repay. Similarly, grain traders often provide regular suppliers with additional credit if the supplier is unable to deliver a certain quantity of grain due to mitigating circumstances, such as a flooded storage. The trader monitors closely this additional loan, which is added to the already existing trade credit. This arrangement allows the supplier to get back on his or her feet and deliver the grain and the trader to hopefully recover his or her money and continue the business relations.

Larger rice traders extend terms or credit to their suppliers and collectors. Although they carefully screen the suppliers who are extended terms and credit to, sooner or later they run into the situation of a supplier who does not supply the order. One larger rice trader said: "If they can't pay, they can't pay. I just have to eat that loss and to the extent it is possible be more careful next time." To mitigate this problem, several large rice traders in Bamako extended terms of 15 days to between 40 and 50 suppliers against a title deed as a guarantee. Under this system, the rice traders maintained the suppliers' original title deed in their possession and established a notarized written contract. They experienced few delivery problems, but two years ago when one trader was unable to recover a debt after repeated attempts, he took the case to court and recovered the loan by realizing his guarantee.

A MILLER WHO TRADES...OR A TRADER WHO MILLS?

Ma H Diarra mills rice for customers in Niono. She charges 7,500 CFA for a bag of 75–80 kilograms of paddy (which yields a 50 kilograms bag of milled rice). She runs a tight operation and strictly mills Gambiaka rice. She is likely to offer to buy the milled rice from the producer, but there's no way he'll know until the milling fee has been paid. So people bring her their rice in the hopes that they'll leave with cash, but there is no certainty. Her sales transactions are similarly cash-in-hand – customers may send money electronically (by cell phone) or come in person, and she will not part with a bag of rice until the money hits her hand or her account.

While most think of her as the local miller, Mme Diarra is effectively a rice trader who uses her mill as a way to hedge risk, manage cash, and avoid contractual commitments. Relatively speaking, she's doing very well, and business has been steady for 15 years. In this sense, she embodies perfectly the business climate for the Malian rice sector: profit margins are reliable, and product is moving; however, business growth is limited by a reluctance to extend terms or expand networks to new markets.

Incidentally, she has further diversified by engaging in moderate levels of rice production using a combination of family and hired labor. She has a short-term lease on 10 hectares and applied for one of the parcels of land in Alatona but has not yet been informed of the decision. She said that she would not be surprised if she were rejected, noting that it's been difficult in the past for women to get land in the Office du Niger, and she does not expect Alatona to be different.

PHOTO BY FINTRAC INC.

Almost all livestock transactions are done in cash. Occasionally, a seller may extend a term of 15 to 30 days if the seller knows the buyer well and if the broker guarantees the term. In the event that the buyer does not pay the seller on time, the broker intervenes to mediate and find an acceptable solution to the delay. The broker could, for instance, repossess the animal and return it to the buyer, but the broker is ultimately responsible for the repayment. Considering the broker's liability for the payment, he is unlikely to agree to facilitate a term payment unless he is confident that the buyer will pay on time.

All actors along the value chains take great care to get to know their business partners to assess whether they can be entrusted with terms or trade credit. Even though traders typically do business with a supplier for several years before he or she extends terms or credit, almost all actors along the value chains have unpaid debts they have not been able to recover. Moreover, there are strong social pressures that influence what course of action a creditor can take to recover unpaid debts. For instance, a year ago, a successful rice trader in Segou delivered 10 trucks of cereal to a regular customer in Bamako. After repeated attempts to get the buyer in Bamako to pay for the delivery, the seller contacted the gendarmerie in Bamako and had the buyer arrested. Upon the arrest, the seller was under enormous pressure from family members, religious leaders, and even the seller's own parents (the father was also a cereal trader) to instruct the gendarmerie to release the buyer. The seller gave in and released the buyer, but, to date, the buyer has yet to repay his debt. These common stories of unpaid debts have made many traders very cautious or even reluctant to extend terms or credit.

SPECIAL SECTION: TRADING IN SHALLOTS

In Mali, shallots are predominantly grown in the Dogon Plateau and the Office du Niger Zone. Depending on water availability, shallots are grown during three seasons in the Dogon Plateau (September–December, January–March, and March–June), while shallot production only occurs during the "off season" rotated with rice in the irrigated ON area.[43] The majority of shallots in Mali are cultivated by rural farmers on small garden plots. The vast majority of farmers rely upon manual watering, which is very labor intensive.[44] Up to 80 percent of the shallots on the market are sold domestically, while the remaining is exported to Senegal, Guinea, and Ivory Coast.

The market for shallots is volatile, with prices changing in a matter of hours. Shallots that are not stored in a cold storage are highly perishable. Therefore, producers and traders without storage are eager to sell their stock and are willing to accept a lower price than they would have if they had the ability to wait. The price for shallots in Segou could be 300 CFA/kilograms in the morning but 220 CFA/kilograms that afternoon, when local traders want to turn over their daily inventory.

The shallot wholesalers in Bamako have agents who purchase the shallots from smaller markets in the Mopti and Segou regions. The wholesalers' agents buy also shallots through a "lodger" at the village level. The lodger facilitates transactions between the agent and farmers and chargers typically 10 CFA/kilograms for his services. Since the price fluctuates drastically, the agent has to call the wholesaler with the latest market information before he can purchase the shallots.

Guinean traders purchase shallots from the larger shallot traders' market stalls in Bamako. These buyers are often granted a term where they do not pay until they have sold the shallots in Guinea. As with other term arrangements, the seller grants a trade credit based on the buyer's past performance. However, the shallot traders are willing to take greater risks than traders in grains do. One wholesaler explained: "Because it is hard to store I can't wait to sell. If I don't sell I know that they will go bad and I'll lose. So it is better for me to sell on credit, even if it is to someone who could con me, than to not sell at all."

[43] IICEM, "Mali Shallot Value Chain Study," 2008, p. 11.

[44] Ibid. p. 10.

A transporter of shallots reports that the cost of transporting a ton of shallots from Bamako to Guinea is 20,000 CFA/ton, while the transportation cost from Guinea back to Bamako (back loading) is 50,000 CFA/ton. Interviewees claimed that this was due to the high costs associated with tracasserie on the Malian border, but it may also be related to the high demand for trucks moving from Guinea to Bamako, bringing imports into Mali from the Port of Conakry.

Producers could sell fresh shallots for up to three times the price during the later part of the off-season.[45] Hence, there are potentially large profit margins to be made in the shallot value chain. However, the limited availability of storage prevents actors along the value chain to fully take advantage of the market. Traditional warehouses are rarely suitable for storing shallots, as they cannot control the temperature properly and there is not enough airflow. Consequently, traders perceive shallots to be very risky and have diversified into less perishable crops to limit their exposure to risk. Although several development projects have supported producer associations to improve traditional methods for drying shallots, the majority of shallots are sold fresh. This is in part due to the fact that producer associations (virtually all of them women's associations) have not, without the assistance from NGOs, invested in drying equipment. Also, fresh shallots, especially if they are stored, can be sold later in the season at a higher price than dried shallots. In the Niono area, there are approximately 1,500 small storage huts developed by different development projects but the current storage capacity is far below what the needs are.[46] There have recently been a few investment initiatives in large-scale (up to 1,000MT) commercial storage facilities in Mali, particularly in Bamako. The Bamako/Sotuba "Port Sec" is an example.

ENFORCING CONTRACTS

Personal relationships and reputation are the basis for business relations in the four value chains. The producers, traders, processors, and wholesalers rely almost exclusively on verbal agreements, which is a deeply rooted cultural practice. These business relations are self-sustaining as long as both business partners have a long-term interest in maintaining the relationship. When one of the parties to an agreement defects, however, the other party has limited recourse. Verbal contracts are difficult to enforce through the judicial system, and many agribusinesses perceive the judicial process to be costly and damaging for their business reputation. As a result, actors in the four value chains rely often upon their personal relationships or social pressure to enforce contracts. It is recommended that institutions supporting business transactions, such as the business registry, the judiciary, a credit rating agency, vertical business associations, and linkages between livestock associations, be strengthened to allow agribusinesses to expand their network of potential business partners beyond the scope of their own reputations.

LEGAL FRAMEWORK

Contract law is regulated by the **OHADA Treaty on the Harmonization of Business Law in Africa** (1988). The OHADA framework allows buyers and sellers of agricultural products and services to enter into binding oral and written agreements in accordance with international standards for contractual obligations (such as delivery and payment).[47]

Farmers and agricultural traders can form cooperatives and associations, and these entities have the legal capacity to enter into contracts (Article 4 of **The Uniform Act on Cooperatives of the OHADA**; Article 30 of the **Agricultural Orientation Law**).

The most common contractual issue faced by Malian agribusinesses is unpaid debts. The **OHADA Debt Recovery and Enforcement Law** (1988) provides for an expedited procedure, known as a payment injunction, to enforce late payments under a contract. Judges reported that

[45] FIAS, "Supporting Agribusiness Investment in Mali: Opportunities for Investment in the Mango, Potato, Tomato and Onion sub-sectors," 2008, pp. 49–50.

[46] FIAS, "Supporting Agribusiness Investment in Mali: Opportunities for Investment in the Mango, Potato, Tomato and Onion sub-sectors," 2008, p. 50.

[47] For a detailed description of the Uniform Act, see Pedro Santos, "Presentation de L'Acte uniform.

payment injunctions are one of the more common civil cases they hear. However, the judges hear predominantly cases where there was a written contract. One judge in Bamako explained: "A nonpayment case where the evidence is pretty straightforward could move fast, we could hear it within a week from that we receive it. These are primarily cases where there is a written contract. Verbal contracts, we get some of them and we call witnesses, but it is harder for the plaintiff to prove that there has been a breach of contract." However, in Niono the trial court has ruled in 10 to 30 payment injunction cases per month involving agricultural businesses. Many of these cases involved oral contracts where the judge relied upon witnesses and other forms of evidence.

The **Civil, Commercial and Social Procedure Code** (1999) allows for the detention of debtors who do not possess any property that can be seized. This procedure, known as constraint par corps, is intended to compel the debtor to pay the debt. The length of imprisonment, which cannot exceed three months (Articles 725–731), must be in proportion to the unpaid debt, and the debtor must be released immediately when the debt is paid.

The rulings of the **OHADA Common Court of Justice and Arbitration** in Abidjan, Ivory Coast, take precedent over national court decision concerning OHADA law. When a case concerning uniform law is pending before a national court, the case can be referred to the Common Court of Justice and Arbitration by either party or by the national judge. When commercial disputes involve the Malian government, either directly or indirectly, lawyers prefer to bring the case to the Common Court rather than national courts to ensure a fair trial.

The **OHADA Uniform Act on Arbitration** (1999) governs arbitration in the OHADA member states. Under the regulation, the parties are free to agree upon what laws should be applied. If needed, the Common Court can facilitate arbitration by appointing arbitrators when the parties cannot agree and can monitor the proceedings. However, the Common Court cannot arbitrate disputes. Mali is also a party to the International Center for the Settlement of Investment Disputes (ICSID – the Washington Convention 1966) and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention 1958).

Access to laws is equally important for the successful enforcement of contracts. Laws and decrees are published in the *Official Journal* issued by the Secrétariat Général du Gouvernement. However, the *Official Journals* are not regularly distributed to all courts and justices of peace. Moreover, the *Official Journal* is not indexed, which makes it difficult to know which laws and decrees exist and to locate laws or decrees. Several government agencies posts laws on their websites, but there is no comprehensive online site for legal documents. As an additional hurdle, laws and court decisions are written in French, making them inaccessible to the majority of population who do not read or speak French.

The Ministry of Justice's reform unit PRODEJ plans to enact reforms that will enable publication and wider dissemination of laws and decrees.

KEY LAWS

GOVERNMENT OF MALI

- The Civil, Commercial and Social Procedure Code (1999)
- The Agricultural Orientation Law (2006)

OHADA

- The OHADA Treaty on the Harmonization of Business Law in Africa (1998)
- The OHADA Debt Recovery and Enforcement Law (1998)
- The OHADA Uniform Act on Arbitration (1999)
- The Uniform Act on Cooperatives of the OHADA (2010)

It is important to support this effort and also to stress the importance of indexing and making the database searchable and user-friendly. Readily available laws and regulations will enable representatives of agribusiness interests such as the Centre National du Patronat du Mali, the chamber of commerce (CCIM), and APCAM to disseminate and inform their members of new and relevant regulation. In addition, the Ministry of Justice, with support from the Canadian International Development Agency (CIDA), recently launched an information center at the trial courts in Bamako with the goal of making the justice system more accessible to the general public.

IMPLEMENTING INSTITUTIONS

The **judiciary** in Mali is comprised of the Supreme Court, three appellate courts, 16 trial courts (tribunaux de première instance), and 42 justices of peace (justice de paix). In addition, three commercial courts, created in 1991 with the encouragement of the US government, are located in Bamako, Mopti, and Kayes.

The Malian judicial system has a reputation for being slow and corrupt. The World Bank's Investment Climate Assessment of Mali (2004) found that entrepreneurs had a relatively low level of confidence in the judiciary. According to the World Bank's Doing Business report for 2011, it takes 620 days to enforce a contract in Mali. Moreover, the Afrobarometer's survey of the general population in Mali (2008) found that almost 90 percent of the population believed that judges and magistrates were to some extent involved in corruption.

KEY IMPLEMENTING INSTITUTIONS

- Judiciary: Supreme Court, appellate courts, trial courts, justices of peace, commercial courts
- Bailiffs
- Registre du Commerce et Crédit Mobilier (Commercial Registry) (RCCM)

The nature of this diagnostic did not allow a full analysis of the length and circumstances of delays within the judicial system. However, discussions with judges, court clerks, lawyers, and businesspeople who have used the court system did not confirm that that the courts were "clogged" or took a long time. Instead, interviewees in all the five locations covered by this assessment stated that the courts were often able to hear payment injunctions within a week from that a complaint was filed. With respect to corruption, there are strong social pressures on the magistrates and judges to decide in favor of a relative, friend, or acquaintance. One magistrate explained: "The parties try to approach and plead their case through a common acquaintance or relative. It's a dilemma, because socially you are expected to help your family and friends, but from a professional perspective you need to be objective. The social expectations are there on one side, the law is there on the other side – what to do? – that is a dilemma."

On the whole, parties try to settle their disagreements outside of court to the greatest extent possible. However, the fact that most businesses do not use the courts is not per se a sign that the courts are not working. It is also a cultural issue. One large grain processor explained: "The farmers talk and going to court would be bad for our reputation; reputation and trust is important in our business." Therefore, entrepreneurs who have experiences using the courts may be unwilling to admit that they use the court system. Over the long term, it is important to restore the trust in the legal system to ensure that businesses feel confident in bringing their grievances to court for a fair hearing, even if courts are viewed only as a forum of last resort. Therefore, it is advisable to support PRODEJ's continued review of checks and balances to ensure that decisions are based on legal merits.

In Niono, the trial court was used much more frequently by the areas agribusinesses than in the other locations covered by this assessment.

The trial court heard 10 to 30 fully adjudicated cases per month involving agribusinesses. For instance, the day before the team met with the judge in Niono, he heard a case involving a farmer who failed to repay a loan he obtained from his input supplier at the beginning of the planting season. The farmer was supposed to repay the input supplier in kind (a certain number of rice bags) upon harvest. The judge said that he regularly heard cases concerning this type of breach of forward contracting. In addition, the Niono trial court issued 10 to 30 payment injunctions per month primarily filed by the MFIs against producer cooperatives. The court's caseload involving agribusinesses peaked right before the harvest seasons. Since there are two harvest seasons, creditors file nonrepayment cases in time for the following harvest. Because the court in Niono processes cases in a speedy manner, it typically hears payment injunctions on the same day they were filed and fully adjudicated cases within 30 days from filing. A plaintiff could plan his or her case so that it could be executed at the time of harvest when defaulting agribusinesses are most likely to be able to repay their debts. There are several possible explanations for why the court in Niono is used by agribusinesses to a much greater extent than in the other regions. First, there are two farming seasons, and more transactions take place in the region as compared to locations where there is only one farming season. Second, the court personnel appear to be efficient and predictable, which allows plaintiffs to time their complaints in time for the harvest season. Thus, when the courts are speedy and reliable and the decision is executable, agribusinesses are more likely to rely on the court system to support their contracting practices. A closer study of the trial court in Niono could provide highly useful information on how the lower-level courts could become more user-friendly for agribusinesses.

The **commercial courts** fill two functions; they adjudicate business disputes and register businesses in the RCCM. Hearings are conducted by the magistrate and two business representatives elected by the Malian CCIM.[48] While the commercial court in Bamako heard about 700 cases per year (primarily related to evictions of merchants and payment injunctions), the commercial court in Mopti heard at most 2 cases per month. In part, the low caseload is attributable to the availability of the mediation and reconciliation commission, discussed below. The court is also somewhat "hidden" in a residential area, and therefore is not on the radar for many merchants in town. As a result, it is not uncommon for commercial disputes to be brought before the trial court. The trial court should refer commercial cases to the commercial court but often retains these cases either because the judge wants to "get his cut" or because the magistrates fail to recognize that the case falls under the commercial court's competence. Relocating the commercial court to the same area as the trial court would increase its visibility, reduce the conflict with the trial court over competence, and increase awareness about the commercial court's activities, including the possibility of free pre-trial mediation.

All businesses must be registered in the **RCCM**. The registry is kept by the court clerk at the commercial court, the trial court, or justice of peace and contains information about the owners of the business, the business activities, and its location. This information, if it is accurate and readily available, facilitates the enforcement of contracts between buyers and sellers who do not have personal knowledge about one another. Unfortunately, there is no centralized system for the registry, which makes it virtually impossible to find out if a business is registered at a different court location. Moreover, the information in the registry is not kept up to date. Although the **OHADA Treaty on the Harmonization of Business Law** (1998) stipulates that businesses should supply the registry with updated information, this requirement has no sanction, nor is there a system in place to encourage such updates. One business lawyer recounted how his assistant

[48] Les modalités d'élection et éligibilité des membres des Tribunaux de commerce (Décret No 94 091/P-RM 1994). relatif au droit commercial general," available at www. OHADA.com.

spent days at the court clerk's office looking through the registration forms in search for one particular business only to eventually find three businesses with the same registration number. The registry will become a valuable resource for businesses only if it is easily accessible and accurately reflects information about business owners. A plan for computerizing and centralizing the RCCM, similar to the one outlined by the World Bank in 2009, is desperately needed.[49]

With the exception of a select number of Supreme Court decisions published through the effort of PRODEJ, **court cases** are stored in stacks at the courthouse and are not made publicly available in any systematic fashion. Published court decisions bring about more transparency and public scrutiny of the judicial system. Publishing the full decisions, including the reasoning, would be an important step towards addressing corruption practices within the judiciary in Mali and would create a more predictable legal environment for businesses.

Bailiffs in Mali are private practitioners authorized by law to execute court decisions or other executable orders.[50] They hold a law degree and undergo two years of training at the national judicial training institute. In accordance with national regulations, they charge a fee of up to 10 percent of the value of the collected amount for their services. In Mopti and Sikasso, there are only a couple of practicing bailiffs. In Niono and Timbuktu, respectively, there is only one bailiff. Notarized agreements, such as bank loans, are executable by the bailiff without first having to go through the court process. As most actors along the value chain rely upon verbal agreements, the bailiffs have limited abilities to assist them unless they first obtain a court decision. In all regions, the bailiffs obtain a large proportion of their cases from MFIs. Bailiffs also encounter a number of difficulties in executing court decisions and other executable orders. In land-related cases, village elders are sometimes reluctant to honor executable orders, or politicians intervene at times to change the course of an already decided land dispute. Moreover, bailiffs are every so often presented with "bad" court cases where corrupt practices determined the outcome of the case. In some of those cases, the losing party is unwilling to recognize the validity of the court decision and may even take up arms to defend their property from being seized.

