

Ministry Delegate for Participation and Investment Promotion

MDPPI

# Investing in Algeria



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# I.

## INVESTMENT ENVIRONMENT

### CHAPTER 1

#### PRESENTATION OF ALGERIA

#### GEOGRAPHY AND CLIMATE

**Location:** Algeria is the largest country among the five countries that form the Maghreb (Mauritania, Morocco, Algeria, Tunisia and Libya), the second largest country in Africa, and the tenth country in the world.

It covers a total area of 919,590.200 square miles and has a sea border of over 746 miles along the Mediterranean Sea.

Its territory penetrates the African continent through the Sahara, and reaches the Mali and Niger borders

**Relief.** The relief of Algeria consists of two ranges of mountains that run fairly parallel from East to West, and distribute the land into three main areas that offer largely diverse landscapes, from North to South:

The Tell is a zone of coastal plains with abrupt coastlines. The plains are discontinuous and their widths vary between 50 and 118 miles. Along with their adjoining valleys, they shelter most of the agricultural land of the country.

The High Plains are a steppe-like zone of an average altitude and are separated from the Sahara by the Saharan Atlas.

The Saharan Atlas is a chain of dry and desert-like mountains 1,640 to 8,200 feet high.

The Sahara is a desert of 772,200 square miles. It covers 80% of the country. It mainly consists of rocky plateau and stony plains. Two large sand areas (the Western Grand Erg and the Eastern Grand Erg) compose the main dune relief of the Saharan desert.

The Hoggar Massif is located in the South of the Sahara. It is a succession of desert-like high plateau that rise up in tiers. The jagged contours of an imposing volcanic relief that culminates at 9,846 feet to the North of Tamanrasset and dominates the central part of the Massif

**Climate:** The climate of Algeria is under the conflicting influences of the Mediterranean Sea and of the Sahara. Climate zones follow three traditional divisions, from North to South:

- A Mediterranean climate prevails in the coastal zone and benefits to most of the Tell. It is characterised by mild winters ,long and warm summers that sea breezes help to cool down;
- A continental climate with a steppe-like weather tendency prevails in the High Plains;
- A desert-like climate, noticeable for its aridity, prevails in the South. It is characterized by great diurnal variations, extreme dryness, and, sometimes, torrential rains. In the Summer, the Sirocco, a hot/dust/sand-laden wind, blows from the Sahara to the North.

The temperatures of the coastal zone vary between 41 and 59 F in Winter and 77 to 95 F in Summer, whereas in the South, the temperature can reach 122 F in the shade.

There are between 15.6 to 39 inch of rainfalls per year, with only 4 inch of rainfalls per year in all the desert area. This rainfall pattern is decisive for the Algerian agriculture. However, in both the Tell and the High Plains, irrigation is necessary for agricultural activities, because rainfalls are irregular and unevenly distributed through time and space.

## **FAUN AND FLORA**

The faun and flora offer a variety of species, but the acceleration of socio-economic development has caused natural media and habitats to become precarious.

National parks have been created in many areas of the country as an effort to protect the various species.

**Faun:** There are various species of mammals, including rare species, such as the 'phoque moine', 'mouflon à manchettes', cheetahs (some succeed in living in the isolated region of Hoggar), Barbary deer in the Guelma and Tipaza regions, monkeys in the Gorges of Chiffa and, in Kabylie, wild boars hares, hyenas, genettes' and jackals. Gazelles, dromedaries and fennecs live in the Sahara.

The bird population includes red partridges in the Mascara region, pink flamingoes, ducks and waders in the El Kala region.

**Flora :** In the North, the natural vegetation consists of bushes, umbrella pines and cork oaks.

In the high mountains of Kabylie and the Aures, there are Alep pines, holm oaks, cork-oaks, thujas, fir-trees from Numidia, acacias, jujubes, and cedars. Beyond the Tell Atlas, the Western high plateaux, have a steppe-like vegetation, with a predominance of esparto grass and 'armoise'.

### **MAIN CITIES OF THE COUNTRY**

The urbanisation rate is high in the North where 55% of the population live in urban areas. The main cities of Algeria, located along the coast or in the high plains, are as follows:

- Algiers, the Capital City of Algeria, with a population of 3 million inhabitants;
- Oran, 269 miles West of Algiers, with a population of 660 000 inhabitants;
- Constantine, 268 miles East of Algiers, with a population of 500 000 inhabitants;
- Annaba, 373 miles further East of Algiers, with a population of 400 000 inhabitants.

**INSTITUTIONS:** The division between the executive, the legislative and the judiciary powers was sanctioned by the Constitution of February 28, 1989.

**Legislative power:** The 1963 Constitution gave birth to the Algerian Parliament. The constitutional revision of November 28, 1996 put an end to the unicameral system by creating a Parliament that includes:

- A National Popular Assembly, N.P.A. ("Assemblée Populaire Nationale", A.N.P.) with 380 deputies;
- A Nation Council, N.C. ("Conseil de la Nation", C.N.) with 144 senators.

The Nation Council exorcises, with the National Popular Assembly, the legislative power.

It votes the laws by a majority of 3/4 (three-fourths) of its members. Only texts that have already been passed at their first reading by the National Popular Assembly can be submitted to the Nation Council who does not have, however, amendment powers.

In case there is a disagreement between the National Popular Assembly and the Nation Council, an ad hoc commission consisting of an equal representation of both chambers is set up. This ad hoc commission is instructed to propose a revised text that is submitted to the approval of both chambers, with no possibility for amendment. The Parliament legislates in areas that have a legal relevance and that are expressly specified by the Constitution.

**The Constitutional Council:** Since 1989, Algeria has a Constitutional Council who controls the constitutionality of the laws. It is instructed to act by the President of the Republic, by the President of the National Popular Assembly or by the President of the Nation Council.

Besides its attributions as the controlling body for the respect of the Constitution, the Constitutional Council sees that referendum campaigns, presidential and legislative elections, are conducted according to the rules of procedures established, and proclaims their results.