Larger cereal traders tend to extend credit to regular clients. By extending trade credit they are able to generate more business, but they also become more vulnerable to breach of contract. As long as both parties have an interest in maintaining the business relationship and believe that the dispute can eventually be resolved, most disputes in the rice and millet/sorghum value chains are settled between the two parties. Resorting to the court system is relatively expensive, and a confrontational court process could put an end to the business relationship. Although most cereal businesses do not go to court to settle their contract disputes, the court system serves an important role as the last resort when all other channels have been exhausted. All the magistrates and bailiffs interviewed in Mopti, Sikasso, and Bamako stated that they had dealt with several contractual disputes between cereal traders in the last year. However, the trial court in Timbuktu was not presented with any commercial cases involving individual businesses. In fact, the court clerk attested that during the past three years since he started to work at the court, not one single commercial case involving two businesses had made it to the court. Although the court in Timbuktu had heard about 10 nonpayment cases brought by MFIs and the BNDA in the last year, this number is considerably fewer cases than the courts in the other regions. This phenomenon is in part due to the fact that there is less commerce going on in Timbuktu than some of the other regions, but perhaps more important, disputes are processed in the social context and not through formal institutions.

[49] World Bank Group, IFC/FIAS, "Registre de Commerce et du Credit Mobilier," Review of the OHADA Companies and Collateral Registries, Rapport de Mission 2009, and World Bank Group, IFC/FIAS, "Information du register de Commerce-Mali," 2009. Both reports can be obtained from the World Bank office in Bamako.

[50] Statut des Huissiers de Justice, 1995.

Although the courts in all locations but Timbuktu do hear cases related to contractual disputes in the livestock sector, such cases appear to be less frequent than cases related to the cereal sector. The primary reason for this is that transactions of livestock always take place through a broker. As discussed in more detail below, a broker acts as a guarantor for the transaction, which means that if the buyer is not satisfied with the purchase, the buyer will bring his complaint to the broker. In the regions covered by this assessment, most transactions of livestock are done in cash, and as a result there are fewer late payment issues than in the cereal sector. Because of the brokers' prominent role in livestock transactions, most disputes in this sector can be resolved by the actors and do not need to be brought to court. However, the courts in Niono and Mopti heard several cases of livestock disputes every year. The livestock cooperative referred these cases to the court when the cooperative was unable to find a solution to the dispute that both parties could accept. The judges in both Mopti and Niono would in these instances call the livestock cooperative's committee to get their expert opinion. Since the judge based his decisions on the trade practices in the livestock sector, actors respected the court's decision and the officials in the livestock cooperatives found the court to be a useful last resort.

SUPPORTING INSTITUTIONS

In 2004, the CCIM with the approval of the Ministry of Justice created a commercial mediation center with the goal of providing businesses with a fast, flexible, and efficient forum to settle commercial disputes – the **Centre de Conciliation et d'Arbitrage du Mali (Conciliation and Arbitration Center of Mali** or **CECAM)**[51]. The center is based in Bamako and does not have any presence outside of the capital. Other than small user fees, the CECAM is fully funded by the CCIM. CECAM is governed by a steering committee with representatives from the Ministry of Justice, the CCIM, the Association Professionnelle des Institutions Microfinance (Professional Association of Microfinance Institution or Chamber of Agriculture, or APCAM), and various professional associations, including the bar, bailiffs, notaries, banks, and the Conseil National du Patronat du Mali (National Council of Malian Employers, or CNPM). The procedural rules for arbitration and the methods applied for selecting arbitrators are posted on the center's website (www.cecamali.com). The center charges a filing and administrative fee for its services (80,000CFA) and the arbitrators are paid an honorarium. Arbitration is confidential and the process is relatively fast (the time varies depending on the complexity of the case, but should not take more than six months). As of April 2011, the center had only decided three cases and had another nine cases pending. Most of these cases relate to breach of contract and debt collection. The center feels that its services are not well known in the business community and that it would see more cases if it could do more outreach. However, representatives of the business sector expressed concern that the center's close connection to the CCIM would not sufficiently shield the arbitrators from outside pressure. Some commercial lawyers prefer arbitration clauses that refer disputes to the Cour Commune de la Justice et d'Arbitrage in Abidjan (OHADA). In addition, as one lawyer explained: "[If the other party to the dispute also has a lawyer] we all know each other, so we just pick up the phone to talk, we don't really need to go to arbitration to do that."

There are relatively few **commercial lawyers** in Mali. In Bamako there are less than 10 law firms that regularly represent commercial clients. In Mopti and Sikasso, there were just a handful of lawyers who handled all legal cases from criminal law to family law. There is no lawyer based in Niono, and the closest lawyer is located in Segou. The bulk of disputes in the four value chains (and in agribusiness in general) are handled without reference to a lawyer.

[51] Lettre d'approbation N°0467/MJ-SG du Ministre de la Justice, Garde des sceaux, September 4, 2003.

Although lawyers interviewed in Mopti and Sikasso had on several occasions represented clients from the four value chains, these cases made up a rather marginal percentage of the clients they represented. A few larger cereal companies based in Bamako had an in-house lawyer who drafted contracts and handled purchasing agreements. In general, however, few agribusinesses consult a lawyer to draft contracts; instead, if a lawyer is consulted at all, it tends to be when the parties to a larger contract are unable to settle the matter in "an amicable manner." Lawyers stressed that verbal agreements are pervasive in this sector and that contract disputes involving verbal agreements are hard to enforce.

There is a **private debt collection** company located in Bamako, which collects debts on behalf of larger companies and banks where there is a written loan agreement. The debt collection company charges up to 15 percent on the amount collected and follows formal legal procedures for debt collection. The company is able to recover the debt in just over 50 percent of the over 500 cases handled every year. Where the debts cannot be collected, it is generally because the debtor cannot be found or the debtor does not have any assets that can be seized.

It is not uncommon for the **police** or the gendarmerie to get involved to assist in debt collection cases. Grain sellers stated that for a fee, the police will round up a debtor and imprison him. Some traders said that the extra-judicial assistance the police offer could be quite effective, as the arrest could be staged to publicly shame the debtor. As described above, it is legal to imprison a debtor under the *constraint par corps* regime, but such a decision has to be rendered by a magistrate in accordance with civil procedure regulations. The police often act without a court order, but the practice is nevertheless common and fairly accepted. As one judge said when he commented on the police "moonlighting" practice: "Everyone has to live, everyone has to eat."

KEY SUPPORTING INSTITUTIONS

- Commercial lawyers
- Centre de Conciliation et d'Arbitrage du Mali (Conciliation and Arbitration Center of Mali) (CECAM)
- Business associations and chambers of commerce
- Village chiefs
- Producers' cooperatives
- Livestock brokers
- Livestock traders' cooperatives
- Water user associations

Most agribusiness contracting takes place between parties along the value chain – from producers, to collectors, to processors, to wholesalers. **Business associations** that captured these vertical intra-firm connections would be well suited to mediate business disputes. However, there are very limited, if any, vertical intra-firm connections along the rice, millet, and sorghum value chains. Disputes are common but the players do not have a forum in which to settle their disputes. Certain producers' cooperatives mediate disputes between their members, but when the producer has a disagreement with someone outside of the cooperative, the cooperative typically cannot help to settle the dispute. As the special section on brokers and livestock trading describes, brokers facilitate more coordinated actions in the livestock value chain, but the brokers' role is primarily limited to the buying and selling of livestock and not the input, transportation, and processing of livestock. The development of vertical business connections would be valuable for all four value chains. Vertical business associations could facilitate the exchange of information about parties' past performance and mediate disputes in a fast, inexpensive, and amicable manner similar to that of the mediation and reconciliation commission in Mopti.

To respond to the need businesses have to settle disputes in an amicable manner, members of the CCIM in Mopti decided in 2003 to start a

mediation and reconciliation commission. The commission, which is made up of 12 community and business leaders, hears commercial disputes free of charge. In 2010, the commission heard 24 commercial disputes, four of which concerned cereal. Traders and wholesalers appreciated the mediation and reconciliation commission's work: "A court case puts an end to a business relation. However, a case that is reconciled can continue after the dispute is settled – in fact the settlement might even strengthen the relationship." There is strong social pressure to follow the commission's decision as business relations are intertwined with social relations. One member of the commission explained: "We trade with each other, but we are also friends and relatives." In the event that the social pressure to follow through with the commission's decision is not enough, the mediation and reconciliation commission will bring settled agreements to the commercial court for a seal of approval. Two of the members of the commission are the business representatives (*juge honoraire*) at the commercial court, and the commission and the court have a close relationship. The *juge honoraire* simply explains to the magistrate at the commercial court what has already been decided by the commission, and the commercial court typically approves the decision.

A **chamber of commerce** (CCIM) facilitates contractual arrangements and enforcement, which is a direct function of how capable, connected, and respected the leaders in the regional chapter are. Thus, in Timbuktu the chamber of commerce appeared to have very limited activities, while the chamber of commerce in Segou was spearheaded by a well-liked business owner who had in the past been able to facilitate a few business connections. The CCIM in Segou and Sikasso heard a couple of business disputes every year on an *ad hoc* basis but did not have an organized system like Mopti. As discussed above, agribusinesses feel that the CCIM is too closely linked to the government to be able to impartially mediate business disputes. Although the mediation and reconciliation commission in Mopti is housed by the CCIM, the representatives of the commission stressed that it was a private initiative by traders in Mopti and not an official CCIM endeavor. Grain traders in Mopti were favorable regarding the commission's work but emphasized that it was primarily mediating disputes involving larger sums of money (10 million CFA and higher). Thus, it would be valuable to study the mediation and reconciliation commission in Mopti to see if it can be replicated in other locations and if its "mandate" can be expanded to include smaller claims.

The **village chief** is called upon to settle contract disputes in all the four value chains between members of the same community. Moreover, larger traders in Bamako, Mopti, and Sikasso said that when their suppliers in rural areas did not deliver grain or seed as agreed, they would first contact the supplier directly. If that were unsuccessful, they would appeal to the village chief to put pressure on the supplier to repay a debt or deliver the grains.

In Niono, Segou, Mopti, and Sikasso as well as in other regional hubs there are **biannual commodity exchanges**, part of a movement toward a more formal nationwide commodity exchange. The NGO organizing the exchange inspects the quality, quantity, and grade of rice before it can be sold. However, a rice trader who had purchased rice at the Niono exchange found that the inspection did not adequately reflect the actual qualities of the rice. As a result, the buyer had on several occasions been forced to cancel the agreement upon collection. Thus, the NGO's inspection procedures need to be improved to serve its intended purpose of facilitating trade of grains between parties that do not have a previous relationship.

Transactions between buyers and sellers of livestock are almost always facilitated by a **broker**. As described in more detail in the special section on brokers and livestock trading, the broker

establishes the link between the buyer and the seller and monitors the transaction by supervising the payment and the transfer of cattle. The broker also personally vouches for the health of the animals and the seller's rightful ownership of the cattle. Should the cattle die within a week of the purchase or should the buyer at any point learn that the cattle were stolen, the broker is personally liable to reimburse the buyer his or her money. As a result, brokers are cautious and tend to only represent sellers they personally know or who have a good reputation the broker can verify.

At the larger livestock markets in Sofara, Fatouma, and Niono, a **livestock traders' cooperative** manages the marketplace. The cooperative functions as the liaison between the traders, brokers, local government, and APCAM. In the event that there is a disagreement between a buyer or seller and the broker, the cooperative has a committee to hear the disagreement. In Fatouma, the committee is comprised of six respected traders and/or brokers. If an agreement cannot be reached through this mediation meeting, the cooperative brings the issue to the mayor's office to settle the disagreement. In Niono, the committee brings cases that cannot be settled to the trial court. The cooperative is able to settle most disputes that are referred to it as both brokers and traders take great care to maintain their good reputation in the marketplace. The current system, whereby brokers guarantee transactions and the traders' cooperative mediates disputes at the cattle market, functions quite well. The system should be thoroughly reviewed to investigate how existing traders can expand their markets and allow new traders to enter the marketplace.

The various forms of risk management strategies agribusinesses use to pre-screen the creditworthiness of clients and the application of social pressures on defaulters are not applicable when agribusinesses attempt to recover unpaid debts stemming from **government contracts**. Input

PHOTO BY FINTRAC INC.

providers supplying fertilizers under the *Initiative Riz* are collecting stacks of unpaid government invoices (sometimes more than a year late). The input providers were unable to speed up the payment and found this to be a major impediment in doing business.

In the PIA, the farmers benefitting from the first phase of the project will hold land titles to their five-hectare parcels. So far, the farmers have paid their water user fees to the MCA, the Malian government counterpart for the MCC compact. However, as the project is coming to an end in 2012, MCC and MCA are considering how the distribution of water, collection of water fees, and the maintenance of the channels will be administered. One of the proposals is to create a **federation of water user associations** to govern the use of water within the PIA zone. The question is whether the current water user associations, which are very new and are focusing their activities on maintenance of the channels, have the capacity to manage the administration of water. The project is planning to use a portion of the water fee revenues to hire professionals to run the secretariat. Another pressing issue is how the federation could ensure that the water users pay the user fees. Unlike the small leaseholders in ON who can be evicted when they do not pay their water fees, the farmers in PIA will be the title holders. Furthermore, the water cannot be turned off for just one user; it affects all users along the tertiary channel. Farmers who decide to share the same tertiary unit are more likely to support

each other or apply peer pressure to ensure that all members are paying. Nevertheless, a federation should have sanctions against nonpayers in the event that peer pressure is not enough. However, it will be important to track the use of the newly established **water contracts** between users and a federation to be able to trouble shoot what legal issues might arise. Moreover, it is important that the water users' responsibilities under the contract are easily understandable. For instance, although a water fee based upon consumption encourages water conservation, a fixed fee based upon the number of hectares used is easier to implement. Furthermore, a federation will have to act swiftly on contracts where the users are not paying on time. In the ON zone there is a commission that hears requests for deferrals or reductions in the water fees. The assessment is supposed to work like a weather insurance scheme to mitigate the risk of eviction if the inability to pay is due to crop failure on account of natural calamities. However, it is common in Mali that the government does not have the capacity to monitor complex regulations and officials will instead grant a pass without doing a thorough assessment. Thus, although it is important to create a venue to prevent and assess causes for late payments of water fees, it is equally important to ensure that the mechanism is transparent and easy to implement.

SOCIAL DYNAMICS

Business relations between the actors in all four value chains are based on trust. The importance of trust was a theme that came up in almost all conversations with actors in the four value chains. Trust is developed during the course of a business relationship. One large processor of grain explained: "We have been in business for a long time; I've known them for 10 years and we trust each other." The vast majority of trade within the value chains takes place without any written contracts. The low literacy rate in Mali is probably a contributing factor to the reliance on verbal contracts. Furthermore, verbal agreements are deeply rooted in the culture. One lawyer very familiar with the livestock sector explained: "Our society is based on oral trust. We are a people based on oral history. If you come with a written contract it's almost like saying that I don't trust you." However, it is much harder to prove breach of contract when there is no written contract. Although some larger cereal businesses use written agreements with clauses stipulating penalties for nonpayment, social norms prevent the owners from enforcing these clauses. As one fertilizer distributor in the Segou area explained: :I don't enforce the penalty, I'm well known and respected in the area. Instead, I discontinue any further credit."

> **"Trust is my contract"**
> *– Grain wholesaler in Bamako*

Courts are viewed as a last resort when all other channels have been exhausted and, in the case of debt recovery, it has been established that the debtor has assets but is not repaying the loan. For larger traders, the court is a possibility when the business relationship has come to an end; i.e., the dispute concerns a large amount of money and the business owner thinks that the court case is not going to negatively affect their other business relations. One larger producer in the rice value chain explained: "We have a clause in the contract that says that unresolved disputes will be brought to court, but we try to resolve it amicably. There's nothing I can do after talking to them and go to the village chief, so I don't do anything. Our society don't really allow for going to court. But if it was a very large sum of money maybe then would I go to court." However, a cereal trader who successfully was able to recover an unpaid debt by filing a court case found the social pressures he had to withstand as a result of his court action so demanding that he has since limited his exposure to risk even further to not have to go through the social ordeal again.

TRADING ACROSS BORDERS

Trading across Malian borders is easy for some, yet difficult for others. The GoM has made key reforms in some areas of trade, yet traders still experience high costs, burdensome paperwork, time delays, and inconsistent enforcement of regulations. The World Bank's Doing Business 2011 report ranks Mali poorly in its Trading Across Borders category (154 out of 181 countries surveyed). Recent reforms have reduced inspections and streamlined customs procedures through computerization. Agribusinesses continue to find, however, that the most constraints to export are encountered well before reaching the actual border, and are therefore not captured in the Doing Business methodology.

The GoM's priority in recent years has been to mitigate the potentially crippling effects of rising staple food prices on its citizens. Government investments in the rice sector through the *Initiative Riz*, while problematic when it comes to fair competition and attracting large-scale investment, are indeed resulting in moderately increased yields. As productivity increases, if quality follows suit, rice could become a cash crop for export, given the right market conditions.

However, while Malian actors have previously benefitted from a competitive advantage in exporting grains such as sorghum/millet to regional markets where it commands a premium, the government has taken official and unofficial measures to prohibit grain export to achieve the goal of meeting Malian consumers' food needs at a lower price. When the opportunity for arbitrage between markets are high, trade restrictions do not stop cereal flow but they do lead to tracasserie, which ultimately places upward pressure on consumer prices and robs the government of potential tax revenues. These policies also create a disincentive for investment in productivity improvement. While the export of livestock is not restricted, meat exports are. The GoM has an opportunity to potentially transform this sector through appropriate trade policy reform and governance, as even licensed traders experience arbitrary export permission from the regional governorate, continued road harassment by the authorities, and illegal tariff barriers from neighboring coastal states.

Generally speaking, trade restrictions in the region have led to increased opportunities for rent-seeking behavior. Since the 2008 official grain export ban and subsequent unofficial blockages, traders have seen a predictably significant increase in transaction costs for exports from Mali to both Senegal and Niger. The Borderless program recently conducted a study of these illicit payments per truck of grain from zones of production to regional export markets. For example, it found that from Koutiala to Dakar, a 60-ton truck carrying millet/sorghum for export pays an average of 219,000 CFA in illicit bribes along the way. VcCLIR interviewees cited similar amounts, though often stated in terms of total payments (licit and illicit), and cited figures as high as 440,000 CFA per truck of grain. This represents around an eightfold increase in illicit payments relative to the period prior to 2008.

LEGAL FRAMEWORK

Many of Mali's trade laws are available online;[52] however, there is no complete repository of downloadable laws, decrees, codes, or ordinances.[53]

Of all its memberships (OHADA, UEMOA, the Economic Community of West African States (ECOWAS), CILSS, and the World Trade Organization (WTO)), Mali's membership in UEMOA has the most tangible influence on the legal framework for trade. As noted in its recent WTO Trade Policy Review (TPR) 2010, Mali's trade regime is largely based on the UEMOA trade agreements and has not changed to any great extent in recent years. Mali has applied UEMOA's Common External Tariff (CET) since January 31, 2000, as well as other trade policy

[52] Laws in Mali are typically only available in French due to its status as the lingua franca as well as the primary working language of OHADA – although some laws regarding international investment have been translated into English by API-Mali.

[53] Portions of the legal and regulatory framework may be found at http://www.justicemali.org/, http://www.sgg.gov.ml/, www.droit-afrique.com, http://www.ohada.com/, and http://www.jurisint.org/ohada/ohada.html.

instruments harmonized at the regional economic community (REC) level, namely, the other duties and taxes levied solely on imports not originating in UEMOA or ECOWAS; the rules of origin of the two regional groups; and customs valuation of goods, with a national list of reference values based on that of UEMOA. Overall, Mali and the other members of UEMOA and ECOWAS are gradually adopting common laws and regulations. A new authority, set up in 2008, monitors compliance with the national and UEMOA rules.

In recent years, the GoM's trade policy has been influenced by two different government strategies. First, the **Poverty Reduction Strategic Framework (CSLP)** set out two main goals: "to ensure strong and sustained growth, providing opportunities and prosperity for all citizens, and to pave the way for achieving the Millennium Development Goals (MDG) by 2015." Specific to agribusiness, the trade strategy underlines the importance of stronger agricultural production systems, development of the private sector through direct investment, trade and export of Malian products to regional and international markets, expansion of the infrastructure and facilities, financial transfers to Mali, and more stable public management. At the same time, **Mali's Master Plan for Rural Development 2002–2010** focused on "food security" and "self-sufficiency" and did not mention access to export markets.

KEY LAWS, STRATEGIES, AND POLICIES

- Mali's Poverty Reduction Strategy Framework (CSLP)
- Mali's Master Plan for Rural Development 2002–2010
- ECOWAS Protocols
- West African Economic and Monetary Union (UEMOA) policies
- Common External Tariff (CET)
- WAEMU trade agreements
- Sanitary and phytosanitary standards (SPS)
- Plan National d'Investissement Prioritaire dans le Secteur Agricole (PNIP-SA)

Both strategies have strongly influenced both policies and attitudes toward trade, and their differences underscore the tension between food sovereignty and economic growth, a recurring theme in this diagnostic. However, the interim CAADP investment plan – the **Plan National d'Investissement Prioritaire dans le Secteur Agricole (PNIP-SA)** – was recently passed, and effectively supersedes these strategies with an explicit orientation toward export markets. The full-scale **Plan National d'Investissement du Secteur Agricole (PNISA)** has not yet been finalized but is also expected to advocate a focus on export-oriented investments by donors and the private sector.

Currently, Mali and its West African neighbors have different **sanitary and phytosanitary (SPS) standards**, which often prevent neighboring countries from legally trading with each other and with the world at large. ECOWAS and UEMOA intend to move towards regional harmonization of different SPS measures to increase trade among the 15 ECOWAS member countries and strengthen regional economic integration and food security. Harmonization would also give West Africa the unified strength to increase market access and exports of agricultural goods to global markets.[54] In Mali, SPS standards identify the diseases that are "legally contagious" and define the special measures to be taken against each disease (vaccination, sanitary slaughter, etc.). Transhumance is authorized for cattle, sheep, goats, and camels originating in those countries that have signed an agreement with the GoM, subject to the issue of a transhumance certificate. Any animal without a certificate is quarantined for 15–45 days with costs payable by the owner. Import and export of meat must be accompanied by a sanitary certificate; import or transit of livestock also requires a sanitary and vaccination certificate.

The most commonly used mode of transport for persons and goods in Mali is the road, even though the road network is little developed and

[54] WTO, "2010 Mali Trade Policy Review," 2010.

mainly consists of 80 percent unpaved roads, with obsolete vehicles and a very poor level of road safety. The GoM has therefore made investments in road construction a priority, and Mali has signed **bilateral agreements on road transport and transit** with all neighboring coastal or landlocked countries, defining the terms for transit by road, the transport routes, the freight-sharing terms between carriers from the two countries and from third countries, the terms for sharing passengers between carriers from the two countries and from third countries, and the products that are excluded. Under these agreements, Mali also gives cabotage rights on a reciprocal basis.

Until recently, checks on UEMOA-wide axle loads had hardly been implemented. This resulted in a steady deterioration of roads in the region. To tackle this problem, the Nigerien government inspected all trucks entering the country via the border with Mali. Due to non-compliance with the axle loads most trucks were stopped, leading to delays of several days or even weeks. UEMOA regulations limit the weight for most trucks to 40 tons, although transporters reported that they commonly carry 65 to 80 tons. Thus enforcement of the weight limits would require transporters to pay for nearly twice as many trucks to haul the same amount of goods. While the stringent inspection is a positive sign of the enforcement of regional regulations, Malian agribusinesses have effectively been cut off from the Nigerien export market by this development.[55]

Before the 2008 food price crisis, the West African consensus of a trade-based food-security strategy met many national price and supply objectives and provided an important political basis to increase regional agricultural trade integration. In 2008, however, soaring prices (e.g., rice selling for over US$1,000/ton) and export bans from some Asian countries such as India threatened the availability of rice imports and led many West African governments to question their dependence on the international market for staples. Grain exporters like Mali restricted exports in an attempt to protect domestic consumers from the soaring prices. These official **export restrictions**, and the unofficial blockages that have persisted, have driven up costs in neighboring countries and depressed prices paid to Mali's own farmers, while having only little effect on reducing consumer prices.

IMPLEMENTING INSTITUTIONS

Various government ministries play a role in setting and implementing trade policy when it comes to agricultural commodities. The **Ministry of Industry, Investment and Trade** is the principal authority responsible for formulating, evaluating and implementing the GoM's industrial and trade policy. The **Ministry of Economy and Finance (MEF)** is responsible for promoting the private sector and plays an important role in trade policy matters through the Directorate General of Customs, which it supervises. The MEF also has responsibilities related to Mali's participation in UEMOA and the CFA zone. The **Ministry of Foreign Affairs and International Cooperation** is responsible for Mali's participation in the African Union and the (ACP) EU Agreement. The **Ministry of Trade** deals with trade aspects of bilateral, plurilateral, and multilateral agreements, grants import licenses for products subject to restrictive prohibitions, and has authority for contingency measures. The Ministry of Trade also includes the **Centre Malien de Promotion de la Propriété Industrielle (Mali Industrial Property Centre,** or **CEMAPI)**, a Standardization and Quality Promotion Department, and is responsible for API-Mali.

The **API-Mali** works in the following three areas: to develop and implement the GoM's investment promotion strategy, to contribute to the improvement of the BEE, and to develop the new special economic zones (SEZ). There is a strong focus on agro-industrial value addition, since most, if not all, of its SEZ project portfolios include an abattoir with a meat packing/

[55] This is also an issue in Niger with trucks coming in from Ghana. West African Trade Hub has written a report detailing the issue and providing policy solutions to make sure that this law is implemented in a more efficient manner, available at http://www.watradehub.com/node/616. The report calls for installing weight stations and integrating a national system of axle-load controls.

freezing site or a processing and packaging facility for fresh fruits and vegetables destined for export markets. API-Mali is capable of facilitating domestic and foreign investment into all of the targeted value chains but is limited in terms of its ability to support trade-oriented investment. Although the Investment Code provides globally competitive tax and import duty exonerations, there is no national customs authority present at the Guichet Unique (one-stop shop) to issue import and export licenses. As a result, investors must navigate the customs authority without facilitation by API-Mali.

The **National Directorate for Trade and Competition (DNCC)** within the Ministry of Trade is in charge of issuing the certificates of intent for the import or export of goods. The primary purpose of these certificates seems to be to provide an opportunity for the state to maintain control of trade and influence prices. Indeed, though import certificates (such as for inputs) are easy to come by and processed quickly, representatives at regional **DRCC** offices where import and export licenses should be issued confessed that they were ordered by the government not to approve any applications for cereal export since the beginning of the food price crisis in 2007. Traders report that they are able to secure an export license for staple cereals, but only at DNCC headquarters in Bamako, and some noted paying a hefty price for such "expedited service." The government defends this unofficial export ban, saying that Mali has limited financial capacity to purchase imported cereals in times of crisis and that food self-sufficiency or "food sovereignty" is the only solution. This unofficial export ban is an example of noncompliance with UEMOA's and ECOWAS's rules, and may be in contravention of other regional agreements, adding to a growing bilateral tension in West Africa manifested in numerous reciprocal unofficial and official blockages. In Timbuktu there is very limited formal cross-border trade. In the past 10 years, the DRCC has only received two applications for importing rice but no applications for export licenses.

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Industry, Investment, and Trade
- Ministry of Economy and Finance (MEF)
- Ministry of Trade
- Centre Malien de Promotion de la Propriété Industrielle (Mali Industrial Property Centre, or CEMAPI)
- API-Mali
- Ministry of Foreign Affairs and International Cooperation
- National Directorate for Trade and Competition (DNCC)
- The General Directorate of Customs

The GoM's export restrictions have several negative consequences on producers and processors of cereals. First, it constrains the ability of Malian cereal actors to leverage the true value of their commodities in the regional market, and studies show that increased export demand would result in higher income for primary producers. However, this may be mitigated by the numerous number of value chains actors between the end markets and those producers. Second, it discourages additional investment into cereal production and processing systems, because the true market size for the commodities is unknown and subject to the whim of discretionary government policies. Third, it compels producers and traders to break the law by seeking markets through illicit channels, contributing to rent-seeking behavior by official who patrol those channels. Finally, it erodes confidence in Malian trade institutions – after many years, this unofficial ban is now well known and the subject of national, regional, and international criticism. This undermines Mali's reputation in the subregion as a reliable supplier, inducing buyers in neighboring countries to look for more reliable trading partners.

The General Directorate of Customs has a limited official role with respect to the four targeted value chains due to recent simplifications

of export procedures. In the case of livestock, the Customs Directorates remarked that due to recent liberalizations in livestock export procedures, the only livestock control was at the animal health office. Regarding livestock, the Customs Directorates are no longer part of the export approval process and are not in a position to impede or facilitate the flow of livestock across the border. In addition, they have not been directed to reinforce the remaining restrictions regarding the export of young or lactating cows. For the export of cereals, Customs Directorates are officially responsible for utilizing risk-management assessment techniques to identify and inspect trucks suspected of exporting cereals during the low-season export ban or those without proper export papers. Traders reported that at certain border crossings, it is commonly understood that one will be able to export grain without a certificate at a price directly tied to the potential margins that can be gained in the export market on the other side of the border. Interviewees universally reported that deficiencies in oversight, management, and training have resulted in rent-seeking behavior and noncompliance with guidance from Bamako, though certain border posts are better run than others.

Importers who wish to introduce new seeds in the country need to obtain preapproval from the Division of Control and Regulations at the DNA. Upon approval from DNA, the importer can order sample seeds, which will be tested for at least two years by the research institute IER. If the seed is accepted by IER, the importer gets approval to order the seeds. However, many producers do not follow these procedures but import seeds without any preapproval and start production without any testing.

The **DNI** within the Ministry of Industry, Investment and Trade acts as the secretariat of the National Standardization and Quality Control Council.[56] The council adopts draft national standards in cereals, cereal byproducts, and other goods and products. However, conformance with regional standards and observance of these standards and rules still raises problems for the DNI, and there is a need for training in applying the regional standards agreements in these areas.

Procedures for exporting cattle from Mali were simplified in 2009, and the controls are now primarily concerned with the health and safety of the animals rather than controlling market factors. Nonetheless, traders still complain of two issues: the requirement to have the regional governor (or rarely his designate) personally approve shipments of livestock as part of the export process, and persistent tracasserie on the trade corridors by the police, gendarmerie, and customs. This rent-seeking behavior is cruelly exacerbated for livestock traders by the perishable nature of livestock on the truck, which are denied regular food and water during traffic stops. Livestock traders bringing their animals to the border "on the hoof" typically go by way of pastureland to avoid these unnecessary controls. If their paperwork is in order, these traders have much less difficulty at the border than those traders arriving by truck. Ironically, this means that those traders who invest in their supply chains are more penalized.

There is a significant amount of livestock (sheep and camels) that are exported to Algeria and Mauritania from the Timbuktu region. However, due to insecurity in the northern part of the country, the government has "closed its eyes" and withdrawn its border checkpoint. Therefore, livestock trade to the north is done informally without any paper work or payment of customs.

The implementing institutions of neighboring countries also influence Malian agribusiness. Senegal is a growing market for Malian cattle, especially now that the road to Dakar is fully paved. Several traders recounted additional costs when exporting their cattle to Senegal. Due to a creative interpretation by the Senegalese of the national business registration

[56] Law No. 92 013/AN RM of 17 September 1992 and its Implementing Decree No. 92 235/P RM of 1 December 1992.

laws, Malian cattle traders are required to register as a "foreign trader in Senegal" at a cost of 15,000 CFA/truck and 4,500 CFA/head as an unofficial tariff. Malian observers believe these unofficial tariffs to be in contravention of ECOWAS and UEMOA free trade agreements. A livestock exporters' delegation recently traveled to ECOWAS to dispute this practice and was advised to address this issue on a bilateral basis. The traders are currently advocating their position to the GoM. In the past, both Ghana and Burkina Faso also imposed a quasi-illegal transit tax or taxe de traverse on Malian livestock in transit to Kumasi and Accra markets.

SUPPORTING INSTITUTIONS

Several organizations[57] monitor tariff and nontariff barriers (TNTB) in the West Africa region through the **Borderless program**. The Borderless program contributes to improving road transport governance in the region by determining what are the most paralyzing obstacles to producers, traders, buyers, and investors, and by publishing findings in both data and map form. These findings are used to pressure decision makers to change policy to help develop their economies. While the findings of the Borderless program are critical to raising the profile of these constraints, Malian actors noted that there has been no noticeable decrease in road tracasserie in recent years, despite a high-profile exposé involving a former minister riding in a truck that had been stopped. Conditions for transporters will only be improved through a comprehensive, politically supported, incentive program to eliminate rent-seeking behavior of various control officers, as well as an integrated multi-ministry approach to the structure and function of the controls and borders themselves. Other countries have had success in reducing road tracasserie by automating and streamlining customs procedures, promoting the use of containers for cargo, and conducting public campaigns to reduce corruption. Stronger regional trader organizations may help bring political pressure to bear on national bureaucracies.

The **CCIM** is unlike chambers of commerce in the Anglo-American sense, as it operates somewhat like a parastatal. It is supervised by the Minister of Trade, and members both enjoy and are restricted by this government favor: CCIM leaders can utilize political relationships for the benefit of constituents, but there are numerous negative impacts of this model. CCIM representatives explained that their role is to propose to the government any measure intended to promote the development of commercial, industrial, or services activities, and to represent the opinion of the private sector on relevant issues. However, the chamber admitted that it rarely deviates from the party line and even expresses support for state restrictions to free trade. Since 2004, the CCIM in Bamako has had an Arbitration and Conciliation Centre, whose task is to settle disputes between Malian nationals and foreigners regarding trade, industry, or the supply of services, although this service is hardly used. CCIM locations in the regions operate similarly, though certainly the personality of leaders and the level of engagement of local businesses vary from region to region. For example, the Chambre in Segou works on behalf of local businesses to facilitate the importation of a shipment of agricultural inputs that sometimes get stuck in the approval process, though this is not a common event.

The **CNPM** functions as an alternative chamber of commerce that is relatively free of government direction. The CNPM has regional chapters and most recently opened a branch in Timbuktu.

KEY SUPPORTING INSTITUTIONS

- Borderless Program
- Chambers of Commerce of Mali (CCIM)
- National Council of Malian Employers (CNPM)
- Malian Association of Wholesale Exporters, or AMEPROC
- Observatoire du Marché Agricole (OMA)
- FEBEVIM

[57] ECOWAS, UEMOA, USAID, World Bank, Abidjan – Lagos Corridor Organization (ALCO), USAID's Agribusiness and Trade Promotion (ATP) and West Africa Trade Hub.

This branch has proven useful for connecting businesses, which are otherwise rather isolated in Timbuktu, with businesses in the rest of the country. As an apex business association, it has the most market-oriented direction, and has committees on both trade and agriculture. Most important, it sponsors the **Association Malienne des Exportateurs de Produits de Cueillette (the Malian Association of Wholesale Exporters,** or **AMEPROC)** – a fledgling association, but one that may have the potential to be an important partner in promoting "Brand Mali" through quality control, market segmentation, and professional packaging to export markets.

APCAM's **Observatoire du Marché Agricole (OMA)** collects, analyzes, and disseminates market information from all the major agricultural and livestock trading markets in the country. OMA produces market information from 31 livestock markets, 70 cereal markets, and eight input markets. This information is analyzed and disseminated weekly through bulletins, broadcasting, and a SMS service. In important rice markets like Niono and Segou, sellers refer to the OMA price information before they market their rice.

One APCAM member, the **FEBEVIM**, plays an important advocacy role in promoting export market access to livestock value chain actors. Most important from the perspective of this diagnostic, the FEBEVIM lobbies for access to export markets for fresh and frozen meat, a move that promises to transform the livestock sector by catalyzing quality improvement and adoption of international grades and standards along the value chain. The group has been active in calling for an end to clandestine taxation and taxes under different names by border officials in neighboring ECOWAS countries, especially in Senegal (as mentioned above). FEBEVIM has been somewhat effective at raising awareness and lobbying against these illicit taxes by organizing a cross-country caravan to spread the message and a strike at the Senegalese border, blocking the transit of Malian livestock until both Senegal and Mali committed to ending border taxation. Unfortunately, FEBEVIM reports that the issue still persists on other transnational trade roads (Abidjan, Lome, Accra, Tema, and, to a lesser degree, Dakar).

This issue is illustrative of the poor relationship between private-sector associations and the government. Associations are burdened with not only the constraints to trade, but also with the responsibility of finding a solution to the problem. For example, in working with the government to resolve the Senegal tax issue, FEBEVIM has encountered a lack of understanding of regional trade agreements on the government side, which discredits the government's responsibility to represent its economic stakeholders at the REC level and also hinders its ability to negotiate for more advantageous trade arrangements with other countries, both within and beyond the region. In effect, the government does not understand the problem and does not know what options are available to resolve it.

SOCIAL DYNAMICS

There is a palpable tension between state interests and agribusiness interests – even when the state claims to be doing what is best for the agricultural sector. This tension is manifested in many forms and many institutions. Most visible is the government's interventions and support for **"food sovereignty,"** which limits policy movement towards free markets and trade. Understandably, the government is concerned about public unrest related to rising food prices. One needs only to look at the crises occurring in Mali's neighbors, Cote d'Ivoire and Burkina Faso, to understand the GoM's priority of satiating the population. To allay these concerns, since 2008 the GoM has instituted a "lean month" official cereal export ban, and year-round are reluctant to process cereal export paperwork without incentives. Small traders report having no success, nor hearing

of any competitors successfully securing an export license for cereal in recent years. Larger traders report that, outside the "lean month," they can secure export licenses over the phone, with an electronic bank transfer to Bamako.

This tension is reflected in the opinions of the value chain actors and transport corridor officials as well. While producers expressed a general preference in accessing more profitable export markets for their commodities, they also supported the government's intervention to limit the outward flow of food and depress prices, mainly because they were not 100 percent certain that they would ultimately capture their proportional share of the export market premium. Transport corridor officials are caught between the two frequently opposing duties of protecting national security and fostering an enabling agribusiness environment through free trade. One customs director waxed philosophical about this delicate balance and admitted that it is difficult to change the professional culture of these institutions without the relevant incentives and training. Indeed, changing the culture of these controls may be extremely difficult given the disparate chain of command structures of the police, gendarmerie, customs, forestry service, and other officials.

Observers also remarked that some government employees in key trade-related offices do not believe in or advocate the benefits of a market economy, nor do they convey a thorough understanding of the principles of competitive advantage and regional agricultural trade integration. Behind the thin market-oriented veneer of select initiatives such as API-Mali, there lies a bureaucratic structure of arbitrary decisions and inconsistent enforcement of regulations. While many civil servants are committed to the goals of poverty alleviation and social development, they do not see commercial production, industry, and trade as part of the strategy.

The GoM's prohibition on the export of cereals creates the unfortunate social dynamic of transforming what would otherwise be licit trade into smuggling. In the current market, the price differential commanded in export markets for Malian cereals is so great that it compels both Malian and foreign traders (usually Burkinabe) to take advantage of that market despite administrative hurdles. Often hiding 10 tons of cereals in a 40-ton truck laden with other goods (such as cotton), these traders are frequently stopped at transport controls. Control officials know they can extract unofficial payments from the traders, who themselves have already built these fees into their pricing. Traders and officials have reached an enterprising equilibrium of bribe elasticity whereby the officials do not demand so much as to deter the traders, and the traders know exactly what bribes they can afford to pay and still make a profit. After all, the traders are the officials' primary source of disposable income.

Public opinion about the cereal export restrictions is inconsistent. Many smallholder producers interviewed would prefer to have export restrictions lifted so they can have access to more lucrative export markets, but they were also supportive of the GoM's position to impose these restrictions if they reduced the possibility of a price increase. There is no doubt that removing these barriers to trade would increase producers' export markets – and prices – and help them earn more. However, it is unknown what net effects a price increase in cereals would have on smallholders who are net buyers of cereals, since the increase in producer incomes would be balanced by higher food prices, at least in the short run.