**Executive power:** The Algerian regime is of a presidential nature.

The President of the Republic holds most of the executive power. He is elected through direct universal suffrage and has extended powers. His main prerogatives are as follows:

- Commandment of the armed forces;
- Leadership of the Ministry of Defense ("Ministère de la Défense");
- Presidency of the High Council for Security, H.C.S. ("Haut Conseil de Sécurité", H.C.S.);
- Appointment of the Prime Minister-
- Designation of 1/3 (one third) of the Senators;
- Power to dissolve the National Popular Assembly.

The Head of the State has the authority to pass executive decrees for law implementation in areas that are not expressly devolved upon the President of the Republic.

## **LAW AND JUDICIARY POWER**

**Law:** Algerian law shows Romano - Germanic influences. It has none of the legal mechanisms of Common Law.

The foundation of Algerian law is a mixture of Islamic law and French law. Penal law is conceived after French law, whereas family law and death duties' law have strong Islamic influences.

**Judiciary power:** The independence of the judiciary power is constitutionally proclaimed. The administrative suspension of regulations is prohibited.

The judiciary system is based on a dual jurisdiction: there is a judiciary order and an administrative order. Each order is aware of the principle of dual jurisdiction and of the existence of a judge that can cancel court decisions.

**Administration:** Since 1985, Algeria has been divided into 48 provinces (wilayas), 227 administrative districts (daïras) and 1 541 townships (baladyas).

**Provinces:** Each province is under the management of a Wilaya Popular Assembly, W.P.A. ("Assemblée Populaire de Wilaya", APW) of 35 to 55 deputies who are elected for four years. Each province is under the leadership of a "Prefect" (Wali) who is appointed by the President of the Republic and assisted by an Executive Council ("Conseil Exécutif"). The Wali is under the direct supervision of the central government. Since 1997, the Wilaya of Algiers has been divided into 28 districts and includes 24 townships.

**Townships:** a Township Popular Assembly, T.P.A. ("Assemblée Populaire Communale", A.P.C.) elected for a four-year term governs each township. It comprises 10 to 18 members, and is responsible for the local administration of the economy, of both finances and cultural affairs. The T.P.A. elects a Township Executive Council (T.E.C.) ("Conseil Exécutif Communal", C.E.C.) and its President, and all are accountable to the Ministry of Interior.

## **POPULATION AND ITS CHARACTERISTICS**

**Population and demography:** In 2000, the Algerian population was approximately 30.25 million inhabitants. There are approximately 4.5 million households.

Young people who are less than 30 years old account for over 60% of the Algerian population. Twenty years ago, the birth rate was one of the highest in the world (3.2%). Per the latest statistics of 1998, it dropped to 1.6% per year. The geographic distribution of this population is in direct relation with the climate, the rainfalls and the relief. The density of the population decreases from North to South. However, in spite of adverse physical conditions, the population has settled down in certain mountainous areas. There, the population density is as high as in the plains (Kabylie, Aurès).

Life expectancy is approximately 70 years. As for medical coverage, there is approximately one doctor for 1 1 00 inhabitants.

**Education:** Until the 70's, children were taught in French at school. Since the 1998, decree on the compulsory use of Arabic, this language must be used for education in public school. However, Tamazight is still taught as a language, in Berber areas

only, to keep the Berber identity alive. French is still predominant in certain college curriculums.

School is compulsory and free from age of 6 to 16. The basic education lasts for nine years. The high school education lasts for three years and offers three options: general, technical or vocational. It is sanctioned by a high-school diploma (the "baccalauréat").

College education can be received, according to the option chosen, in one of the 200 specialized graduate schools or in one of the 15 Algerian universities. All the large cities of the North have at least a university.

**Employment:** Close to 30% of the working population, or 8 million people, are unemployed.

Labor cost in Algeria is competitive. The Guaranteed Minimum National Salary, G.N.N.S. ("Salaire National Minimum Garanti", S.N.M.G.) is 10 000 Algerian Dinar, A.D. ("Dinar Algérien", DA) per month.

## LANGUAGE

**Official language:** The official language is Modern Arabic. Public services and all public institutions of a cultural and educational nature use it. However, public services use French as their working language when dealing with customers. **Other languages:** Dialectal Arabic derives its origin from classic Arabic. Algerian dialectal Arabic has been influenced by Berber and French and is spoken throughout the country with slight local differences.

Berber, which is the original language of the Maghreb, is still spoken in certain areas, especially in the Aurès to the East, in Kabylie in the Center, in Mzab in the Southeast, and among Touaregs in the South.

Many Algerians speak French. It is taught as a first foreign language. French is particularly used in economic environments where it is used as a working language.

English, which is now taught as a second foreign language, is known in certain administrative, economic, and touristic environments, but to a lesser degree than French.

## **RELIGION**

**Religion in Algeria:** Islam is the State religion in Algeria. It prevails to a somewhat exclusive degree; Algerian Muslims are primarily Sunni, and practice the Malekite rite. There is a tradition of religions' tolerance and freedom of cult, and Christian churches are still active. In the past, there was a large Jewish community in Algeria, but many Jews left the country after Second World War, and when Algeria became independent in 1962. Those who have stayed there live at peace with the other inhabitants.

**Incidences of religions obligations in the business world:** The work organisation does not suffer from any incidence due to religions obligations, except during the month of Ramadan. The exact dates of this month are specified each year. During this month, Muslims cannot eat or drink from sunset to sunrise. Ramadan is one of the pillars of Islam. During that period, every Muslim must be in communion with the poorest, and feel hungry and thirsty.

During the month of Ramadan, working hours are re-arranged. Most Algerians finish their work earlier so that they can have dinner at sunset, and they start work later in the morning. It is worth mentioning that for individuals of a different religion, it would be inappropriate to eat in public during the fast period. It is proper to refrain from eating during this time. In fact, with the exception of large international hotels, very few restaurants serve meals between sunrise and sunset.

The Ramadan calendar varies, and is set up every year according to the lunar calendar. Algerian religions' authorities determine the date of the beginning of the month of Ramadan by looking at the new moon on the day prior to the first day of Ramadan. The Muslim cult is characterized by five daily prayers: the Sunrise Prayer, the Noon and Afternoon Prayer, the Sunset Prayer and the Night Prayer.

## **HOLIDAYS AND PUBLIC HOLIDAYS**

### **National holidays:**

New Year's Day: January 1st;

Labor Day: May 1st;



June 19 Anniversary (revolutionary awakening);

Independence Day: July 5th

Anniversary of the Revolution outbreak: November 1st

**Religious holidays:** Religious holidays are part of the Hegira calendar that started in 662 A.D., on the day when Prophet Muhammed arrived at Medina (year 2002 in the Gregorian calendar corresponds to year 1424 in the Hegiran calendar).

Religious holidays are Muslim holidays. They are specified every year, according to the lunar calendar:

- Aid El Fitr or Aïd El Seghir (takes place after the month of Ramadan, at the beginning of Choual month);
- Aïd El Adha (takes place two months and ten days after Aïd El Fitr as a reminder of Abraham's sacrifice);
- Awal Moharem (the Muslim New Year, per the Hegira calendar);
- Achoura (takes place on the 10th of the month of Moharem, and is an almsgiving celebration);
- Mouloud (celebration of the Prophet's birth).

In principle, these religions holidays are public holidays during which people do not work.

**Weekend:** Thursday and Friday.

Offices are open from Saturday to Wednesday included:

- Morning: 8:00 a.m. - Noon
- Afternoon: 1:00 p.m. - 4:30 p.m.
- Thursdays: 8:00 a.m. - Noon (for private companies and postal services)

During Ramadan, the work pace slows down and working hours are re-arranged between 9:00 a.m. - 3:00 p.m., from Saturday until Wednesday.

### **Working days of banks and insurance agencies:**

From Sunday until Thursday.

Weekly break on Fridays and Saturdays.

### **TELEPHONE NUMBER SYSTEM**

Calls from foreign countries to Algeria:

00.213(country code for Algeria) + wilaya code (without the zero) + the 6 numbers of the party being called.

Calls from Algeria to Algeria:

Wilaya code (including the zero) + the 6 numbers of the party being called.

Calls from Algeria to foreign countries:

00 + country code + area code (without the zero) + the number of the party being called.

### **USEFUL INFORMATION FOR TRAVELERS TO ALGERIA**

**Inoculation:** No inoculation is compulsory to go to Algeria.

Algeria has a great touristic potentiel as it benefits from its geographic diversity and its sea-mountain-desert triptych. Algeria offers to visitors various natural sceneries.

**Tourism** was well developed in the 70's, but the political situation of the country led to its steady decline. Touristic flows to Algeria Start today to become again appreciable.

#### **Hotels**

Algiers has international hotels: Sofitel, Sheraton, El Aurassi, El Djazaer (ex Saint-Georges), Algiers International Hotel (ex-Hilton), Mercure.

**Travel documents:** A passport and a valid visa are necessary to go to Algeria. Algeria has consular offices throughout the world, except Israel.

**Personal belongings:** Upon entrance into Algeria, the traveler is exempted from paying customs' duties and taxes for all personal belongings that he/she may need during his/her stay, with the exception of all merchandise imported for commercial purposes.

**Importing foreign currencies:** The traveler can import, with no amount restriction, bank bills or other means of payment. However, he/she must declare in writing (on a form that includes a section to be kept by Customs' Services) the bank bills, the means of payment, and the gold, platinum, or silver jewelry that are imported into the Algerian territory.

Once the customs' formalities are accomplished, it is recommended that the traveler perform his/her first foreign exchange transactions at the bank counters that are installed in airports and ports. These transactions will be recorded on the section of the foreign currency declaration that he/she will keep and may have to produce when leaving the territory, along with the receipts for foreign exchange transactions.

Some hotels and stores accept payments by international credit card.

**Time zones:** The time zone is GMT + 1.

**Currency:** The monetary unit is the Algerian Dinar (AD) ("Dinar Algérien", DA).

The AD is broken down into cents (CT) ("centimes", CT). 1 AD = 100 CT

It is possible to convert foreign currencies into Dinars at the official exchange rate, but the reverse transaction is subject to certain conditions.

Two types of currencies are in circulation in Algeria:

- The metallic currency that includes coins of 50 cents and of 1, 2, 5, 10, 20, 50 and 100 Dinars.
- The fiduciary currency that includes bills of 20, 50, 100, 200, 500 and 1 000 Dinars.

**Mobility:** Algerians move around on a daily basis inside the country, and air transportation remains the fastest means of transportation between cities.

## **TRANSPORTATION AND INFRASTRUCTURES**

**Roads:** Traveling by land is time-consuming. The highway network remains limited. An East-West highway project is under implementation. There is a fairly well organized network of asphalted roads that are not highways, and it provides the highest road density in Africa: 107 000 Km of roads.

Algerian car fleet includes more than 3 million vehicles. It is increasing steadily. The bus remains the primary means of public transportation on land, followed by the train and the taxi. In the North of the country, bus and taxi networks are well developed, with regular connections between the main cities. Towards the South, roads requires maintenance actions.

**The railroad:** Algeria has a network of 4 000 km of railroads, and part of it, is electrified. The highest density and frequency of railroad connections are along the coast and serve all main port cities. The South is connected to the coast with two railroad lines, Béchar (West) and Touggourt (East) being the most Southern railroad stations.

**Sea transportation:** Algeria has a total of ten merchant harbors and thirtyfive fishing harbors. The most important merchant harbors, namely, Algiers, Oran, Annaba, and Djendjen, handle 75% of the traffic. Hydrocarbons' exportation terminals are: Algiers, Arzew, Skikda, Béjaia and Annaba.