The Malian livestock market is both driven and constrained by dynamics of trust and reputation. It is commonly heard that in the Malian livestock sector, "You don't bring your stock to market unless you know someone there." As a result, the cross-border cattle market only works through first and second degrees of separation,

since traders will not deal with someone they do not know personally or who cannot be vouched for by a trusted associate. This makes accessing regional export markets burdensome for current traders (who must pay a fee for each broker engaged in the transport chain) and near impossible for new market entrants who do not yet have an established reputation. Trust issues limit expansion of the supply base, access to export markets, and increase costs, thereby reducing the competitiveness of Malian cattle.

The attitude towards cattle as a status symbol, particularly strong in the Timbuktu region, also reduces the potential for commercialization. Interviews with herders revealed a reluctance to treat cattle as tradable assets and a fear of theft, particularly once the cattle are "on the hoof" along historical and well-known trade routes with reliable pastureland and water for grazing. This mistrust between Malian actors constrains the expansion potential of the livestock sector.

SPECIAL SECTION: DOMESTIC MARKET LINKAGES

Effective market linkages promote the most efficient use of resources by conveying consumer demands through the medium of price and enabling producers to meet those requirements by supplying goods and services to the consumer. Both demand and supply aspects of market l inkages are equally critical to the efficient performance of a market. In Mali, market linkages for livestock and cereals are confounded by numerous impediments that diminish the impact of price signals, increase transaction costs, and restrict the profitability of the producer.

First, growth in all four subsectors is constrained by the subsistence nature of production among both pastoralists and farmers. Across the developing world, subsistence production commonly results in a negatively sloping supply curve, which means that changes in price do not always result in compensating changes in supply. As markets become increasingly commercial this trend will disappear, but among subsistence producers it is quite common, if not universal. This effect is noted in Mali when it comes to small-scale livestock pastoralists but is less common among larger livestock herders and rice growers, who operate on more commercial principles. Nevertheless, the exceptional supply response of subsistence producers does not justify the frequent interventions by GoM in the markets for livestock and cereals, including restrictions on export and domestic price ceilings. Such interventions may have no impact on subsistence production but can significantly reduce the profitability and development of commercial production across the value chains.

In Mali, market access and price discovery are further restricted by the reliance on only a small circle of trusted business partners or, in the case of livestock, upon the services of a broker to guarantee trades between strangers.[58] This reliance on personal contacts results in value chains that are not seamlessly linked from producer to consumer. Instead, each chain is made up of a series of discrete modules, each interacting with the ones directly above and below. Only under exceptional circumstances is there any degree of vertical integration within the value chain. Larger traders use their own networks of agents to accumulate volumes of grain instead of relying upon assemblers to perform this function, while some commercial producers of rice engage both in production and in the marketing of their own production once it has been toll-milled. There is little reason to expect that the structure of markets within Mali will not develop in a manner similar to that of other developing markets in Africa – i.e., towards increased vertical integration, as investor confidence in market stability increases. Nevertheless, there are as yet no examples of systems that are fully integrated from production through the sale of the finished product. A number of stakeholders, particularly business professionals, noted that this contributed to both inefficiency and a limited capacity

[58] See chapter on Enforcing Contracts.

to respond to market opportunities in a timely manner. Introducing any intermediary tends to diminish price signals, but the extensive networks of assemblers, small traders, larger merchants, and retail outlets, although quite typical of most African marketing structures, all serve to reduce the impact of market preferences at the consumer level and to increase transaction costs.

For most crops, the GoM-sponsored marketing information systems (MIS) provides price information from 70 cereal markets and over 30 livestock markets, and access to mobile phones now facilitates a high level of price awareness among even the more remote subsistence producers. For livestock, the common and effectively compulsory recourse to brokers contributes to opacity in the market, and although brokers may currently serve to reduce uncertainty in the market, their presence in the value chain serves to make producers much less aware of market prices or of the premiums available for animals of different qualities. A fledgling commodity exchange is held in regional market hubs, and more closely resembles a biannual trading fair. While it does present an opportunity to connect with more buyers and suppliers, it must achieve a much higher level of frequency, scale, and reliability in order to become a meaningful marketing mechanism. The initiatives that accompany donor-led development of commodity exchanges in other African countries – warehouse receipts and certified storage – are unlikely to take off in Mali given producers' relatively easy access to credit without collateral due to government and donor guarantees. Also, given government commitment to grain price stabilization, temporal arbitrage is less interesting to speculators.

Although there is a differentiated market in Mali for Gambiaka rice and a very small domestic market for premium cuts of meat, the payment of premiums for quality is unusual in the rice, meat, millet, and sorghum markets. Whatever quality premiums might exist at the retail level are generally obscured by the structure of the value chain, in which assemblers work to accumulate the small parcels of grain sold by individual households into lots that are of sufficient volume to be of interest to wholesalers. The wholesaler, in turn, seeks economies of scale and turnover and is unlikely to pay a premium for the service of sorting by the producer or assembler. Only at the retail level and in urban markets where time is valued more highly is occasional sorting and price differentiation based upon quality seen.

The dominance in the rice and millet/sorghum markets of a very small number of larger buyers also distorts market linkages. Both markets were characterized by interviewees as oligopsonies in which fewer than three to five wholesalers have sufficient, reliable capacity to consistently fill larger purchase orders, such as those from WFP and OPAM. In Timbuktu there is only one wholesaler of rice and input distributor. The greater capacity of these buyers in terms of finance, storage, haulage, and their networks of buying agents allows them to accumulate the majority of commercial production. Although the vertical integration achieved by this market dominance is potentially efficient, the capacity to take unrestricted profits can lead to a substantial increase in transaction costs along the value chain. Many producers, who are obliged to sell early in the season to raise cash, are faced with a low price. Once the large traders have accumulated stocks, consumer prices escalate rapidly, increasing by more than the cost of storage and finance, which suggests that the larger traders are effectively able to manipulate the market to their advantage. Providing support to producers to strengthen their negotiating capacity with traders may serve some benefits, but it is unlikely that farmer-based storage, marketing, or even processing groups will be able to negotiate much better prices as long as the market is still effectively controlled by a few traders. Providing support to SMEs that could provide an alternative market for

producers would increase competition and eventually result in better prices for both producers and consumers alike.

As a final impediment, the cost and availability of transport directly impacts the cost of supplying goods to markets and the extent of market integration. West African road transport costs are lower than those of most African regions (with the exception of the Durban-Lusaka corridor[59]). Nevertheless the costs and delays caused by the *tracasserie*, an inevitable feature of the multiple roadblocks on Malian highways, can significantly increase the overall cost of moving goods in or through Mali. In addition, to secure access to transport that is in short supply, trucks may actually travel empty to a pick-up point, such as trucks dispatched by input importers to the port in Abidjan. This underutilization negatively impacts market integration and increases transaction costs. Moreover, due to poor road conditions, goods to and from Timbuktu are reloaded onto smaller trucks in Mopti. The additional time it takes to reload goods, sometimes store it, and secure suitable trucks increases the transportation costs of goods to and from Timbuktu.

Given the limited purchasing capacity of the Malian consumer, it is inevitable that the market will look to export opportunities if it is to develop. If this opportunity is blocked by restrictive trade policy or price setting, then the inefficiencies within the value chain will inevitably be borne by the producer in the form of reduced prices that do not justify the risk of moving to more intensive production systems unless inputs are continuously and heavily subsidized.

SPECIAL SECTION: PROPERTY RIGHTS

Although Mali's "Registering Property" ranking is among the highest of the country's 2011 Doing Business indicators, nearly all stakeholders agree that poor implementation of property rights hinders investment, commercialization, and growth.[60] The lack of clarity surrounding property rights in Mali is a significant problem in and of itself, but it also constitutes a primary obstacle to getting credit. This problem is particularly acute in the agribusiness sector, towards which lenders are notoriously skeptical and risk-averse. In recent years, it has become increasingly difficult for entrepreneurs to access capital without tangible collateral. Lenders overwhelmingly favor formal proof of land tenure as a suitable guarantee, although on occasion, other assets such as equipment, warehouse receipts, or contracts from "reputable" buyers may be sufficient.[61] Yet even official land titles are not always secure; competing claims, fake documents, and corruption pervade the system, and many lenders resort to debt recovery procedures that are costly and time-consuming. In rural areas, the problem is compounded by the potential application of customary rights, which are technically valid under Mali's Land Codes. As a result, much of the discussion about facilitating credit in Mali ultimately centers on access to land.[62] Current and future attempts to reform land registration may eventually make it easier for smallholder farmers to obtain land titles and access credit. The prospects of similar success for producers of livestock are less certain. Breeders with relatively short-term, profitable, and stationary activities (e.g., cattle fattening, milk production) located in urban or peri-urban areas have a much better chance of proving their claim to a particular piece of land and thereby of accessing credit. The vast majority of pastoralists, however, are rural nomads and will likely continue to remain asset-poor in the eyes of lenders.

While the status of immoveable property in Mali's legal and regulatory context is fraught with controversy, the outlook for moveable property is rosier. Officially, there are no major constraints to using moveable assets as security for financial transactions. Mali adheres to the OHADA regional framework for business, and key stakeholders consider the OHADA's

[59] Africa Infrastructure Country Diagnostic Working Paper 14, "Transport Prices and Costs in Africa: A Review of the Main International Corridors," July 2008.

[60] World Bank and International Finance Corporation, "Mali," *Doing Business 2011: Making a Difference for Entrepreneurs*, 2011, available at http://www.doingbusiness.org.

[61] Although technically only the state can own land in Mali, individuals may obtain permanent (i.e., for their own lifetime) title to specific plots of land. While there is an officially defined process as described in *Doing Business 2011*, in practice, any number of problems can and do obstruct it.

[62] There are several publications on this topic; USAID's *Mali Land Tenure Assessment Report*, September 2010, available at http://usaidlandtenure.net, and GTZ's *Foreign Direct Investment (FDI) in Land in Mali*, December 2009, available at http://www.gtz.de, provide useful details and analysis.

Uniform Acts to be in line with international standards and best practices, including those that address creditors' rights and secured transactions. In December 2010, OHADA approved changes to its commercial and security interest laws; the new texts introduced a crucial innovation concerning moveable property – nonpossessory pledges.[63] As long as a creditor registers the asset in question with the RCCM, he or she can be confident in his or her claim to that asset without having to deprive the borrower of its physical use.[64] The registry will allow for the prioritization of creditor claims to a listed asset. The law also creates the role of "security agent" (similar to a trustee). Based on experts' predictions, if implemented properly, the revisions concerning secured transactions alone will increase credit to the region's private sector by at least US$250 million over the next three years.[65] However, the reliability of this system is not yet tested, and the key challenges will be ensuring RCCM's effective functioning and increasing lender confidence regarding the potential for legal enforcement.

For a lender, the key constraints to considering livestock as adequate collateral are mobility (both of the animals as well as potentially of their owner) and the ability to verify overall herd size and ownership. Much of the production in the Malian livestock sector involves traditional nomadic practices in rural areas, though some has moved to semi-sedentary production in mixed-farm environments. Urban areas have some semi-intensive operations (e.g., cattle fattening, meat and dairy production). Throughout the value chain, participants conduct transactions informally; social capital plays a paramount role in the verification and selection of business partners, the assessment of animals, and the financing and settlement of purchases. As contracting parties rely on trusted brokers and witnesses during a sale, there is already an informal system for assessing whether or not an animal has been stolen. Industry stakeholders unanimously felt that the system worked well enough as is; implementing a high-tech identification system to track a particular animal would do little to reduce impediments to credit.

In other countries, stakeholders are developing new systems and products to help livestock breeders prove animal ownership and access sources of funding. In Botswana, a radio frequency identification (RFID) system capable of tracking up to four million head of cattle is being introduced to comply with EU traceability requirements for beef so as to access this major market. Once the system is functional, it is also likely to serve other purposes, such as improving disease control and reducing theft. In India, an insurance company is working with a milk producers' cooperative to reduce livestock insurance fraud using RFID technology. Although the project is still in early stages, initial results look promising and skeptics such as bank staff and veterinarians have begun to accept the idea. With a lower incidence of fraud, the insurer can reduce producers' premiums. In addition, the technology may help the cooperative manage its herds more easily.[66]

While a high-tech animal identification system may ultimately benefit Mali's livestock sector, the underlying drivers that would justify it – consumer demand for traceability and viable, market-oriented production – do not yet exist. In order to move the industry towards that state of development, stakeholders were adamant that there are far more pressing priorities and points for intervention. These include basic production limitations (insufficient feed, lack of water, inability to exercise grazing rights, limited producer training, animal health[67]); land issues (the expansion of agricultural activity into pastoral lands, tensions between statutory law and customary rights, lack of official land titles); infrastructure and environment (poor roads, litter, desertification, and drought); lack of processing facilities (abbatoirs, dairy collection centers, cold storage); and information gaps (lack of awareness about relevant laws and markets).

[63] Mayer Brown, "Enhancing structured lending into francophone African countries: OHADA adopts a major reform of its uniform act organizing security law," *Legal Update*, April 2011, available at http://www.mayerbrown.com.

[64] The original OHADA Uniform Act on General Commercial Law of 1998 established the RCCM, but until the 2010 revision, the registry was scarcely used or updated and failed to fulfill its intended purpose.

[65] International Finance Corporation, "Major Reforms to OHADA Laws Lead to Breakthroughs in 16 African Member States," available at https://www.wbginvestmentclimate.org/advisory-services/regulatory-simplification/secured-transaction-and-collateral-registries/ohada-facilitates-access-to-finance-in-africa.cfm.

[66] International Labour Organization's Microinsurance Innovation Facility, "Identification technology can reduce fraudulent claims and help make cattle insurance sustainable," *Innovation Flash*, Issue 9, March 2011, p. 3.

[67] At this point, "animal health" refers to the producer's point of view (i.e., viability of an animal) rather than the perspective of a potential customer. This is because consumers in the markets to which Mali currently exports (i.e., neighboring countries) do not insist upon it.

SPECIAL SECTION: BROKERS AND LIVESTOCK TRADING

In the Malian livestock value chain, the buying and selling of livestock takes place at a livestock market and is facilitated by a livestock broker. At the larger livestock markets, such as Sofara and Fatouma, the weekly market attracts hundreds of buyers and sellers. The broker, who is experienced in assessing the condition and the value of livestock, acts as an intermediary between the buyer and the seller. The broker is often also a cattle owner and trades in cattle. At the beginning of the market day, sellers might make inquiries with several of the many brokers operating at the market. The broker inspects the animals, and the seller informs the broker of his or her desired price for each animal. Thereafter, the broker negotiates the sale with the buyer. The broker does not disclose the seller's asking price to the buyer or the buyer's purchase price to the seller. The broker earns a nominal 1,000 CFA fee per head from the buyer, but the bulk of his profit comes from the difference between the seller's asking price and the buyer's purchasing price.[68]

In addition to facilitating the transaction, the broker acts as the guarantor for the purchase. The broker gives the buyer a full refund if the animal gets sick within a week from the purchase or if the buyer at any point after the purchase learns that the animal was stolen. As stolen cattle are a problem in certain areas, the broker plays an important role to secure transactions between buyers and sellers. Due to the financial and reputational risk of acting as a guarantor, brokers will only represent sellers with a good reputation. One broker in Fatouma explained: "There are about 80–100 traders that regularly trade at the market that I trust. If a trader has been dishonest in the past, particularly if he is selling stolen cattle, there is no broker that will represent him here at the market." The brokers prefer to deal with sellers they know well and have represented in the past. If the seller is not well known at the market, the broker will ask for references and will often retain a larger amount of profit (the difference between the buyer's purchasing price and what the seller collects). A broker is valued based upon his knowledge of livestock but also his honesty. In the unusual event that a broker is cheating one of his customers, that information will make it back to the livestock cooperative and that broker will not be able to work at the livestock market anymore.

To ensure that the seller is the cattle's proper owner, the broker inspects the sign that is branded onto the animals. Each family has a unique sign and every time cattle change owners the cattle get branded with the new owner's sign. As a result, animals have often multiple signs and the broker needs to assess which sign is the most recent. If the broker suspects that he has been presented with stolen cattle, the signs on the cattle's body will help him trace it back to the previous owner(s). If the broker comes across stolen cattle, he keeps it in his possession until he can find its rightful owner.

At many of the livestock markets in Mali, animals are fully paid for in cash. One buyer in Sofara explained: "There are enough buyers here who are willing to pay cash so the sellers don't need to accept credit." During certain times of the year when the supply of cattle is greater than the demand, some sellers request a smaller down payment but give the buyer one week (until the next market day) to pay the full amount. In such cases, the seller retains the possession of the animals.

At the larger livestock markets such as Sofara and Fatouma, a cooperative manages the marketplace. The cooperative charges the sellers an entry fee of 100 CFA per head brought into the market, approximately 20 CFA of which goes to the mayor's office as a tax. The cooperative settles disputes between traders and brokers and functions as the liaison among the traders,

[68] For instance, the seller's asking price might be 100,000 CFA, while the buyers purchases the cattle for 120,000 CFA, and the brokers retains the difference of 20,000 CFA.

brokers, and the local government and APCAM. At times, two cattle owners both claim ownership of one particular animal. Just like with theft, the broker assesses the animal, but the dispute will often be presented to the livestock cooperative for adjudication.

REGIONAL OVERVIEWS

While laws, regulations, and government institutions often receive the most emphasis when reviewing the business-enabling environment (BEE), most formal and informal businesses spend the majority of their time and resources interacting with other private businesses, either as suppliers, clients, or competitors. It is the nature of these interactions that primarily define the BEE. In many cases, these are based upon social norms that are embedded within the local culture and have often been determined by the way of life, and indeed the very geography of each area. Such social differences underlie much of the main differences between business environments in different areas.

Superimposed on these cultural differences is the influence of government, especially in terms of its capacity to implement and enforce regulations. This is also affected by geographical factors, including the density of the population and the local way of life (e.g., sedentary or nomadic), as well as by the extent of decentralization and the budgetary support those different areas might receive.

Regional differentiation is woven throughout this report, but a number of defining market and BEE characteristics in Sikasso, Mopti, Timbuktu, and the Alatona region are highlighted below.

MOPTI

The business environment in the Mopti region can be characterized as one based primarily upon trust and informal arrangements between businesses, reinforced by traditional codes and dispute resolution mechanisms and only marginally affected by government regulations and institutions. This dynamic is well demonstrated by the number of disputes heard by the Commercial Court of Mopti. Despite the many businesses (over 5,000 of which are formally registered) and inevitable disputes, no more than two commercial cases come to court each month. This is because in a business environment based upon trust, the need for an external third party to formally resolve a dispute implies the complete breakdown of the relationship between the two parties involved (so that the two parties are quite unlikely to ever do business again). Instead, the social dynamic requires the two parties to seek arbitration from within the community in a well-established but less formal procedure that is usually effective and may ultimately result in the strengthening of business ties.

This nomadic, rural life style and independence from government also foster little incentive to pay tax, which is reinforced by the limited capacity of authorities to physically cover the dispersed livestock businesses outside of Mopti town. As a result, it is difficult for the local authorities to meet the financial costs of providing the basic regulatory infrastructure without additional finance from central government. Those businesses that are accessible receive disproportionate attention from the authorities to the extent that business dealings can be delayed through excessive government oversight.

Due to the overlap between traditional grazing patterns and the expansion of agriculture, clashes over land between farmers and herders are frequent in the Mopti region. It appears like the local authorities have been unable to forcefully intervene into the conflicts, but have dealt with disputes on an *ad hoc* basis, which has led to inconsistencies and room for corruption.[69] Land disputes are commonly occurrences in local courts but the judge's impartiality is often called into question. Furthermore, as these conflicts are strongly embedded in the social fabric, it is very challenging and at times impossible for the bailiffs to enforce court decisions related to land disputes.

[69] See the case study discussed in Tor Benjaminsena, Koffi Alinonb, Halvard Buhaugb & Jill Tove Buseth, "Land Use Conflicts in the Inner Niger Delta of Mali: Does Climate Change Play a Role?" 2010.

SIKASSO

The BEE in the Sikasso region contrasts markedly with that of Mopti. More sedentary livelihoods, greater concentration of population, and higher levels of production all facilitate intervention by the state to a greater degree than is possible in Mopti. Within Sikasso, there is a well-developed hierarchy of authority reaching down from the regional institutions to the individual city halls *(mairies)*. The *mairie* is the focal point for agricultural planning and input distribution, revenue collection, and credit disbursement. It is also of social importance, both as a training center and as a site for weddings and other significant occasions. The influence of the mairie is less significant in the larger towns within the Sikasso region, where higher-level authorities and private-sector associations are also active. Institutions, such as the **Cooperative des Marchands de Bétail de Sikasso (Sikasso Cooperative of Animal Merchants,** or **COBAS)**, have played a significant role in coordinating producers and traders, and in reducing transaction costs.

PHOTO BY FINTRAC INC.

The coordination of trade and the increased horizontal integration of both producers and traders is a characteristic of Sikasso that differentiates it from both Mopti and Timbuktu, and allows the region to respond more effectively to the demands of international trade. It is in this region that trade issues such as quality standards are beginning to be of real concern. However, the capacities of both private and public institutions require strengthening in all aspects (finance, logistics, skills, etc.) if they are to become truly effective.

Grain producers are better organized in Sikasso than in other areas of the country. The cotton company CMDT (established and supported by the government) ran a training program including literacy, basic business management skills, and an extension service for its farmers. Although the literacy and business management component of the program came to an end more than 10 years ago, the program has had a lasting impact, as more farmers in the area know how to read. Moreover, the CMDT has helped to organize and train farmer cooperatives, which facilitate collection of cotton for marketing, transportation, and access to credit. Although CMDT is involved in the cotton sector, its presence and activities have influenced other agricultural sectors as farmers move or diversify to other crops. Due to training and the experience in cash crops, more farmers in the Sikasso region consider farming to be a business. As a result, millet and sorghum, which in other parts of the country are not considered a cash crop, are to a larger extent sold in the Sikasso region. (In Sikasso, 30 percent of the millet and sorghum production is sold, while only 10 percent of production is sold in Mopti.)

In Mopti and Timbuktu, there are strong cultural values embedded in the practice of raising livestock. However, in the Sikasso region the cultural values of owning a large herd are less pronounced, and cattle raising is considered a business. Furthermore, due to the close proximity to the border, market institutions such as

conveyance companies have emerged to facilitate cross-border movement of animals. However, the recent civil unrest in Ivory Coast has increased the cost of transportation, made cross-border transactions more risky, and overall reduced cross-border trade in live animals.

TIMBUKTU

Unlike some other areas of the country (particularly Sikasso), most people in Timbuktu are from Timbuktu and have strong family and cultural ties to the area.[70] As a result, business dealings and business disputes are handled within the social context. The court hears virtually no business disputes (save a limited number of nonrepayment cases brought by the banks). Furthermore, business is done on a very informal basis; few businesses are registered or pay any taxes. The local government has somewhat limited capacity to monitor compliance with licenses requirements or tax collections, but there is also an acceptance among government officials that business is done informally and there is little interest in changing that behavior. Moreover, the unstable security situation has reinforced informality. In the past, there used to be border posts in the north, but the posts were too difficult to staff and protect and were consequently closed. There is a fair amount of livestock export to Algeria and Mauritania, but it is all done informally. As one government official explained: "The government has decided to close its eyes and ears on the north-bound trade and are letting it be informal." The insecurity in the region has negatively impacted investment, particularly foreign investment.

There is a significant livestock production in Timbuktu. Although many livestock owners view a large herd of livestock as something very prestigious, they do not necessary view it as a business venture. In fact, the value of each animal to the owner may exceed the market value, contributing to the backward sloping supply curve (see Special Section on Domestic Market Linkages). Many of the livestock parks are located away from Timbuktu, and there is very limited government supervision of those parks. As a result, most local trade is done informally. The livestock that is traded to the south is brought on hoof to the Mopti region. Traders tend to get the vaccination certificate for the herd in Mopti rather than Timbuktu since they find it more convenient (rather than drive the herd into Timbuktu they head straight to the markets in the Mopti region).

Rice production in the Timbuktu area is primarily for self-consumption, and only an estimated 15 percent of the total production is marketed.[71] However, there is only one large rice trader in Timbuktu, and the same business is also the sole supplier of fertilizers under the *Initiative Riz*. As there is no real competition in the local grain market, the dominant wholesaler can reduce the price paid to growers and increase the price consumers have to pay.

Access to Timbuktu is limited and the cost of transportation is higher than in the other regions. In part, this is due to Timbuktu's remote location, but more important, the roads are in such a poor condition that all goods to and from the region have to be reloaded on to smaller trucks in Mopti. As a result, products from other parts of the country are more expensive in Timbuktu, and the high transportation costs have made it prohibitive for some rice producers to take their products to other regions. River transportation is often preferred, but due to the low water level in the Niger River, shipping is only possible during the rainy season. A parastatal company, *Compagnie Malienne de Navigation* (COMANAV), and a number of smaller operators traffic the river. Because of a limited cash flow, COMANAV has not had the capacity to maintain its fleet. The GoM commissioned a feasibility study to promote a PPP in order to revive the company and ensure reliable river transportation. However, it remains still unclear whether the government will launch the PPP.[72]

[70] This observation was made by several interviewees who had also worked in other parts of the country.

[71] Commissariat à la Sécurité Alimentaire, République du Mali, USAID-Mali, "Synthèse des Plan de Securité Alimentaire des Communes du Cercle de Tombouctou 2006–2010," 2006.

[72] PPIAF Assistance in Mali, July 2011, available at http://www.ppiaf.org/ppiaf/sites/ppiaf.org/files/documents/PPIAF-Assistance-in-Mali-July-2011.pdf.

Although free offerings from aid projects are not unique to Timbuktu, several observers said that there is a strong, persistent culture in Timbuktu where farmers expect to receive handouts in the form of equipment, storage facilities, or inputs. A banker in Timbuktu who had also worked in several other regions of the country found that the perception that a loan equals a grant is stronger in Timbuktu than in other parts of Mali. The team met also with a producer who had obtained agricultural equipment on credit through a development project. However, when the farmer stopped repaying the loan, the equipment was not repossessed and the farmer concluded that there was no need to repay the loan. As the banker observed: "This practice has hindered the development of an entrepreneurial business culture in the region, but has instead led agribusiness to believe that when one project leaves, another one will come, and I might as well wait for the next project to come along."

PHOTO BY FINTRAC INC.

Throughout Mali, there is a perception that a loan equals a grant. This attitude is strongest in Timbuktu.

ALATONA IRRIGATION PROJECT AND SURROUNDING AREAS

The major center for rice production in Mali is the Segou region, which includes the Office du Niger (ON) and Office Riz Segou (ORS) zones. This region is the most advanced rice-producing area, with a mix of smaller and some larger farms and a much higher adoption rate of improved technologies, including certified seeds, fertilizers, and transplanting practices.[73] The rice from most of the other zones in the country tends to be used for self-consumption or be marketed at nearby local markets. In contrast, the rice from the Segou region is marketed more widely, and there are well-established market linkages between traders in the Segou region and other parts of the country. However, international trade in grains and shallots from the region takes place through wholesalers primarily located in Bamako.

Within the ON zone, a number of large-scale investors have signed contracts with the Malian government to access land and water rights. It is estimated that the government has signed contracts for up to 300,000 hectares of land in the zone.[74] These investors include private foreign and domestic companies as well as foreign governments. However, these large-scale land acquisitions have been negotiated on a contract-to-contract basis, each time involving different Malian government agencies – for example, the Minister of Agriculture; the Minister of Habitat, Land and Urbanism; and the Minister of Foreign Affairs are all representatives of the Malian government who have signed particular contracts. Thus, a multitude of departments handle these concessions without any clear coordination in their approach on important issues such as water user fees. Moreover, the absence of an

[73] ACDI/VOCA, Attachment III to the Global Food Security Response, West Africa Rice Value Chain Analysis, prepared for USAID, August 2009, p. 2.

[74] Johannes Baumgart, "Assessing the Contractual Arrangements for Large Scale Land Acquisitions in Mali with Special Attention to Water Rights," Berlin: GIZ, 2010 (PowerPoint presentation).

apex government body that coordinates larger investors in the zone has created inconsistencies and made it difficult for private investors to navigate the Malian bureaucracy, despite the fact that there is often great political will to further a particular project. The establishment of a focal point within the government will be instrumental for the future of PPPs such as those that may be negotiated as part of second phase of the the Alatona Irrigation Project (PIA).

In most parts of the country, rural land is under state ownership. Smallholders use the land under the customary system, but they rarely hold a land title to the land and their rights are often unclear. In the ON zone, smallholders hold annual leases for the land and the water rights. They pay an annual water user fee, and the lease is not renewed if the farmer fails to pay the water fee. However, farmers who are unsure whether they will be able to pay the annual water user fees have had little incentive to fulfill their obligation to maintain the tertiary canals. As a result, water user groups have had limited ability to ensure that all users are maintaining the canals.[75] In the PIA, the farmers benefitting from the first phase of the project will hold land titles to their five-hecatare parcels. So far, the farmers have paid their water user fees to the MCA, the Malian government counterpart for the MCC compact. However, as the project is coming to an end in 2012, MCC and MCA are considering how the distribution of water, collection of water fees, and the maintenance of the channels will be administered. One of the proposals is to create a federation of water user associations to govern the use of water within the PIA zone. As discussed in more detail in the Enforcing Contracts section of this report, it will be instrumental for the sustainability of the project to put in place a system that ensures compliance among the water users to pay the water user fees. The establishment of clear water contracts between the users and a federation, which is easy to implement, monitor, and sanction are key features of a workable water management scheme.

The new producers in the PIA are in their first or second year of harvest. To date, it appears that the farmers have primarily produced rice for self-consumption. A very small percentage of the production has been marketed through the annual grain commodity exchange in Niono and Segou. However, while still undocumented, it seems that producers have also sold part of their harvest through other market channels. As the MCC and MCA are studying what proportion of the production is being marketed and what market channels producers are using, that information will be crucial to further develop and strengthen the market linkages between PIA and the broader Segou region.

Agribusinesses in Niono used the local court much more frequently than agricultural businesses in the other locations covered by this assessment. This may be because there are more transactions in this region where there are two harvest and marketing seasons rather than one. However, court personnel also appear to be efficient and predictable, and plaintiffs are able to work with them to schedule their complaints in time for the harvest season. This suggests that when courts are speedy and reliable and decisions are executable, agribusinesses are more likely to rely on the court system to support their contracting practices.

In general, disputes between livestock traders are handled by the livestock broker or the livestock cooperative. However, the trial court in Niono has occasionally heard disputes between livestock traders. Because the judge was willing to call representatives from the livestock cooperative as expert witnesses and incorporate trade practices from the livestock industry into the ruling, members of the livestock cooperative trusted the judge's reasoning, and a healthy symbiosis between the private sector and the legal system had developed. A closer study of the trial court in Niono could provide highly useful information on how lower-level courts could become more user-friendly for agribusinesses.

[75] ACDI/VOCA, Attachment III to the Global Food Security Response, West Africa Rice Value Chain Analysis, prepared for USAID, August 2009, p. 5.

ACTIONABLE RECOMMENDATIONS

The Mali VcCLIR team identified countless constraints to business growth and expansion in the rice, millet/sorghum, shallot and livestock value chains, and a large number of possible legal or institutional reforms were considered. Many of these business climate improvements, if successfully implemented, would have the potential to benefit players across the rest of the agricultural sector as well. Several critical themes emerged from the analysis, and a limited number of immediately actionable recommendations aligned with these themes were selected for inclusion in the report.

One of the most important reform agendas advocated by this report is a **reduction in "food security" interventions in staple crop markets, particularly meat and rice, to a predictable, minimum level, based on objectives criteria and thresholds.** Currently, the government "negotiates" (and then establishes) prices at multiple stages along the value chains for meat and cereal inputs and products, a system that protects consumers in the short run but puts enormous constraints on these industries. The rice, meat, and dairy industries offer market opportunities that are not being seized, since there are no profit incentives to invest along the chain in higher-value processing, modernization, or proper storage. This report recommends a number of possible steps toward tackling this critical issue, including targeted advocacy and bureaucratic reform.

Two related themes woven throughout these recommended actions are the need for the GoM to directly and aggressively **facilitate private investment in agribusiness**, both domestic and international, as well as the critical need for **enhanced intra-industry linkages** along each of the four value chains studied. The relationship between government and Malian agribusinesses is broken, roles are poorly defined, and private-sector activity is stagnant as a result. For the commercialization and scale-up of production and processing that agro-industry desperately needs, this study found that PPPs that are market-driven and present robust operationalization plans have the potential to be transformative. However, the government must dedicate energy and resources to developing these arrangements, which take years to push through the bureaucratic and financing channels.

At the smaller scale, the government must reduce its involvement. Industry associations should be private sector-led, and vertical associations must be supported to take a sectorwide perspective of market opportunities and potential business-to-business linkages, including financing and contract mediation. Horizontal industry associations share common goals of policing and self-regulation, and have an incentive to collaborate and stimulate compliance where government enforcement capacity is weak.

Our review revealed a number of opportunities to **exploit competitive advantages and expand agricultural exports**. Market opportunities for live animals and grains are not being seized by the private sector because of government action (such as the implementation of *de jure* and *de facto* export bans on all cereals) and inaction (inability or unwillingness to dispute violations of regional trade agreements by neighboring countries). At the same time, additional costs, procedures, and inefficiencies make Malian exports less competitive. This report offers a number of specific actions that could facilitate trade at this nuts-and-bolts level.

This diagnostic also identified several concrete ways **to improve access to better quality seeds**. Current seed legislation recognizes only seed produced through a lengthy, certified, and expensive multiplication process. Mali has good quality and indigenous varieties that are well suited to producers' needs and, if multiplied up in a less costly manner, could be sold at a lower price to a wider market. In addition, the law does not allow for the certification of seed by any agency other than the DNI, which is a lengthy and expensive process. Supporting the private sector with legal reform and technical assistance would enable them to undertake their own certification. Increased availability of royalty-free seed would also allow the private sector to play a greater role in seed multiplication.

Another major constraint is the need **to improve access to credit for agribusinesses**, which is generally only available to preferred clients. WAEMU interest rate ceilings, as well as the lack of reliable information on credit status and history of potential borrowers, were found to restrict agribusinesses' access to finance. In addition, despite a new secured transaction law, widespread skepticism about the practicality of using animals as collateral results in many livestock agribusinesses and rural livestock breeders relying on costly and insufficient informal sources of credit.

A final issue is the need to **encourage the enactment and enforcement of formal contracts**. The vast majority of transactions between cereal traders take place without any written contracts, which makes proving breach of contract difficult. The development of standardized easily used written contracts based on commonly used contractual terms could mitigate some of the reluctance actors along the value chain have to extend credit to their trading partners. The involvement of grain traders, representatives of chambers of commerce, judges, and bailiffs will be important to ensure that the contracts are a reflection of the prevailing trading practices as well as enforceable. For instance, a closer review of the contractual practices and ways agribusinesses are contesting contractual breaches in Niono would be useful as agri-contractual disputes are more commonly brought through the legal system in this area. Ultimately, increased use of formal contracts could also be achieved by fostering a more transparent judicial system, publishing commercial court decisions, and training journalists on how to report on the judiciary.[76]

The 21 specific recommendations are presented below in three tiers. This report has piloted a new feasibility and prioritization analysis of the recommendations, which aims to provide greater clarity and "actionability" on strategic policy and investment decisions. Based on the criteria of feasibility, priority, resources, and timeline, this analysis has classified the recommendation into three tiers. Tier I recommendations are most critical ones that need immediate implementation. Tier II recommendations are very important ones that need action. Tier III recommendations are ones that should be integrated into the mission's strategy.

An annex to this report contains a full outline of each recommendation, detailing why reform is needed and a description of the costs associated with the problem, the potential benefits of and obstacles to reform, the timeline for change, and the action steps and resource commitments required by USAID to encourage reform. The feasibility rating associated with each recommendation is a team consensus of the likelihood of success for the outlined action items.

[76] Additional judicial-strengthening projects relate to the increase of the transparency of the judicial system. Publishing commercial court decisions, instituting case management tracking procedures, and training of journalists would all be helpful. USAID has extensive experience in the area of judicial reforms.

RECOMMENDATION	TIMELINE	FEASIBILITY RATING	RESOURCES	PRIORITY RATING
TIER I: These recommendations are most critical and need immediate attention				
Develop the production of "second tier" seed (Quality Declared Seed, or QDS) by rural associations.	2 years	High	Medium	High
Build GoM and private sector understanding of regional trade agreements, available recourses in case of dispute, and overall trade negotiation capacity.	2 years	High	Medium	High
Support efforts to move toward free movement of agricultural goods across borders year-round.	3–5 years	High	Medium	Critical
Reform the bureaucratic process of government intervention in the market for staple food crops and products, with a goal of transparency and predictability.	2–3 years	Medium	Medium	High
Develop a forum with the Conseil National du Patronat du Mali (CNPM) to stimulate private sector-led vertical intra-industry connections.	5 years	Medium	High	Critical
Assist grassroots associations to adopt mandatory professional self-licensing and self-regulation.	2–5 years	Medium	Medium	High
Establish a unit within API-Mali that, in close collaboration with the Patronat, will be dedicated to identifying, promoting, and coordinating viable PPPs, with a focus on agro-processing.	2–3 years	Medium	High	HIgh
Develop easily understandable standardized contracts for cereal traders.	1 year	High	Low	Medium
TIER II: These recommendations are very important and need action				
Develop and strengthen the capacity of private and SSN certification agencies to certify seeds for quality, purity, and variety in a transparent manner.	4–5 years	Medium	High	High
Analyze whether and how WAEMU interest rate ceilings restrict agribusinesses' access to finance, with a focus on commercialization of smallholders.	6 months	High	Low	Medium
Review the primary factors and/or perceptions contributing to the pervasive non-repayment of loans in order to inform future activities to address those issues.	6 months	High	Low	Medium
Support the implementation of strategies to expand agricultural export–led economic growth.	3–5 years	Medium	High	High
Advocate for reduced GoM intervention in the meat market in order to facilitate investment in the industry, such as high quality meat processing.	5 years	Medium	Low	High
Improve agribusinesses' access to credit by promoting the use of moveable assets as collateral.	5 years	Low	Medium	Medium
Lead efforts to integrate multiple credit-related registries, with a focus on facilitating financing and contracting for agribusinesses.	3–5 years	Medium	Low	Medium
Advocate for the discontinuation of market regulation of cereal prices and export volumes (*de jure* and *de facto*).	2–3 years	Medium	Low	High

RECOMMENDATION	TIMELINE	FEASIBILITY RATING	RESOURCES	PRIORITY RATING
TIER III: These recommendations should be integrated into mission strategy				
Encourage the dissemination of royalty-free basic seeds to private sector seed companies.	1 year	Medium	Low	Medium
Advocate for a restructuring of GoM intervention in input supplies through *Initiative Riz*.	5 years	Low	Low	High
Increase efficiencies in the meat sector through greater synergies, by allowing larger profit margins within each step, and stimulating/justifying new investments at each stage.	3–5 years	Low	Medium	Medium
Support the creation of information linkages among livestock value chain actors and lenders.	1–2 years	Low	Low	Medium
Improve trust in the judicial system by making decisions from the commercial courts more transparent and accountable.	1–2 years	Medium	Medium	Medium

TIER I RECOMMENDATIONS

Develop the production of "second tier" seed (Quality Declared Seed, or QDS) by rural associations.

Feasibility: High
Resources required: Medium
Priority of reform: High

Current seed legislation recognizes only seed produced through a lengthy, certified, and expensive multiplication process. As a result, the commercially available seed is too expensive for the vast majority of subsistence farmers, and even some commercial producers. Good quality and indigenous varieties exist within the country that are well suited to producers' needs and, if multiplied in a less costly manner, could be sold at a lower price to a wider market. The use of QDS has significantly improved rice production in Tanzania, wheat in Afghanistan, and peppers in the Bahamas.[77]

The first intervention would be to amend the legal framework to allow for the production of QDS and to mandate the DNI to accredit certification facilities. This should be followed by technical assistance to producer associations to help them produce QDS, to the SSN to develop their capacity to certify QDS, and to the DNI to help them develop the technical capacity to accredit other certification agencies.