Transportation of passengers by sea is quite substantial: close to 30% of the passengers that travel between Europe (France and Spain) and Algeria use this means of transportation. The National Enterprise for the Transportation of Passengers by Sea, N.E.T.P.S. ("Entreprise Nationale de Transport Maritime des Voyageurs", E.N.T.M.V.) operates regular passages between Europe - namely France (Marseilles and Sète) and Spain (Alicante, Barcelone and Palma de Majorca) - and one of the five international ports for passenger transportation in Algeria (Algiers, Oran, Béjaia, Skikda and Annaba).

**Air transportation:** There are 33 airports in Algeria, including many international airports in particular, Algiers (Houari Boumediène), Annaba, Constantine, Tlemcen and Oran. More than 30 thirty Algerian cities have in-country connections. Approximately 20 (twenty) are directly connected to Algiers.

*Air Algérie and Khalifa Airways* are the two major companies that operate in Algeria. **Foreign companies such as Air France, Aigle Azur and Alitalia. service Algiers.**

# CHAPTER 2

## BUSINESS ENVIRONMENT

### EVOLUTION OF THE ALGERIAN ECONOMY

#### Context of evolution

The Algerian economy evolves in a context marked by the following elements:

- Rigorous implementation of public policies within the framework of the program of stabilization (94-95) then of structural adjustment (NOT) (95-98) carried out with the collaboration of the IMF and the BIRD and supported by the international financial community and the European Union. Since, these policies are continued with the same rigour, which made it possible to consolidate the macro-economic balances restored during the period of the STEP;
- the hardening of the courses of hydrocarbons on a raised level, which made it possible to carry out appreciable surpluses of the current balance (the receipts of hydrocarbons represent 97% of the export earnings of the goods and services not factors). In same time, and thanks to the oil taxation which represents more than 60% of the public revenue, the finance public are positively influenced in measurement or a budget surplus is carried out each year since 2000, which made it possible to launch the Program of Support and Economic Revival (PSRE) and the National Program of Development of Agriculture (PNDA);
- the remarkable improvement of the financial resources of Algeria made it possible to the authorities to conceive an ambitious program of support to the PSRE with an envelope of 50 billion \$ for the five years to come, that is to say a few 10 billion \$ per year.

#### Growth rate

Progression of the growth rate:

- Until +5.1%e 1998, then (3.2%en1999 drops; 2.4 %en 2000) before taking again the ascending curve (4.1% into 2002 and 6.8%en 2003), like result of the setting on sale of the PSRE and the PNDA.

- Careful precision for 2004(%) taking into account the economic situation related to hydrocarbons.

### **Impact of the growth rate on the rate of unemployment:**

The negative consequence of the STEP is the increase in the rate of unemployment. It reached some 29% into 2000. With the arrival on the labour market of more than 200.000 people per year, the growth rate made it possible to reabsorb them and start the fall of former unemployment which is estimated by the persons in charge to 7 at 8 % the year. Thus, the revival of the growth in 2000, especially the good growth rate realized into 2003 (6.8%) made it possible to bring back the rate of unemployment of 27.3% into 2001 to 23.7% en2003, that is to say a reduction the rate of 3,6 points.

### **Progression of Gross domestic product:**

In commonly-used terms, the value of the GDP passed from 51,5 billion \$ into 2001 to 55 billion \$ into 2002, to reach some 66 billion\$ \$ to 2003. This evolution is explained at the same time by the growth reality (4.1% and 6.8% into 2002 into 2003 respectively) and the appreciation of the dinar compared to the US dollar towards the end 2003. This made it possible the GDP per head to increase by 1783 \$ into 2002 to 2080 \$, leaving behind the 1477 \$ of 1995, but still remains far from the 3524 \$ recorded in 1990.

This evolution of the GDP thus, made it possible to improve the standard of living of the Algerians who saw their income increasing of 12% and their consumption of 2,5%. Consequently, the saving of the households is remarkably increased making it possible to improve the sources of non inflationary financing of the investment.

### **Exchanges:**

Although softened, the exchange control is always in force in Algeria. **The current transactions are free and control is done later.** The services non related to the imports of goods remain however under preliminary authorization of the Central Bank.

The repatriation of capitals and dividends is guaranteed by the law. Since 1996, the dinar exchange rate is given on the interbank market of the exchanges by a supply and demand game.

The exchange rate policy carried out since the beginning of the reforms (87-88) consisted in letting the dinar depreciate itself according to the approach of controlled slip in order to find its real economic value of which it had deviated by its overvaluation during the period of central planning.

Thus, the official exchange rate of the dinar largely caught up with its parallel rate (considered by certain as being of true rate) compared to the FF: the differential which was 100 to 200 % at the beginning of the year 1990 turned around 15 to 25 % at the end of these years.

This differential (20 to 25%) still remains (with respect to Euro, in particular) because of the persistence of the abstract market and the goods (imported) and thus of the currencies. For as much, the dinar has lost since 1985 some 95% of its face value compared to the \$ and the FF.

Since 2002, the policy of the exchange carried out by the Central Bank consists in stabilizing the rate of real effective exchange of the dinar with respect to the euro which is becoming increasingly strong and of the US dollar which weakens.

Thus, the rate DA/€, which passed from 83,45 end at 2002 to 91,2671 at the end of 2003, is brought back to 87,56 at the end of March 2004. As for the US dollar, its rate passed from 79,72 at the end of 2002 to 72,44 at the end of 2003, to stabilize itself to 71,44 at the end of March 2004.

### **Sedentary situation:**

President BOUTEFLIKA is fighting against terrorism that has infiltrated into Algeria since 1994. His action has considerably helped to create a safer environment.

The big cities of the country have not suffered from recent major attacks. In fact, security considerations are no longer an obstacle for business trips in Algeria.

### **INTERNATIONAL CONVENTIONS**

**The agreement of the Union of Arab Maghreb, U.A.M. ("Union du Maghreb Arabe", U.M.A.):** This major agreement that gathers together Algeria, Morocco, Tunisia, Libya and Mauritania, and that was signed in 1989, has an integration objective. It provides for the creation of a free-trade zone, a customs union, a



common market and an economic union. The results of this agreement are mixed for various reasons:

- Only a few conventions have been signed for the implementation of this agreement, such as the Convention on Trade and Tariffs ("Convention Commerciale et Tarifaire"), and the Convention on Agricultural Products Trade ("Convention Relative à l'Echange de Produits Agricoles");
- At the beginning of 1990, the trading flow between Algeria and its U.A.M. partners represented only 2% of its external trade.

**Agreement with the European Union (E.U.):** In 1995, The European Union absorbed 65% of Algerian exports, and 60% of these exports went to three E.U. member countries, namely France, Italy and Spain.

An agreement for cooperation between Algeria and the European Union was signed in 1977. It became effective in 1978 and gives Algeria a preferential status for exports to EU member countries.

Algeria has signed the Barcelona Declaration ("Déclaration de Barcelone") that will set up a Euro-Mediterranean partnership. This new form of a North-South regional entity that calls for the establishment of a Euro-Mediterranean free-trade zone by 2010 has been developed around two core principles:

- The creation of a free-trade zone between the E.U. and each of the Mediterranean countries;
- The gradual opening of this zone through the liberalization of exchanges among Mediterranean countries.

An Association Agreement ("Accord d'Association") was signed in Brussels on December 19, 2001. In theory, it will be ratified into 2005.

## **OTHER MULTILATERAL AGREEMENTS**

### **Arbitration:**

New York Convention of June 10th, 1958 on the recognition and execution of international arbitrated sentences.

### **Investment:**

- Convention on the Settlement of Disputes Related to Investments ("Convention pour le Règlement des Différends Relatifs aux Investissements", C.I.R.D.I.)

- Membership in the Multilateral Agency for Investment Guarantee ("Agence Multilatérale de Garantie des Investissements", M.I.G.A.)
- Treaty on the Creation of the African Economic Community ("Traité portant Création de la Communauté Economique Africaine"). This treaty was signed in Nigeria in 1991, and aims at the creation of an African common market, as a long-term approach.

### **Customs:**

The main agreements and conventions that have been concluded by Algeria are as follows:

- New York Convention of June 4th, 1954 on the temporary importation of private road vehicles;
- Geneva Convention of May 18th, 1956 on the temporary importation of commercial road vehicles, leisure vessels and aircrafts;
- Belgrade Agreement of April 13th, 1988 creating the General System of Commercial Preferences, G.S.C.P. ("Système Général des Préférences Commerciales", S.G.P.C.) between developing countries.

### **Transportation:**

- Chicago Convention of December 7th, 1944, modified and supplemented, on civil aviation;
- Bonn Convention of February 7th, 1970 on international transportation of goods.

In addition, Algeria is currently negotiating its membership to the World Trade Organization, W.T.O. ("Organisation Mondiale du Commerce", O.M.C.).

## **FISCAL AND SOCIAL SECURITY CONVENTIONS**

### **Listing of non double taxation Treaties:**

France (Convention of May 17, 1982, in force since October 23, 1993; a new Convention has been signed on October 17th, 1999 but has not yet come into effect);

Italy (Convention of February 3rd, 1991, in effect since January 1, 1996);

Turkey (Convention of August 2nd, 1994, in effect since January 1st, 1997);

Romania (Convention of June 28th, 1994, in effect since 1995);

Union of Arab Maghreb, U.A.M. ("Union du Maghreb Arabe", U.M.A.)  
(Convention of July 23rd, 1990, in effect, and in replacement of bilateral  
Conventions between Tunisia, Morocco and Libya);

Canada, Mali, Belgium and Indonesia (not yet in effect);

Belgium, come into effect;

Jordan (not yet ratified);

South Africa (ratified into 2000, come into effect);

**Listing of social security conventions:** Algeria has signed and ratified a certain  
number of conventions on social security with the following countries:

France; - Belgium; - Romania; - Tunisia.

# CHAPTER 3

## SECTORS OF ACTIVITIES

### THE SECTOR OF HYDROCARBONS

The Algerian national company SONATRACH holds the monopoly in the field of hydrocarbons.

However, for many years, SONATRACH has been able to work in association with foreign firms by negotiating specific contracts or joint venture agreements, for the conduct of its upstream and downstream activities. Investment in this sector is growing rapidly.

#### **Oil provinces:**

There are four large oil-producing regions:

In the Eastern part of Sahara, there are a number of known oil and gas fields, and a good potential for other discoveries;

The Central part of Sahara is considered as having only gas fields (of various sizes) but recent oil discoveries are a promising sign for further developments;

The Western part of Sahara is assumed to have mainly gas fields, but resources there remain practically unknown;

In the Northern part of Algeria, small oil and gas fields have been discovered, but the full oil potential has not been revealed yet, due to its complex geology.

**Reserves remain under-exploited:** With an initial volume of 565.60 billion cubic feet oil equivalent had been discovered since 1948, the year of the first commercial discovery at Oued Guétérini in the Southern part of Algeria. Algeria ranks third in Africa, and twelfth in the world among oil-producing countries.

Algeria has substantial reserves:

Hydrocarbons' reserves that have been discovered, to this date in Algeria, are located in a few over 200 oil and gas fields that are distributed as follows:

- 73 in Illizi basin,
- 57 in Central Sahara basin,
- 34 in Ghadamès - Rhourde Nouss basin;
- 31 in Oued Mya basin.

Out of the initial reserves of approximately 353.51 billion cubic feet of liquid hydrocarbons that have been located, only 25% of them are considered to be recoverable, based on exploitation processes currently used. Half of these recoverable oil reserves have already been exploited. An additional and probable oil reserve of approximately 14,140 million cubic feet of oil is estimated.