If QDS production were begun on a limited scale and expanded gradually, this reform could be implemented and show positive results on a small scale within a two-year time frame. Its extension across the country might take up to 10 years.

Build GoM and private-sector understanding of regional trade agreements, available recourses in case of dispute, and overall trade negotiation capacity.

Feasibility: High
Resources required: Medium
Priority of reform: High

Malian traders experience illegal TNTB when exporting to profitable markets in coastal countries, particularly cattle exporters. However, neither industry nor the government fully understands how best to articulate the problem or that recourse is available through regional and global bodies. Both groups lack understanding of the content of regional trade agreements, and government capacity limits its ability to be an

[77] FAO Plant Production and Protection Paper No. 185: Quality Declared Seed, 2006, available at ftp://ftp.fao.org/docrep/fao/009/a0503e/a0503e00.pdf.

effective partner in either representing traders at the REC level or lobbying to have these TNTBs removed.

A number of interventions are required. First, the TNTB in contravention to regional trade agreements needs to be identified. This should be followed by a campaign to sensitize traders, donors, and government officials to the contents of regional trade agreements and highlight the regional dispute resolution and alternative mechanisms. Advocacy teams should also be created for industry associations and government ministries, with targeted training provided in trade negotiation. The most ideal time frame to begin implementation of the reform program would be before the next UEMOA/ECOWAS Ministers of Trade meeting, extended over a period of two years.

The institutional constraints to the capacity-building portion of this reform are moderate, but not unsolvable. Trade negotiation technical assistance has been implemented by USAID programs in other West African countries (Senegal and Ghana, most recently). The primary constraint in implementing this reform is maintaining a long-term impact. In other countries, USAID experienced challenges in maintaining a cadre of trained professionals within the ministries of commerce and trade due to turnover of staff political appointments, and other disincentives for a long-term impact. USAID also experienced challenges from US foreign-assistance policy makers on providing trade negotiation technical assistance for foreign goods that compete with US-produced goods in the same market. However, delivering training to the private sector as well as government representatives should result in a more balanced and dynamic group of advocates, and provide an additional forum for dialogue between the public and private sector.

The primary benefit of this initiative would be to capture more of the price premium earned by Malian goods in export markets and to distribute it to the many actors throughout the value chain. Longer-term indirect benefits would include the additional trade negotiation capacity in the government, which would allow Mali to negotiate for more advantageous terms with global agricultural investors, especially those investors with significant land and/or water requirements.

Support efforts to move toward free movement of agricultural goods across borders year-round.

Feasibility: High
Resources required: Medium
Priority of reform: Critical

The GoM currently restricts cereal exports to fulfill the objective of maintaining national commodity stocks, and to intervene in the supply of cereals in the market to keep prices low. However, Malian cereal producers and traders feel that these restrictions limit their access to regional export markets and reduce their income potential, forcing them to rely on smaller and less profitable domestic markets. The restrictions have increased risk due to the fact that the export ban criteria and process is discretionary, not transparent, and unpredictable. These restrictions have also provided a disincentive to investment, through the lack of transparency and predictability in the restrictions, and increased tracasserie by control officials enthusiastically looking for export smugglers.

A program to address this problem would start with determining what prohibited goods are still being exported and conducting a cost-benefit analysis to determine if abolishing *de facto* export bans would increase the earning power and competitiveness of cereal producers and traders. Activities should also maintain support to programs that increase production of commodities currently under an export ban to alleviate government concern about stock levels. In tandem with productivity increases, support should be provided to the Ministry of Agriculture

to develop, codify, and publish criteria and stock levels determining under what conditions export bans could be lifted. This support can be in the form of crop forecasting, improvements in agricultural statistics collection, and best practices from other countries in the region. Currently, the lack of this critical information pushes the government to impose bans because it cannot confirm that enough grain is in the country.

Ideally, implementation of this reform program would begin before the next dry season and/or commodity price index increase.

Constraints to reform may be significant. The issue of freeing up export restrictions in Mali has a high profile. In order to move towards free movement of agricultural goods to support food security, the government will need to publicly move away from the position of food sovereignty, and this may have a political impact on those who do not see the long-term benefit of free trade. While almost every donor in Mali and the region agrees that the export restrictions are a constraint to agricultural expansion, it does not appear that any one donor has taken a lead role. Instead, donors appear to be programming activities that contribute to it (or mitigate against it) in smaller ways. Implementing this recommendation will also require the design of much more effective and targeted social safety nets to address the problem of food security among the urban poor.

Reform the bureaucratic process of government intervention in the market for staple food crops and products, with a goal of transparency and predictability.

Feasibility: Medium
Resources required: Medium
Priority of reform: High

Prices for certain staple foods (but not unprocessed grains) are now set through a price-negotiation process, whereby stakeholders from across the value chain (including government, industry, and consumer representatives) convene biannually to set prices for products and services that comprise a particular marketing chain. The mechanism itself was the result of an internal GoM reform effort to steer away from arbitrary price-fixing. In that sense, it is an improvement from the way things were handled in the past. However, the multi-stakeholder process is unwieldy and has become deeply politicized and vulnerable to unfair influence.

Combined with other distortionary government policies and interventions, the influence on price has a constraining effect on the markets for certain foodstuffs, such as meat and wheat flour. These very same industries are the focus of government and donor support to stimulate production, increase value-adding processing, and connect with new markets. Such strategies will never succeed when reduced profit incentives squeeze out any interest on the part of investors or producers.

In the short term, if retail prices are allowed to float within a set range, they will rise toward the natural level of the market, which is precisely what the government seeks to avoid. However, in the medium to long term, these industries will become more attractive to investors as profit margins are naturalized, and inefficiencies are ironed out, reducing costs. To reinforce this effect, the government should not set prices for any value-adding services (such as per-head slaughtering fees) if it hopes to attract investment in scaling up processing (such as abbatoirs). Ultimately, this approach will foster quality and safety improvements and higher-value industries that are regionally competitive.

The first step in implementing this reform would be to convene a working group with representation from the DNCC, the Conseil National de Prix, local government charged with market management, the APCAM, and relevant commodity-specific industry associations. The working group should achieve consensus on the objectives of market interventions across all commodities, and then establish objective criteria and thresholds for all proposed price interventions. These interventions should be publicized well in advance. The working group should seek stakeholder influence into the governing framework (the criteria and thresholds), not the precise price levels. The long-term goal should be to phase out completely the multi-stakeholder price negotiation tool.

Develop a forum with the Conseil National du Patronat du Mali (CNPM) to stimulate private sector-led vertical intra-industry connections.

Feasibility: Medium
Resources required: High
Priority of reform: Critical

Because existing associations are rarely established by private-sector stakeholders, they do not adequately represent the interests of the private sector. As a result, actors along the four value chains in Mali do not have a forum in which to identify business partners and gain an industrywide perspective on market opportunities. This forum would help develop small and large-scale business connections, resolve business disputes, and increase intra-industry financing opportunities.

As some of the supporting actors along the value chains are not well organized, it will be crucial to identify the relevant actors. A reform program would begin by inviting businesses along the value chains to an initial workshop for participants to discuss potential business ventures. This should be accompanied by an effort to invite and integrate fledgling grassroots industry associations, offering support for financial independence, good governance, and the expansion of their networks. This would help facilitate linkages between individual producers and investors, who would guarantee to purchase and/or process production. For instance, the production of high-quality meat for both domestic and export markets could be facilitated if producers were connected with buyers who guaranteed to purchase the meat.

This should also be supported with an assessment of how the agribusiness located in different regions of the country can best connect with each other (regional chapters, national meetings, etc.). Consideration should also be given for establishing appropriate funding mechanisms to ensure that the business sector maintains ownership of the initiative. If businesses can demonstrate an ability to collaborate and achieve profits, it will be much easier to attract the interest and participation of financial institutions at a later stage.

Assist grassroots associations to adopt mandatory professional self-licensing and self-regulation.

Feasibility: Medium
Resources required: Medium
Priority of reform: High

Few grassroots associations exist in Mali, and those that do lack the capacity to implement professional self-licensing and self-regulation well enough for the government to allow it or to make it mandatory for a profession. The flouting of business and operating license requirements results in a large number of unlicensed goods and services of questionable quality and reduces the competitiveness of compliant businesses. For example, yields are reduced through the use of unregistered agro-inputs of indeterminate quality, and cattle theft is enabled by the illegal slaughter and sale of unlicensed meat.

Empowering the self-licensing and self-regulation of professional associations requires two stages. Part one requires reforming the legislative environment to align with 2010 OHADA laws. First, the provisions of the OHADA law regarding professional self-regulating associations should be reviewed to ensure that any new legislation is compliant with OHADA, and private-sector stakeholders should be consulted as to their motivation and capacity to work within the proposed framework of self-determination. Some degree of advocacy may be required to convince the government of the benefits of change and some further technical assistance would then be necessary to assist government to determine both the appropriate criteria for self-regulation and the appropriate agency to oversee the implementation of the law. Next, lawyers should draft a law that is appropriate to Mali's circumstances and compliant with OHADA. Legal reform could be completed within one year.

The next step is critical: technical support and assistance must be provided to the private sector to build capacity and establish certification standards. Capacity development in the areas of licensing, development of standards (of both goods and conduct), policing, and dispute mediation are all required before professional self-regulation can be considered feasible. First, it will be necessary to identify suitable associations and assist them in understanding the concept and potential benefits of self-regulation. Then, assistance will be needed to help them apply for the right to self-regulation. Once this has been achieved, further assistance will be required in the development of each aspect including standards and codes of conduct, member licensure, and disciplinary procedures and mechanisms. Finally, ongoing technical assistance should be provided to each association for at least 12 months of operation as a self-regulated entity.

Establish a unit within API-Mali that, in close collaboration with the Patronat, will be dedicated to identifying, promoting, and coordinating viable PPPs, with a focus on agro-processing.

Feasibility: Medium
Resources required: High
Priority of reform: High

The GoM needs to promote and encourage, jointly with the Patronat, a vision of agriculture that includes large-scale commercial production and transformation, in addition to the broad base of small-scale activity. Concentrated pockets of scaled-up agriculture and agro-processing will lead to less expensive locally produced foods, stimulate domestic consumption and growth, begin to industrialize agro-pastoral countries, create jobs, and create large foreign exchange savings and fiscal benefits to government.

Economies of scale are among the most important factors in making agro-industries competitive. To effectively achieve these economies of scale in Mali, the agricultural sector needs viable PPPs. While recent industrial PPPs have piqued the interest of the GoM, no one unit is dedicated to driving new deals. As the MCC and MCA have already launched a PPP concept for phase 2 of the PIA, it will be critical to encourage the government to form a focal point to engage in these types of PPP ventures.

Reform should begin by engaging GoM to generate excitement about the power of PPPs and their essential role in stimulating and incentivizing large-scale PPP agro-industrial projects. This should be led by the establishment of a small unit within API-Mali dedicated to identifying, promoting, and coordinating viable PPPs, with a focus on agro-processing. This unit should be charged with liaising with international and domestic investors in agro-industries, where government institutions are critical to the successes

of the investments (land rights, water rights, concessional financing). Collaboration will be key in identifying specific investments, such as in seeking to replicate the PPP structure utilized in the sugar sector to expand, modernize, and make more efficient the production and processing of rice. Additionally, the support of the Patronat and APCAM will be important for capacity building and institutional and technical support.

Develop easily understandable standardized contracts for cereal traders.

Feasibility: High
Resources required: Low
Priority of reform: Medium

The vast majority of transactions between cereal traders take place without any written contracts, which makes proving breach of contract difficult. Since the most common contractual issue faced by Malian agribusinesses is unpaid debts, the lack of written contacts raises costs for wholesalers and contributes to their unwillingness to extend terms or trade credit. Lack of trade credit reduces income opportunities for suppliers.

A standardized contract that allows the specific terms to be filled out by the parties would encourage and facilitate the use of written contracts. If one of the parties is not living up to his or her contractual obligations, the other party can refer to the written contract as a reminder. Most important, a written contract is easier to enforce than a verbal contract by a mediation committee, bailiff, or court. The development of standardized, easily used, written contracts could mitigate some of the value chain actors' reluctance to extend terms or trade credit to their trading partners.

For these standardized contracts to gain acceptance, it will be important to recognize the strong focus on amicable settlements in the grain sector. Since oral contracts are such a strong part of the business culture, proposed content of the standardized contract should be vetted with wholesalers, suppliers, lawyers, judges, and bailiffs in order to increase the likelihood of its acceptance. Acknowledging that the illiteracy rate is high in Mali, this would be a targeted intervention aiming for the segment in the sector that is literate. Considering that contractual disputes involving agribusiness are brought to the court in Niono, a closer study of the contractual practices and ways agribusinesses are contesting contractual breaches in Niono would be useful. Following this review in Niono, standardized contracts should be piloted in Mopti since grain traders are closely located, there is a commercial court, and the CCIM in Mopti has organized a dispute mediation and reconciliation commission. Interprofessional organizations, such as those proposed in other recommendations in this report, could also endorse and advocate the use of these contracts. If there is a positive uptake in Mopti, the initiative could be expanded to the other regions.

TIER II RECOMMENDATIONS

Develop and strengthen the capacity of private and SSN certification agencies to certify seeds for quality, purity, and variety in a transparent manner.

Feasibility: Medium
Resources required: High
Priority of reform: High

Seed certification is carried out by the GoM, which suffers from inadequate staffing and technical skills. As a result, the amount of improved seed available on the market is insufficient to meet demand, but there is little incentive for private-sector companies to become involved in domestic seed production since certification is a major component of the value added to improved seed. The certification bottleneck creates significant impediments to agricultural growth, since it restricts the availability of improved seed that would improve yields and quality.

The existing law does not allow for the certification of seed by any agency other than the DNI. The DNI itself does not have sufficient competency to perform the required accreditation, and the private sector would require technical assistance to undertake certification.

The first intervention would be to draft legislation to allow for the development and accreditation of seed certification agencies outside of the DNI and to empower the DNI to act as the agency with accrediting-certification capacity. This should be followed with technical support to the DNI to develop the required accreditation capacity, and to private and public seed certification agencies to meet the required standards for accreditation, possibly through a technical exchange program with a country that is a leader in this area. Finally, there should be ongoing mentoring of the seed certification process until no longer necessary.

The initial legal reform can be undertaken with a six-month period. The transfer of technical skills will require two years before certification can be undertaken and a further two years of mentoring once companies are engaged in certification and the DNI is engaged in accreditation.

Analyze whether and how WAEMU interest rate ceilings restrict agribusinesses' access to finance, with a focus on commercialization of smallholders.

Feasibility: High
Resources required: Low
Priority of reform: Medium

Interest rate caps, while intended to protect consumers, can have the adverse effect of limiting the availability of credit by increasing lender preference for safer clients, thus driving riskier borrowers towards informal finance. In Mali and other WAEMU countries, lending rates (inclusive of certain fees) are officially capped at 18 percent for banks and 27 percent for MFIs. While banks in Mali contend that they do not have a problem with the 18 percent rate, the fact that they have such limited industry penetration suggests that the rate cap may still be one of the key constraints to financing the relatively higher risk agribusiness sector.

A recent BCEAO study revealed that the 27 percent interest rate cap for MFIs prevents some of them from recovering costs on agricultural loans. While savings groups are able to operate within the interest rate ceiling, they are generally smaller and locally based, and have less extensive outreach than the larger MFIs that leverage bank funding (and accordingly are much more restricted by interest rate caps). In addition, the potential amount of rural savings that can be mobilized is much smaller than the amount of capital that the agribusiness sector could attract if lenders expected their activity to be profitable. In order to attract more capital into the agricultural lending market, it may be necessary to remove (or at least raise) the interest rate ceiling. Already, some MFIs appear to be disregarding the official limit and charging higher rates to cover their costs.

This activity would involve two steps. Research should be done to better understand the interest rate policy and its effect on agribusiness in Mali and throughout the region. These conclusions will form the basis for public-private dialogue and a media campaign to encourage the WAEMU Council of Ministers to reform the policy in a way that will remove distortions while protecting consumers. The program would cost less than US$1 million annually. Many donors (World Bank Group, the African Development Bank, Canada, Denmark, Luxembourg, and others) are involved in supporting access to finance and could be potential partners.

Freeing interest rates (or at least bringing related limits in line with actual lending costs) may make a greater amount of capital available

for agribusiness lending, which would help potential borrowers who are shut out of the formal lending market to access funds at a lower rate than what they pay for informal finance. However, this potential impact must be thoroughly modeled and analyzed. Since many stakeholders, including potential borrowers, are likely to view any increase in the interest rate negatively, any communications should emphasize that the rates are lower as compared to the effective informal rates for agribusiness finance.

Review the primary factors and/or perceptions contributing to the pervasive nonrepayment of loans in order to inform future activities to address those issues.

Feasibility: High
Resources required: Low
Priority of reform: Medium

Nonpayment of loans is a pervasive problem that results in highly conservative practices among lenders, restricting the pool of capital available to agribusinesses and raising the cost of borrowing. The fact that many borrowers default on their loans is a problem in itself, but the more severe issue is the perception by lenders that such behavior is universal among small, rural businesses.

A better understanding of the problem is important for addressing the causes. The study should examine borrowers' perceptions of loans to determine if loans from NGOs and government programs are seen as political gifts with no real pressure to repay. Another area to explore is whether cooperative and group capacity is sufficient for managing the credit self-selection process. Better training and programs to address counterproductive social pressures could ameliorate this problem. Another possible cause is lenders' inability to assess borrower risk. In this case, an appropriate response would be activities to increase access to information and training to improve lenders' understanding of the agribusiness industry. Other possibilities of study include inappropriately designed products and services and distortion from involvement of other stakeholders.

In addition to examining causes of default, the study should also look at successful cases where loans were repaid in both formal and informal finance to determine whether key success factors can be replicated.

This work could be complementary to other donor initiatives in this area such as IFAD's Rural Microfinance Programme and the World Bank's Agricultural Competitiveness and Diversification Project. Donor objectives, however, are not always aligned as some support credit as a means to poverty alleviation and food security and others see it as a way of promoting commercialization and financial access.

Support the implementation of strategies to expand agricultural export–led economic growth.

Feasibility: Medium
Resources required: High
Priority of reform: High

Malian agricultural producers and traders feel that a lack of government support for export-oriented agribusinesses impedes their ability to access regional markets, thereby reducing their potential income. Malian traders must submit to burdensome export procedures and controls that add no value, increase the time and cost to export, and perpetuate arbitrary government interventions in market dynamics.

In response, the PNIP-SA strategy has focused on export-led development of the sector. The World Bank is working to abolish unnecessary paperwork in the export process, and USAID support in this process through either co-financings or coordinated technical assistance would be valuable. For instance, USAID might assemble

exporter associations to advocate for change, identify reform-minded champions in government, and demonstrate the business case for a shift towards adoption of an export promotion strategy with the objective of developing an agricultural export–led economy. Additionally, USAID could work with DNCC to promote exports using best practices and lessons learned from the USAID TradeMali activity, build the capacity of the Malian Export Promotion Unit, and undertake activities to reduce checkpoints along trade corridors. USAID's West Africa ATP and e-ATP programs and the East Africa COMPETE program are sources of best practices in these areas. Ideally, implementation of this reform program would occur before the next dry season and/or commodity price index increase.

With reformed export procedures, traders would be able to export quicker and cheaper and, as a result, see incentives for additional investment in the agribusiness sector. Furthermore, if needless export paperwork were replaced with more appropriate export checks such as those relating to SPS and animal health, there would be a greater degree of legitimacy and professionalism in the export control process.

Advocate for reduced GoM intervention in the meat market in order to facilitate investment in the industry, such as high-quality meat processing.