**Infrastructures:** Algeria is equipped with a very good infrastructure system and has great production capacities.

An ambitious development policy in the field of hydrocarbons has contributed to the creation of a sound economic basis. Petrochemical, chemical and plastic industries have been largely developed. These industries are under the government control. Present in the various regions of the country, the industrial network has allowed to take advantage of many natural resources and has created a number of other economic activities upstream and downstream of these industries.

Oil refinery holds a predominant place in the industrial sector. A thick network for the distribution of fuel, gas and electricity covers the whole national territory. Two gas pipelines connect the Sahara to Europe, across the Mediterranean Sea, between Tunisia and Italy for one of them, and Morocco and Spain for the other.

SONATRACH pipeline network covers a little more than 8,078 miles and consists of 14 oil pipelines and 11 gas pipelines with a respective total mileage of 3,587 miles and 4,610 miles.

The transportation capacity of SONATRACH canalisation network in the North of Africa is in the range of 3,582 billion cubic feet of gas, 12.52 million tons of Liquid Petroleum Gas (LPG) and 442.59 million tons of crude and condensate.

## **THE INDUSTRIAL SECTOR**

**General presentation:** Since the beginning of the 90's, and in line with all other economic sectors in Algeria, the Algerian industry has engaged into a process of reforms. These reforms have mainly consisted in the re-structuring of public firms

that represent 80% of the industrial potential of the country, the other 20% being represented by small and medium size firms and industries ("Petites et Moyennes Entreprises", PME - "Petites et Moyennes Industries", PMI) of the private sector.

Economic Public Firms, E.P.F. ("Entreprises Publiques Economiques", E.P.E.) that totaled 1 400 at the end of year 2003 have been re-structured, and this process has generated the creation of subsidiaries for the performance of their activities. The subsidiaries are already operational and the re-structuring process is nearly completed.

The private industrial sector consists mainly of approximately 200 000 small and medium size firms and industries (PMI - PME).

The organization of the economic public sector rests on:

- the Council of the Participations of the State (CPE), which is the authority as regards management of the capital of the State. It is this authority which fixes the organization of the economic public sector and decides in last spring of the privatization and transfers of the companies.

The CPE does not act directly on the public companies but he fact through Trust companies of the Participation (SGP), which have a mandate of execution of the resolutions of the CPE, in particular execution of the programs of privatization

The Ministry Delegated to the Participation and the Promotion of the Investment assists the SGP and the pulse under the control of the Programme of Privatization and valorization of the public companies.

The public industrial sector covers all the manufacturing industry:

Basic industries: mechanics, iron and steel metallurgy, metallurgy;

Electrical industry and electronics;

Farm produce industry;

Textiles and leathers;

Building material (cement industry - brickyards);

Wood processing;

Chemistry - pharmaceutical - fertilizers;

Construction - public works.

As a whole, the Algerian industry started to grow strong again in 1998: the combined production registered at the end of September 1998 showed an 8.1% increase, compared to the same period in 1997.

Mechanical and metal industries that form the hard core of the basic industry have shown a much better level of production.

Only the sectors of iron and steel metallurgy - metallurgy and wood - paper continue to be under productive, while the other sectors have become more productive.

As a consequence, and as an overall evaluation, the levels of production that have been achieved, although remaining under their nominal capacities, indicate that there should be a sustainable improvement of the industrial activity.

An analysis of the results that the structural adjustment has produced over the last years gives the following indications:

The macro-economic data shows a favorable trend: the inflation rate and interest rates have decreased, the currency reserves have grown substantially larger, and exchange rates become stable;

A juridical framework that can respond better to the demands of the new economic environment has been created.

This progress at the macro-economic level will remain insufficient if the performances of economic operators do not improve at the micro-economic level, however.

This is the reason why the governmental industrial program has focused on three main goals:

The pursuit and enhancement of the re-structuring policy;

The pursuit of the implementation of the privatization process;

The progressive establishment of an environment with proper financial, institutional and equipment components so that a dynamic and coherent industrial policy can be elaborated and both investment and production can flourish lastingly.

**Assigned objectives:** The objectives that have been assigned to the industrial sector must take into account the fact that Algeria is a member of the World Trade Organization, W.T.O. ("Organisation Mondiale du Commerce", O.M.C.), and that it has passed an Association Agreement ("Accord d'Association") with the European

Union. These conditions imply that the Algerian economy must allow for an environment that is characterized by the emergence of an increased competition. Since, in its current organization, it is difficult for the Algerian economy to operate in such an environment, it is necessary that the economy in general, and the industry in particular, be leveled off to the required level of competitiveness. This requirement will reinforce the re-structuring process, and will strengthen the need for economic reforms.

**Leveling of the economy and industry:** Algeria has set up a program favorable to the development of industrial competitiveness. It consists in a new approach to assist the production sector, in provision of a large privatization program.

The purpose of this program and of its implementation plan is to accompany the liberalization process of the economy, which, around 2001, should result in the implementation of multilateral trade regulations within the WTO, and the setting up of a free-trade zone with the European Union.

**Partnership encouragement:** The partnership between Algerian firms and foreign firms is developing at a fast speed. There are many partnership opportunities. The Ministry of the Industry is trying to list all the projects that are proposed for partnership, and ensures that they are widely publicized.

The trust companies of participations (SGP) are charged to animate the assembly of the operations of partnership.

## **THE MINING SECTOR**

### **Organization of the mining sector**

The national mining sector consists of a public sector and of a private one. The mining administration's responsibilities are to elaborate general policies, Governmental programs, and monitor the mining and para-mining sectors.

**Liberalization of the mining sector:** On July 3rd, 2001, Algeria adopted a new mining law that fosters investment of the nationals and foreigners in this sector of the economy.

The measures called for by this law are applicable to the activities of geological research and exploitation of minerals and fossil fuels.. This law does not apply to water, liquid -gas hydrocarbons, or oil shale that are regulated by specific dispositions.