Feasibility: Medium
Resources required: Low
Priority of reform: High

The GoM sets ceiling prices on a per-head basis for the slaughter of animals with the intention of protecting consumers, but this creates a strong disincentive for the *abattoir* owners to invest in improving the quality and health standards of the slaughtering facilities. The argument that increasing prices would encourage "unofficial side slaughtering," deemed to be even more unsanitary, needs to be countered with better enforcement of food and sanitary standards by the GoM and self-policing by the industry. The ceiling on the per-head slaughter rate makes the *abattoirs* unprofitable and, therefore, unable to get financing to modernize and improve standards. Without a modern *abattoir* meeting international standards, the regional cut-meat export market is forsaken in favor of live animal exports, which results in a loss of export revenue and impediment to economic growth of the whole sector. As described elsewhere in this report, more than any other GoM policy, price negotiation (i.e., price setting) combined with export restrictions distorts the market for meat, severely limits growth in the industry and incomes along the value chain, and creates a disincentive for investment in more intensive livestock production. There are also market-based constraints that may inhibit export meat opportunities and therefore investment, but setting the appropriate trade-enabling environment is a first priority.

The whole existing value chain is very traditional from herder to consumer and to exporter with minimal value added (due to very slim margins) passed through the value chain. Improving the middle of the value chain, the *abattoir*, will allow for greater value addition in front of the *abattoir* (herder and feedlot) and after the *abattoir* (butcher, consumer, and exporter), and will eventually modernize the entire value chain. GoM authorities and meat value chain players would benefit greatly from visiting a country with a well-structured meat sector, such as Namibia.

The GoM should cease to set slaughter prices on a per-head basis and allow the market to determine the price, while enforcing a ban on unofficial side slaughtering. The industry should be empowered to assist the health authorities and to self-police in the interest of establishing realistic market prices. An increase in the cost

of meat in the domestic market will be felt, but at some point that adjustment will have to be made in order to stimulate growth in the whole value chain. During a limited transitional period, traditional lower-standard slaughtering should be allowed alongside the modern line to slow price escalation.

With these reforms, health and sanitary standards would be improved for the domestic consumer, while improving the opportunities for exports of cut meats to the subregion. The potential to export will dictate a requirement for higher-quality meat, hence the ability to pay more for the livestock (herder gains) and stimulate the feed production business.

Improve agribusinesses' access to credit by promoting the use of moveable assets as collateral.

Feasibility: Low
Resources required: Medium
Priority of reform: Medium

The new secured transaction law passed in 2010 officially permits moveable assets such as livestock to be used as collateral, but in practice, lenders still only accept evidence of land tenure as security. There is widespread skepticism, not only among lenders but also among many policy makers and court officials, about the practicality of using animals as collateral, and to date, supporting mechanisms, such as the RCCM (the national business registry which is supposed to track secured assets), have not been implemented effectively. As a result, many livestock agribusinesses and rural livestock breeders (particularly traditionally nomadic pastoralists) who are unable to produce evidence of land tenure as security for a loan must rely on informal credit, which is more costly and may not be available in sufficient amounts. Lack of formal credit presents a large obstacle to growth in the sector.

Since the legal framework exists, activities should focus on implementation. The first steps are to identify lenders and borrowers who will be willing to pilot the program and to determine the most appropriate lending products. The Ministry of Livestock and Fisheries and relevant industries' associations are potential partners. The pilot should be designed in a way that recognizes the key risks to participants (such as misinformation of claimed assets and potential for repossession) and leverages existing mechanisms for gathering and compiling borrower information, such as the wealth of knowledge about transacting parties that exists among livestock brokers.[78] Donor-sponsored trainings and guarantees may be needed to encourage participation given the skepticism that exists in all parties. This pilot lending program could also capitalize on the new computerized RCCM, which the World Bank and IFC are helping to implement and will maintain information about all secured assets and related creditor claims in order of priority. This reform program would cost less than US$500,000.

By enabling livestock agribusinesses to use their main asset – moveable property – as collateral for loans, the formerly "asset poor" will be able to unlock the value of their existing resources, invest in the operations and growth of their businesses, and increase their incomes. As the project would initially involve a pilot transaction, only a small number would benefit at first, but with time and success, a lending innovation based on livestock as moveable property could transform the sector.

Lead efforts to integrate multiple credit-related registries, with a focus on facilitating financing and contracting for agribusinesses.

Feasibility: Medium
Resources required: Low
Priority of reform: Medium

[78] For more detail, see "Support the creation of information linkages among livestock value chain actors and lenders," below.

Access to finance in the agribusiness sector is generally available only to preferred clients and less risky industries. Lenders ask for excessive amounts of collateral (usually in the form of land), which producers and smaller processors often do not have. As lenders compete for preferred borrowers, there is potential for borrowers to receive multiple loans beyond their capacity to repay. In addition, when lenders such as MFIs seek to expand their market share and pursue new target segments, they do not always make prudent underwriting decisions due to lack of information on borrowers, lax internal controls, and competitive pressures.Over-indebtedness poses risks for borrowers, lenders, and the overall system, especially since borrowers may not face any adverse consequences from default.

Lack of reliable information on credit status and history of potential borrowers limits access to finance, prevents the development of innovative and/or appropriate financial products, and inhibits adequate risk assessment and supervision. There are ongoing efforts by donors, including the World Bank, IFC, and Luxembourg, to address this problem by developing different registries to collect and share credit-related information, including current outstanding debt, borrowers' negative credit history, secured assets, and land titles. It is unclear to what extent there is coordination among the various efforts. In order to ensure that each registry is effective and results in increased access to finance for agribusinesses, there will be a need for coordinating and integrating data gathering, management, maintenance, and use.

Providing leadership for these efforts will require coordinating with all the donors to determine what data is being gathered for which registry, which implementation institutions are involved, where there may be gaps, and where there may be synergies that are not yet being captured. There may be a need for technical assistance to support the institutions involved in the reform processes.

The ability to access information on potential borrowers' assets, credit status, and credit history will improve lenders' risk assessment of potential agribusiness investments, can allow for improved pricing of loans, and can create strong incentives on the part of borrowers to repay their loans, ultimately increasing confidence in agricultural lending and unleashing a flood of capital into the sector.

Advocate for the discontinuation of market regulation of cereal prices and export volumes (de jure and de facto).

Feasibility: Medium
Resources required: Low
Priority of reform: High

Market uncertainty, particularly closing off potentially lucrative export markets in times of domestic shortage, creates large disincentives to increasing production. Restricted production increases costs to consumers and reduces producer income. These restrictions throughout the region exacerbate impediments to growth.

The GoM should encourage production and export the excess rather than restrict exports to assure domestic supply. To assure producers will produce extra without dumping it all into the market at the same time, the GoM should provide financial and other incentives to invest in storage facilities. USAID could support this by entering into a policy dialogue with the GoM and regional partners about the importance of taking a regional view towards improved food security. Taking Malian decision makers to see how freer markets function could help persuade them of the merits of lifting export bans. If tariff rates for cereals are agreed upon, the ECOWAS common external tariff could be used to scale up production, storage, and milling/processing.

Institutional and political constraints are such that proper regional markets (ECOWAS or UEMOA) cannot function efficiently or correctly (national

protection). Producers have no incentive to produce efficiently because they are not competing in an open competitive regional market, and prefer to hide behind national protective barriers rather than scale up and be more competitive. Social dynamics (the producer/consumer) become lax in accepting inability to compete and allowing either national protection or cheap imports, rather than insisting on internationally competitive prices and scaled-up efficient production for the regional market.

Increased production combined with investments in storage facilities to prevent dumping product on the market could provide for domestic needs, reducing imports and opening up export opportunities.

TIER III RECOMMENDATIONS

Encourage the dissemination of royalty-free basic seeds to private-sector seed companies.

Feasibility: Medium
Resources required: Low
Priority of reform: Medium

Although new seed varieties bred by the public sector are considered within the public domain due to recent changes to the law, the private sector claims to be unable to access such varieties as a result of the GoM utilizing all the capacity. This restricts development of the multiplication and sale of imported seed, which may not always be appropriate to conditions in Mali.

Increased availability of royalty-free seed would allow the private sector to play a greater role in seed multiplication. If combined with the development of private-sector capacity for seed certification, this reform would significantly enhance the role of the private sector in the seed industry over the long term and would reduce the burden on GoM seed multiplication facilities.

There are two constraints to reform. First, the prevailing social dynamic considers that seed varieties in the public domain are the property of GoM and as such, public institutions should be given priority in their ongoing multiplication. Second, there is little direct benefit to being able to access varieties in the public domain unless the private sector has the capacity to both multiply and certify the commercial seed produced. Reform of seed certification, as suggested elsewhere in this report, is also needed if this proposed initiative is to be effective. Otherwise, the private sector merely finances a process that is largely implemented by the GoM.

The process is one of first lobbying for and then allowing the private sector to access basic seeds bred by the SSN. The lobbying process may be undertaken over a period of six months, after which procedural reform can be undertaken immediately. Systems for the distribution of government-bred seed to private-sector companies (in exchange for a licensing fee) would follow.

Advocate for a restructuring of GoM intervention in input supplies through Initiative Riz.

Feasibility: Low
Resources required: Low
Priority of reform: High

In an effort to boost rice productivity and achieve food security, the GoM launched *Initiative Riz* in 2008. Among its activities were the use of fertilizer subsidies via a single or restricted number of suppliers and the facilitation of access to input credit. Despite laudable intent, the program has had undesirable outcomes. The selection of participating agri-dealers has not been transparent, creating a barrier to entry into the market. Restricting subsidy vouchers to a few dealers reduces entry opportunities for new agri-dealers. It also creates impediments to growth by limiting competition and passing through costs of

inefficiencies (both allocation and transaction costs) to the final cost of the crop. Moreover, the government has severely delayed the payment to agri-dealers, which has created a significant burden on participating dealers.

It is recommended that the USAID enter into a discussion with the Ministry of Agriculture, with the goal of encouraging the agency to clearly communicate to farmer associations the scale of the subsidy and the timing of phase-down. Once the value of fertilizer is recognized and built into the farming cost structure and the fertilizer subsidy is slowly phased out, the agri-dealers can compete on the basis of service, outreach, and credit terms to the customer, and not on the fact that they have a license to provide subsidized fertilizer. The GoM should also institute a voucher system that would entail making fertilizer vouchers available to all registered agri-dealers, making all crops eligible, and streamlining reimbursement. Finally, policing the reselling of subsidized fertilizer should be done by the industry itself (agri-dealers) with strict sanctions on the agri-dealers that do not enforce proper use (rather than speculative resale) of fertilizer by their customers (see recommendation on self-licensing and self-regulating industry associations).

With these reforms, farmers would benefit from more efficient distribution of fertilizer, would not be limited as to what they can grow, and would operate under a certainty of knowing how long the subsidy period would last so they can calculate their weaning off it. Agri-dealers would benefit from greater opportunity to enter the market, a strengthened role through self-policing, and more efficient reimbursements of subsidy vouchers.

Increase efficiencies in the meat sector through greater synergies, by allowing larger profit margins within each step and stimulating/justifying new investments at each stage.

Feasibility: Low
Resources required: Medium
Priority of reform: Medium

The whole meat value chain, from the herder to the butchr and consumer, is locked in a series of sequential relationships, each one operating on very slim margins and in essence passing the inefficiencies of each step onto the next one. As long as herding remains traditional and the raising of animals does not become a commercial venture, the quality of cattle will not be optimized. By not promoting a modern cattle industry, Mali is forsaking the opportunity of increasing exports of its meat products in the higher-value processed form rather than as live animals. Moreover, the potential of a leather industry is also lost by the export of live animals.

Reform should begin with advocating for a fundamental change and realignment of the entire value chain by allowing proper margins so that the actors in the chain have incentives to upgrade. A private-sector-focused forum should be developed to promote interaction along the value chain for more efficient production. Select commercial players could benefit from study tours to countries where the sector is functioning more efficiently. It would also benefit the sector to link the output of commercially minded producers with individual investors who would guarantee to purchase and process all production.

After reform, large benefits would accrue to all the actors in the value chain. While this and related reforms may initially drive up prices for consumers, this will decline over time and prices

should stabilize in the long run, particularly if there is a focus on efficiency. Fattening lots and the quality and availability of cattle feed would gain from substantial private investments if in fact they could be supported by a higher price for meat than is currently permitted by the GoM cap. Liberalizing meat prices, as well as lifting the administered controls on the tolling price of slaughtering cattle, would increase the incentives for greater investment in more intensive livestock production, as well as investments in improving the health and quality standards of the *abattoirs*. In the long term, modern *abattoirs* and properly cut meats will compete more sustainably in the regional export markets and capture more of the value added in the current system of live cattle.

Support the creation of information linkages among livestock value chain actors and lenders.

Feasibility: Low
Resources required: Low
Priority of reform: Medium

Investors and lenders are reluctant to accept cattle as underlying security for credit transactions, in part because property rights to livestock are not systematically registered or recognized. While the new secured transactions law provides an opportunity to pilot lending innovations for the livestock sector, it is unlikely that participants in the informal market will be able to benefit unless there is a way to link traditional information flows to formal due diligence processes.

Brokers have the information required by banks to assess the creditworthiness of livestock producers. The brokers' information could be used by banks to determine which producers within a producer clan have sufficient assets to be able to borrow money and could form the focal point, if required, of a clan-based guarantee system in the event of default by one clan member.

A reform program would begin by discussing the concept of broker-based assessment/lending with financial institutions and determining what type of information potential lenders would need (e.g., herd ownership and size) to enable new transactions. A study on how brokers operate and how the clans and livestock trader cooperatives work is necessary to assess whether a broker-based clan or cooperative underwriting system is feasible. Once the level of fee payable to the broker by the lending agency for the assessment of creditworthiness is determined, the system could be initiated as a pilot. Fatouma would be a good pilot location given its important market. If the pilot is successful, it could eventually be expanded into all major cattle markets in the country and a broker-based credit rating system could be integrated into formal lending agencies.

Brokers already effectively guarantee transactions, and the opportunity to assess and guarantee creditworthiness should be a potentially profitable opportunity. It would be important to design the assessment system in a way that is compatible with the existing marketing system.

The development of a system that captures the producers' capacity through the livestock brokers' assessment of individual producers and their herd sizes would allow lenders to verify cattle producers' reliability and assets. This would lower the barriers to entry for finance. Brokers would be paid for this service by banks, but would lose their credibility with banks (and hence a source of income) if borrowers defaulted. In that event, not only would the broker lose out, but all livestock producers selling through that broker would also lose the capacity to borrow money since the bank would no longer trust their broker's assessment of their creditworthiness. This would be a strong incentive for the members of all clans or cooperatives selling through the broker to effectively underwrite the original transaction.

Improve trust in the judicial system by making decisions from the commercial courts more transparent and accountable.

Feasibility: Medium
Resources required: Medium
Priority of reform: Medium

Agribusinesses mistrust the judicial system because they are not confident that it will enforce their contract in a fair manner. There are inconsistencies among the decisions of the three commercial courts because they are unaware of each other's decisions. This makes businesspeople less willing to take risks by extending trade credit or deal with business partners with whom they are not already familiar.

Published court decisions bring about more transparency and public scrutiny of the judicial system, which would create a more predictable legal environment for agribusinesses. Hence, publication of the full decisions, including the reasoning, would be an important step towards addressing corruption practices within the judiciary in Mali. By supporting the training of journalists on the use of commercial court decisions, the press will play an important role in scrutinizing the judiciary.

This can be achieved by coordinating with the World Bank to see what specific actions steps are being proposed and, if needed, supplementing the World Bank's plan with a technical report on computerizing court cases. Commercial court magistrates need training on how to write court decisions, and journalists need training on how to report on the judiciary. A workshop should also be organized to facilitate a dialogue between magistrates and journalists. Finally, a radio announcement should be made, detailing the court reform and the effect it will have on the judiciary. Similar initiatives in the Balkans and Vietnam can be used as resources in designing this program.

Published court cases would provide precedents, enabling lawyers to better represent their clients and businesses and to better explain their rights. Training journalists would enable them to investigate the courts in a systematic manner, which would put pressure on the judiciary to proactively push for targeted reforms.

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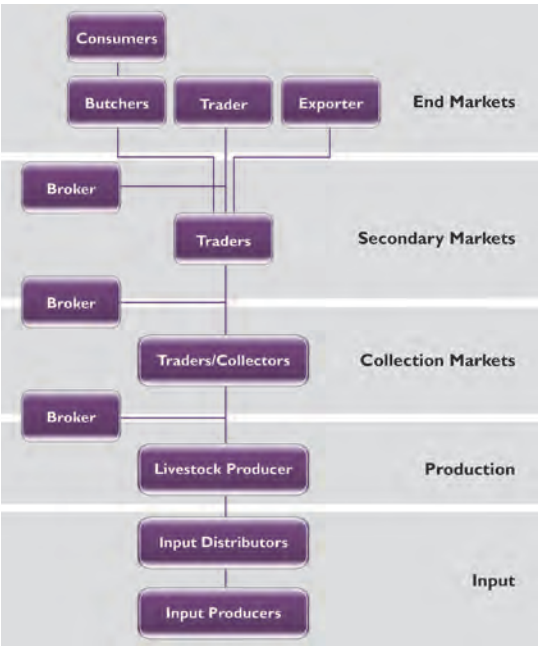
APPENDIX A: VALUE CHAIN SUMMARIES

LIVESTOCK VALUE CHAIN

The livestock sector is growing and is of great economic and social importance in Mali. Agriculture accounts for approximately 35 percent of the nation's GDP, and the livestock subsector contributes approximately 45 percent of the agricultural segment of Mali's economy. Regional differences, including climate variability, water availability, and cultural values, affect the livestock value chain. The rainfall is more abundant and grazing is therefore more readily available in Sikasso than in the other regions. Moreover, in peri-urban areas like Sikasso grazing is supplemented with cotton cakes (which fatten the livestock) and livestock yield a better price in the market. Nevertheless, despite official statistics, some industry stakeholders belive that the number of livestock and the herd size is greater in Mopti and Timbuktu than in Sikasso. Live animals are the most important products in the livestock sector, and live animals are commonly exported to the neighboring countries. Transactions of livestock take place at a livestock market and a livestock broker facilitates the transaction. High transaction costs, road harassments, and challenging livestock health delivery services are some of the issues facing the sector.

FIGURE 1: LIVESTOCK VALUE CHAIN (VERSION 1.2)



ACTORS IN THE LIVESTOCK VALUE CHAIN

Input Producers

In the livestock industry, it is essential that the breeders have access to affordable and good quality inputs. Some amount of high-quality semen is imported from Europe and the US to inseminate local genotypes. These crossbreeds are more productive than local livestock and are predominantly found in peri-urban areas. However, they also require more feed, vaccines, and anthelmintic drugs.

Livestock vaccines are produced by the government-owned Central Veterinary Laboratory (CVL) as well as one private producer called Pharma Vet Kone. Pharma Vet Koné, located in Sikasso, is licensed by the government to produce vaccine and veterinary drugs. The CVL should supervise Pharma Vet Koné's production, but in practice such supervision does not take place. Both CVL and Pharma Vet produce vaccines for the domestic as well as the regional West African market.

Cottonseed cakes, used to supplement fodder during the dry season, are produced by three local companies (GMM, Bounafama, HUICOMA). Due to a shortage in production input, there is a dearth of cotton cakes during the dry season. Although the shortage affects the whole country, it is more pronounced in the northern parts as the cost of transportation is higher and the distribution channels less developed.

Input Distributors

To mitigate the shortage of animal feed, the distribution of feed is coordinated on a central level. A committee made up of the Ministry of Agriculture, the Ministry of Livestock and Fisheries, APCAM, and representatives of civil society associations decide on the quantity of feed (but not the price) allocated to each region. This quota is determined based on the Ministry of Livestock's annual census of the number of heads in each district. Once the quota for each district has been set, the local chamber of agriculture issues tender forms to the livestock cooperatives in its district. Thereafter, the cooperatives bring the tender form to a local input provider who will source the quantity of feed from an input producer on behalf of the cooperative. The input provider negotiates the price for feed with the input producer. This process ensures that all districts can access some feed, but it does not provide for the full quantity of input needed. Additional local and imported feed is sold on the market at a market price.