This law is an important step in the liberalization process of the Algerian economy and is a testimony of the real willingness to welcome foreign investments. The new law challenges the quasi-monopoly of public firms that used to prevail in the mining sector, and provides an attractive taxation package to investors that target the mining sector.

The new mining law defines in clearer and simpler terms the legal requirements of mining activities, and provides for a fiscal system specifically tailored to the needs of the mining industry. This was not the case under the previous law.

## **THE AGRICULTURAL SECTOR**

Because the workforce was attracted by other sectors of economic activity, and also because of limited rainfalls, agriculture has been neglected. It used to employ 25% of the working population, but represented a low percentage of the GIP. However, its revival is now under way, especially for items to be exported such as citrus fruits, grapes and wines, industrial tomatoes, olives and dates. Nevertheless, due to a low productivity, food stuffs must be imported.

Wheat and barley farming are the main agricultural activities. Algeria also grows potatoes, vines and citrus fruits.

## **THE SECTOR OF TELECOMMUNICATIONS**

### **Opening of the telecommunication market:**

The opening of the telecommunication market to private, local and foreign capital has started in 2001 and a progressive liberalization of this sector is under way. As a consequence, Algeria has created a regulating authority, the Post-Office and Telecommunications' Regulating Authority, P.O.T.R.A. ("Autorité de Régulation de la Poste et des Télécommunications", ARPT). The mandate of this institution is to ensure:

- Transparency and fair competition between telephone companies;

- The respect of the regulatory and legislative aspects;

- The control of all transactions and of the implementation of billing rate schedules.

## **Current and potential capacities:**

**Fixed telephone:** With a total number of approximately 2 million lines, and more than 70% of the lines allocated to public offices, stores, service companies and firms, the household connection rate remains very low, less than 30%.

Algeria has public phones in the main cities. Many stores that specialize in telecommunications allow phone calls to be made, hence compensating for the shortage of public phones and responding to an absolute necessity.

Fixed telephony was to be completely numerical end 2001. Wiring by optical fibre is almost completed, that is to say more than all that was carried out since independence. It should be noted that the fixed network of telephony covers the totality of the territory but suffers however from constraints related to the insufficient number of stations of commutation and lines available.

**Mobile telephony:** With currently 2 600 000 lines, mobile telephony developed very quickly through the licensing of exploitation GSM with international private operators (In 2001, second licence GSM was granted the Egyptian operator Orascom, commercially called Djezzy GSM). In 2004, a third licence was obtained by the operator koweitien, commercially called Watania the current Algerian market is very carrying.

**Computers and Internet:** There are approximately 500 000 computers. Access to Internet exists, but is insufficient.

Internet appeared in Algeria in 1997. Authorities are still exercising a strong control over the access to Internet and over the information that it sent out to foreign countries. The main independent newspapers generally have an Internet site. However, for the past few years, the number of Internet subscribers has increased significantly, to an approximate total of 700 000.

## **MEDIA**

**Press:** After a long period of control over the national and foreign press, the Government adopted, in 1989, a new Code on Information ("Code de l'Information") to end its monopoly over the Media and has granted journalists a greater freedom of expression.

With approximately thirty daily newspapers and over one hundred fifty weekly or monthly publications, the media environment is diversified. The contribution from the private press is prevalent in the written press. There is a total of 1.2 million copies of newspapers printed daily. The largest number of copies belongs to *El-*

*Khabar* newspaper, with 400 000 copies a day. The main newspapers from French-speaking and Arabic-speaking countries are available in Algeria.

**Radio:** The Government-controlled radio broadcasting company "TDA" rules over the various radio frequencies in Algeria. Algerian radio broadcasts three programs in Arabic, French and Amazighe, and also via satellite, in Spanish and English. It is possible to listen to all the world radios on long-wave and short wave frequencies, or through Internet.

**Television:** "ENTV" controls all the programs that are broadcasted by the national television in Arabic and Amazighe.

Since 1994, Algerian television has also been broadcasting by satellite in French and Arabic.

Many Algerian urban households have parabolic dishes -that have been authorized since 1985 - allowing them to choose from a variety of foreign channels.

## **POSTAL SERVICES**

Postal services are available throughout the territory, at any of the 3 000 post-offices that are equipped with computerized systems for the payment of postal checks. The mail is delivered within reasonable time. International companies specializing in express mail services operate in Algeria.

## **WATER RESSOURCES**

The albian aquifer that is located in the Sahara holds a reserve of 2 million billion cubic feet. These waters are partly fossil, which means that the renewal of the table is very slow.

However, the size of this reserve gives hope to Algerian people when they contemplate their future in the water sector, and it explains why this area of the country is given considération for development.

With the exception of a few coastal streams of water, the Cheliff is the only river in Algeria (450 miles' long). It originales in the Tell Atlas, and flows into the Mediterranean Sea. There are no permanent streams of water South of the Tell region.

The lakes that are scattered in the desert areas are temporary lakes with salty water for the most part (Chott ech Chergui, Chott el Hodna).

**Current needs in water:** Needs in water represent 178 billion cubic feet yearly, and there is an approximate 6,010 cubic feet allocation per inhabitant and per year. This consumption is below the level that the World Health Organization (W.H.O.) recommends as the world norm. According to hydrologiste, the current water allocation level is already an indication of a state of deficiency.

The natural growth rate that is close to 1.6% per year, for a 30 million population having 55% of its inhabitants in urban areas, and the increasing needs of the industry, especially of the agriculture, will necessarily cause a fast increase in water consumption. Most likely, taking into consideration the present pace of progress in water resources development, the increased needs for water consumption will not be met.

**Current water supply:** The water resources that have been mobilized only represent 43% of an approximate 403 billion cubic feet volume considered to be exploitable. Available resources mainly come from the filling up of 43 (forty-three) dams that took place between 1952 and 1995. They will be significantly increased (to approximately 60% of the mobilisable volume) after the 18 (eighteen) projects that are under study or construction come into service in the course of the next few years. However, as of today, the mobilisation of water resources remains insufficient and incomplets, in view of anticipated increasing needs for water.