The government of Mali estimates that the livestock economy loses approximately 50 billion CFA due to animal diseases. Licensed vaccines are distributed through private veterinarian pharmacies. However, unlicensed vaccines are also commonly sold, especially in more remote areas. These unlicensed vaccines are sold at a lower price but their quality varies. Considering the vast geographical areas, limited funding, and uncontrolled crossing of livestock across the borders, surveillance and control of diseases is challenging. In the past, Mali has coordinated vaccination campaigns with neighboring countries for control of diseases like CBPP, but no such collaboration is currently underway.

Livestock Producers

A large proportion of the population in Mali owns livestock. Mali has a large number of livestock with approximately 8 million cattle, 22 million sheep and goats, 700,000 camels, 30 million poultry, and 70,000 pigs. The herd size varies largely – there are larger producers with hundreds of cattle in their herd and there are producers with a relatively small herd size. The production is based on a mix of pastoral and sedentary systems. Sedentary livestock systems are more common in the Niger delta areas and are tied to crop production activities. The pastoral system is common in the arid and semi-arid zones of northern Mali. Many people utilize livestock as a "rural bank" to absorb shocks from the instability and variability of agricultural production. Hence, during years of good crop production, households invest and increase their herd size, while during years of poor harvest and rain shortage, many producers sell their livestock and the price drops.

Livestock Brokers

Because a large proportion of the population uses cattle as their primary source for investments, livestock tend to change owner many times. All along the value chain, livestock brokers, who are knowledgeable and well-respected livestock producers and traders in the community, facilitate transactions of livestock. Livestock brokers inspect the animals, ensure that the seller is the rightful owner of the livestock, and assist in the price negotiations. For further discussions on the livestock brokers, see the special section on brokers and livestock trading.

Livestock Traders

Considering that an important proportion of the population own livestock, there are numerous livestock traders. While all traders (small, medium, and large) engage in domestic trade, only large-scale traders can afford to export livestock.

Livestock transactions are always taking place at a livestock market. Most livestock is sold during the dry season when there is less abundance of pasture. At the high of this season, the price for cattle increases.

EXAMPLES FROM MALI VCCLIR INTERVIEWS, APRIL 2011		
	Investment	**Number of cattle purchased**
Small-scale traders	460,000–1.5 million CFA	6–8 cattle
Medium-scale traders	1.6–2.5 million CFA	11–16 cattle
Large-scale traders	2.6–7.7 million CFA	25–37 cattle

There are four types of livestock markets:

- Collection markets are small markets located in livestock production areas or on transhumance routes. Smaller producers or collectors bring the animals from farm gates to the collection markets.

- At secondary markets (or bulking markets) livestock collected at the collection markets are bulked together and sold in larger quantities.

- End markets are generally near cities where transactions occur among traders, butchers, and exporters.

- Transboundary markets are located near a border. At these markets, many exporters purchase their livestock, and transporters and transit agents are also present at these markets. From the cross-border markets, the cattle are either moved by hoof or by truck. The costs of moving cattle across the border are significant, and only larger livestock traders are capable to pay for the border crossing and the transportation.

Due to the close proximity to the border, in Sikasso a high proportion of the livestock is exchanged directly between producers and exporters. In Mopti, on the other hand, the market chain is much longer, where cattle pass through collection markets and others through frontier markets before the final exchange with the export trader. From Timbuktu, the market chain is even longer. Hence, the producers and traders in Sikasso get a better price for their animals than traders trading at markets further away from the frontiers.

Exporters

Mali exports high volumes of livestock to neighboring countries in the region. On an annual basis, the official export of livestock generates 40 billion to 50 billion CFA. In 2007, the official data showed that approximately 150,000 cattle, 270,000 sheep, and 13,000 goats were exported. Considering the extensive informal cross-border trade, the actual number of exported livestock is much higher. The major importing countries are Ivory Coast, Senegal, Ghana, and Guinea, followed by Algeria, Libya, Mauritania, and Nigeria, with some meat transiting through Burkina Faso. Prior to the recent civil unrest, approximately 80 percent of Mali's cattle export went to Ivory Coast.

Considering the capital investment involved in exporting livestock, this segment of the market is occupied by larger traders. Livestock is primarily transported on rented trucks across the borders. A truckload could hold up to 35 cattle, and exporters tend to buy enough animals to fill up one or more trucks to take across the border. For instance, to take one truck across the border at Zegoua costs four to five million CFA (this price included the cost of purchasing 35 cattle, the truck rental as well as the official and unofficial fees along the road).

Transporters

A study conducted by ILRI found the cost of transportation and handling of truckload of 35 cattle from the Sahel to the coast was on average 700,000 CFA. The breakdown of the transborder costs is detailed in the table. Domestic transportation and handling costs are considerably lower than cross-border trade as livestock is typically taken between market places by hoof.

CROSS-BORDER TRANSPORTATION AND HANDLING COST (PER TRUCK)	
Truck rental	44%
Convoy fees	17%
Drovers' wage	16%
Market association fees	8%
Illegal road taxation	10%
Traders' travel and other expenses	5%

During the course of this research, participants along the value chain were asked what transportation challenges they faced. During the peak of the harvest season, many trucks transport agricultural produce and there is occasionally a shortage of trucks to transport livestock. Moreover, transporters commented on the exorbitant illegal fees collected along the trade routes, and herders stated that cattle corridors were not well demarcated for trekking animals to frontier markets.

When transactions costs are high, market institutions (e.g., brokers, market associations, and social networks) can lower the costs and enable exchanges to take place. Local market associations, such as FEBEVIM and COBAS in Sikasso, have emerged in recent years to manage the marketplace, facilitate transportation of livestock, and provide access to credit. The market associations' ability to organize transportation reduces the traders' costs for search time and for feeding and caring for the animals before they are transferred to an end market.

Transit companies *(societes de convoyage)* have emerged to lower illegal road taxation and facilitate cross-border movement of cattle. The conveyance fee *(frais de convoyage)* is on average 250,000 CFA (US$580) per truckload from the Malian border to Abidjan.

Slaughterhouses

The slaughterhouses provide slaughtering services but do not buy live animals. However, because there is a charge and a formal bureaucracy associated with the use of a slaughterhouse, in the current price-sensitive market, many cattle are slaughtered illegally. The meat from such animals is sold on the black market at a reduced price that reflects not only the reduced cost of slaughter but also the avoidance of levies that are raised upon meat that has entered the formal value chain.

In Mali there are five regional *abattoirs* with a capacity of 2,000 tons each and 124 officially registered slaughter areas. However, there is limited cold transportation and storage in the slaughtering sector. There is only one export-focused abattoir and two refrigerated *abattoirs* in Mali. Due to the lack of infrastructure, the export market for meat is therefore very limited. While price comparisons do not take all market conditions into account, a study conducted by ILRI found that Malian beef could be produced for US$2,000 per ton, which is a competitive price on the world market (in 2001 prices, the US produced beef for US$2,500 per ton and the EU produced beef for US$3,100 per ton).

Butchers

There are numerous butchers in the whole country, although there is a higher concentration of butchers in the urban areas. Butchers tend to specialize on certain animals. While there is no differentiation between the cuts, there are two prices for meat – with bone or without bone. Butchers make a rather small profit margin as the price of meat is determined through negotiations among the government, animal traders, and butchers.

Tanneries

There are four functioning tanneries in Mali, most notably TAMALI and TAO, but they are producing below capacity. More than 60 percent of exported cattle skin is untreated. The tanneries are running below capacity because it is hard to access good quality skins and hides. As many cattle are not slaughtered in controlled official

slaughterhouses, the quality of skin is often poor (i.e., holes, bad cuts, or poor drying conditions). Hence, the widespread use of unofficial slaughtering practices affects the supply of good quality skins and hides.

Dairy Production

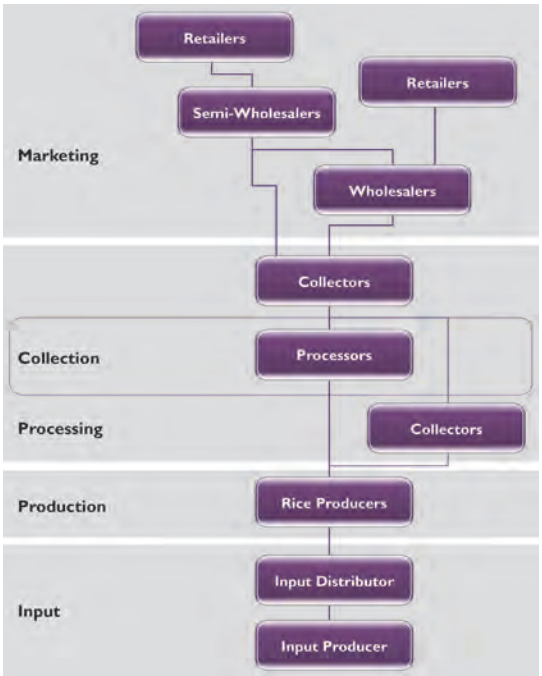
Dairy production has been increasing over the last three decades and is now estimated at nearly 400 million liters per year. The milk comes mainly from traditional livestock production systems where animal feed depends on grazing. Production is therefore seasonal, with a peak during the rainy season. However, the biggest part of the local production, which includes several thousands of producers, remains outside collection and distribution channels. Instead, it is typically the herders' wives who sell raw milk at the marketplace or by walking door to door.

In peri-urban area there are several smaller milk plants or milk cooperatives such as COLAIBA (Cooperative Laitière de Bamako). Although these smaller plants process several thousand liters of milk per day, the domestic supply of milk that reaches the plants is not sufficient. Because the milk plants' ability to reach smaller producers is limited, the plants supplement the local milk production with imported powder milk.

RICE VALUE CHAIN

Rice is produced using traditional as well as more modern methods in Mopti, Timbuktu, and Sikasso. In Mopti, the more organized system of rice production uses irrigation schemes that are dependent upon rainfall. However, the majority of the irrigated plots are small and their main objective is to provide food and some limited income for the growers. In the Sikasso region, the flood plains and the lowlands *(bas-fond)* are strongly dependent upon rainfall for rice cultivation. Due to limited rainfalls, most of the bas-fond is not used for rice. However, a drought-resistant type of rice is cultivated in the upland plains. In Timbuktu and Alatona, rice is cultivated under irrigation. Inconsistent rainfalls, *de facto* export restrictions, limited storage facilities, and road *tracasserie* are some of the issues constraining the growth of the sector.

FIGURE 1: RICE VALUE CHAIN (VERSION 1.2)



ACTORS IN THE RICE VALUE CHAIN

Input Producers

Toguna Agro Industries is the only producer that blends fertilizers in Mali, and the company supplies 70 percent of all fertilizers used in the country. Agrochemicals are imported by a large number of suppliers. There are three large seed producers and 137 small rice, millet, and sorghum seed-production cooperatives in the country. The National Seed Service (DNA) organizes these seed-production cooperatives to grow and sell improved seeds. As discussed in the Dealing with Licenses chapter, the availability of improved seeds is restricted by inadequate certification capacity and lengthy seed-production procedures.

Under the *Initiative Riz*, the government subsidizes rice fertilizers and the NERICA seed to boost production. With the subsidy, the producers purchase the fertilizers for 50 percent of its

market value. As a result, much of the subsidized fertilizers and seeds are traded across the borders to countries that do not have such a subsidy or have leaked into production areas other than rice.

Input Distributors

There are approximately 10 larger fertilizer distributors in the country. Toguna Agro Industries, the largest distributor, distributes fertilizers through more than 500 local distributors in the country. Agrochemicals are distributed through 10 larger agrochemical dealers, which in turn supply numerous smaller agrochemical traders across the country. However, many of the smaller dealers are operating informally and are trading unregistered products at a lower price, which undercuts the market for suppliers dealing in legal fertilizers, agrochemicals, and seeds.

Rice seeds are distributed through private seed companies and seed-production companies.

Rice Producers

Rice is predominantly produced by small farmers in the Mopti, Timbuktu, Ségou, and Sikasso regions. In the Sikasso region rice is produced on lowlands and uplands. Yields range from less than one to two tons per hectare. The Sikasso region is dominated by smaller rice producers. There is one cultivation season and rice producers apply suboptimal production technologies. In Mopti and Timbuktu regions there are three kinds of rice production systems – the noncontrolled flooding system, semi-controlled flooding system, and irrigation by pumps. The yields range from 500 kilograms/hectare in the noncontrolled flooding systems up to more than 6 tons/hectare in the irrigated zones. In these regions there is a mixture of large and smaller rice producers. The Ségou region is the largest rice-producing area. There is a mix of small farms and larger commercial farms in the area where yield range from 2.5 tons/hectare in the semi-controlled system to 6 tons/hectare in the ON zone, including PIA. In the Ségou area there are two production systems – the irrigation system managed by the parastatal ON and the semi-controlled flooded system managed by the government agency Office Riz Segou (ORS). Many smaller rice producers sell their rice at the end of the harvest season when they need cash but prices are lower. Producers either sell the rice in paddy to a collector or process the rice before they sell it to the collector.

Rice Processors

The processing industry is still nascent and inefficient, resulting in low throughput and high proportions of broken rice. Most of the rice processing in the country is done by close to 2,000 husking machines *(petit decorticeurses)* in the ON, the ORS, and the Office Riz Mopti (ORM), but most of these husking machines produce poor-quality broken rice. Some smaller farmers are still processing rice with mortar and pestle. There are approximately 10 mini-mills *(mini-rizeries)* in the country. The investment in improved mills would produce better quality rice and would increase the supply of good quality rice for national and international sale. The husking and the mini-mill processors provide the service for a fee. Typically, the farmer, the collector, or the trader mills the paddy rice.

Collectors

Throughout the country, there are thousands of collectors assembling smaller quantities of rice into larger quantities. Independent collectors buy the rice (in paddy or milled) from the farm gate or from local markets and sell it to semi-wholesalers or wholesalers. Larger wholesalers hire their own collectors to assemble the rice for them.

Semi-wholesalers

Semi-wholesalers buy rice from wholesalers or independent collectors or employ their own collectors. The semi-wholesalers have large storage facilities and are located near the major urban markets. Semi-wholesalers sell the rice to retailers and consumers.

Wholesalers/exporters

In Mali, the rice market is dominated by 3 large wholesalers that deal in local and imported rice, although there are a total of 7 to 10 wholesalers. To purchase local rice, wholesalers employ their own collectors and buy from independent collectors. The larger wholesalers sell rice to semi-wholesalers and retailers. The wholesalers tend to buy rice after the harvest when the prices are lower and store it until later in the season when they can charge a higher price.

As discussed in the chapter on Trading Across Borders, the export market is restricted and uncertain as a result of frequent government restrictions. To maintain the supply of domestically produced rice for local consumption, the DNCC has not issued export certificates during the last couple of years. This unofficial export ban has opened the way for illicit exports to neighboring countries. For instance, rice from the Sikasso region is sold to Guinea and rice from the Mopti region is sold to Niger and Mauritania.

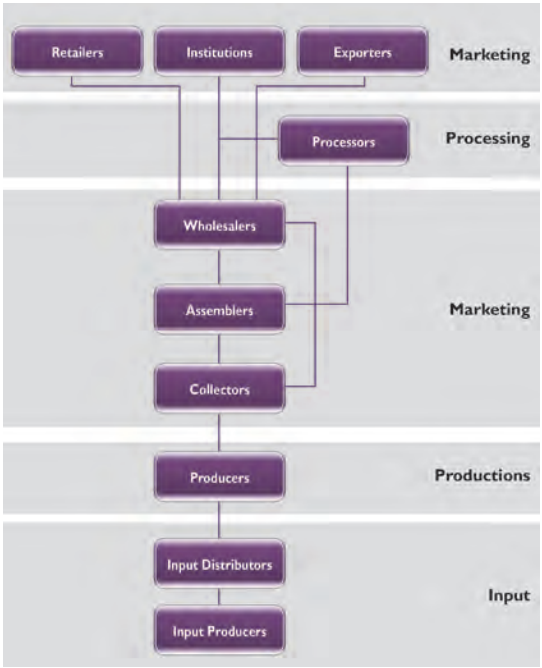
Retailers

Local as well as imported rice is sold through many small retail outlets throughout the country. Retailers purchase the rice from wholesalers or semi-wholesalers or directly from an independent collector.

MILLET AND SORGHUM VALUE CHAIN

Millet and sorghum account for almost half of national crop production but is primarily produced by smallholders and are rarely commercial crops. The Sikasso region is the main production area for sorghum, while millet is primarily produced in the Segou region. In Mopti, 25 percent of the millet and sorghum production is marketed, while 40 percent of the harvest is sold in Sikasso and Ségou. Millet and sorghum are easy, familiar, and affordable crops to grow. There is abundant potential growing area, and residue can be used as animal feed. There is some potential for processing millet and sorghum, including beer, Tôh (a mix of millet and sorghum), couscous, Dégué, Misola, porridge, and cookies. Some unprocessed millet and sorghum is exported informally to Niger. In general, producers of these crops do not have a commercial mentality. The government's strategic vision for millet and sorghum is driven by food security goals.

FIGURE 1: MILLET AND SORGHUM (VERSION 1.2)



ACTORS IN THE MILLET AND SORGHUM VALUE CHAIN

Input Producers

Many millet and sorghum farmers produce their own seeds and there is some reluctance among farmers to use improved seeds. However, there are three companies (Comptoir 2000 , Nacosie, and Fasokaba) and 137 small seed-production cooperatives that are producing rice, millet, and sorghum seeds in Mali.

Chemical inputs are more commonly used in the wetlands in the southern parts of Mali, while farmers in other parts of the country are primarily using organic manure. Fertilizers for rice are subsidized under the *Initiative Riz*, but the subsidy

does not extend to millet or sorghum. The enforcement agencies are unable to impose the required standards for agrochemicals, and a large proportion of the market is dominated by unregistered products.

Input Distributors

While there are relatively few input suppliers that provide certified seeds and registered agrochemicals, there are many suppliers of unregistered agrochemical products. However, most millet and sorghum producers do not use agrochemicals and fertilizers.

Millet and Sorghum Producers

Millet and sorghum account for almost half of national crop production but are primarily produced by smallholders and are rarely commercial crops. Producers sell typically only 25 to 30 percent of their production. The price is lower during the harvest season (October–December) and higher during the rainy season (July–September). The producer associations are rather weak, and it is unusual for these associations to engage in collective marketing.

Collectors

Collectors buy cereals from producers at the village level and sell the cereal to assemblers or wholesalers. Similar to rice collectors, cereal collectors may be independent or may represent a wholesaler. Some collectors grant their regular producers a loan during the off-season to be repaid in grains upon harvest.

Assemblers

Assemblers purchase larger quantities of grain from collectors and sell it to wholesalers in larger urban areas. There are independent assemblers who purchase grains in the production markets and there are assemblers who represent a certain wholesaler. The assemblers will typically deliver the grains to the wholesaler's warehouse.

Wholesalers

Wholesalers are usually based in larger towns and purchase grain from brokers or collectors. The wholesalers have their own storages facilities. The wholesalers have greater financial capacity than other players in the value chain and are often contracting collectors to purchase grain on their behalf. There are three large grain wholesalers in the country with sufficient purchasing capacity to influence the price of grains. When large institutions such as OPAM or World Food Program seek to purchase millet and sorghum, the three large wholesalers coordinate their bids and agree on what price they will ask for.

Millet and Sorghum Processors

There are two levels of processing of millet and sorghum. At the village level, there are small processing units where women are husking millet and sorghum by hand for a fee. In the more urban centers there are mills that process millet and sorghum into flour. There are also a few larger processors that make food consumption products out of millet and sorghum such as millet porridge and cookies.

Retailers

There are numerous retailers in urban areas that buy smaller quantities of cereals from collectors, semi-wholesalers, or wholesalers. As retailers tend to buy from the same wholesalers, the consumer prices vary little between the retailers in the same marketplace. Retailers that have a well-established relationship with a wholesaler can purchase the grains on credit.

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