The Algerian potentiel that can be mobilized and that represents an estimated total of 672 billion cubic feet remains relatively limited, although it takes into account the optimal and expansive exploitation of water tables in Northern Sahara.

Under the current conditions, and for the next few years, water supply and water needs cannot be matched, and the daily water allocation per inhabitant could be reduced to 44 gallons around 2005. This hypothesis could be fairly easily corrected by initiating an assertive and coherent policy in water resources' management and development that would imply pertinent, although substantial investments.

**Strategies for improved water resources' management:** Strategies for improved water resources' management in Algeria are, of course, meant to address the deficiencies and dysfunctions that have been assessed in water production, treatment, distribution, and in the sanitation system.

Due to the lack of data on water, it is not possible to have a reasonably good understanding of the water cycle, from an inventory and evolution prospective, so that adequate planning at the local and national levels is not feasible. This lack of

data is all the more problematic as water resources are most unequally distributed on the national territory, and suffer greatly from weather changes. To counteract this shortcoming, it is necessary to improve the networks, and the observation and investigation methods, by calling upon international experts in this area. The Water Code ("Code de l'Eau") has only been proclaimed in 1983, thus reflecting a late awareness of the importance of water in the process of economic and social development. Since the beginning of the 80's, 25 (twenty-five) dams have been filled up (i.e. 58% of all the works that have become operational to this day). There is an open question as to the real capacity of the 43 (forty-three) dams that have been built throughout the territory, due to the very substantial mud siltation of weirs, estimated to represent 3% per year.

To address this problem, a new policy is under study to provide, on a long-term basis, for the development and reforestation of the watersheds that are subjected to an intense erosion of their soil, and on a short-term basis, for the use of modern technologies to remove mud silting.

The water distribution and sanitation system is highly dysfunctional. Appropriate investments and the adoption of regional billing rate schedules should provide the needed solutions.

Billing rate schedules are administered at way lawful. It is worth mentioning that the water cubic foot is billed based on governmental instructions and on a selective and progressive system that provides for an overall subsidy of 45 to 50%, without taking into account the real cost of water that is different from region to region.

A project of decree envisages a new tariffing system based on criteria of zones and the importance of consumption.

The desalination of sea water on a large scale, that is feasible due to the availability of energy, could offer an efficient solution to the problems of certain coastal areas such as the Oranais .The government encourages the desalination program of sea water

In view of the current situation, the privatisation of water resources management, through a concession process in particular, does not seem to be realistic on a short-term basis, even if the Order of August 20, 2001 gives legal validity to such an option. In any case, the problem of billing rates will have to be resolved first.

## **ELECTRICITY AND GAS**

With a production of close to 6 000 megawatts, the electric coverage of Algeria is in the 95% range, a rate that is comparable to the rates of the O.C.D.E. Four million households, i.e. nearly all the households, are connected to the electric network

that is managed by SONELGAZ. As for gas, more than 35% of the households benefit from the direct supply of natural gas. The distribution network covers 12,239 miles. The price of electricity is three times cheaper than the average price in the Euro-Mediterranean area.

**Opening of the electricity and gas market:** Distribution could be open to 'the private sector by way of a "public service concession" that would be granted by the Ministry of the Energy ("Ministère de l'Energie"), for a specified period of time. The disengagement of the Government from this sector will result in the creation of a regulatory "independent organization", the Regulatory Commission for Electricity and Gas, R.C.E.G. ("Commission de Régulation de l'Electricité et du Gaz", C.R.E.G.). Its main mission would be to "ensure the transparency of the transactions on the electricity market and the gas market".

For the Ministry of Energy, two reasons justify the opening of electricity production to the competition:

The importance of the investments needed to increase production: for the next decade, investments of over 12 billion dollars will be needed and the public enterprise SONELGAZ will be unable to gather these funds by itself,

The need for new regulations deemed to be necessary as Algeria intends to join the World Trade Organization, W.T.O..

The only monopoly that will remain in the hands of the Government will be for the transportation of electricity and gas. This transportation will be handled by two specialized subsidiaries of SONELGAZ that will receive operational authorizations from the authorities.

SONELGAZ will change its current status as an Industrial and Commercial Public Establishment, I.C.P.E. ("Etablissement Public Industriel et Commercial", EPIC) to become a shareholding subsidiary company in which the Government will remain the main shareholder.

### **The banking environment and financial**

Since 1990, promulgation of the law on the currency and the credit, the banking structure is completely opened on the local private investment as well as foreign one.

Concerning the foreign capital, the banking environment, (for which it is advisable to add that of the insurances) is the fourth sector after that of hydrocarbons, industry and the telecommunication, as for the volume of the IDE which were carried out there until now. It is about in particular Arab, French and American capital.

Thus, on the twenty two universal banks counsels at the end of 2003, twelve are with completely or mainly foreign capital. Several others in particular French, Belgium and Spanish banks installed representative offices to be established later on.

In addition to the universal bank, the law makes it possible to constitute financial establishments in the form of a leasing company or investment banks. By the end of 2003, seven financial establishments are approved three of which are with mainly foreign capital and two are leasing companies one of which is with mainly foreign capital .

In spite of the efforts authorized during these ten last years, the Algerian banking structure remains largely underdeveloped as well in quantitative terms as in qualitative ones.

In quantitative terms, it is enough to compare the number of agencies: a little more than one thousand, inhabitant, more than 30 million, is an agency for 30 000 inhabitant to understand the state of underdevelopment of the sector. So the weakness of the cover of the request of the banking services and the mediocrity of their quality do not suffer from any demonstration.

There are thus enormous investment appropriatenesses in this sector in the form of universal banks of detail and especially in the form of leasing companies, of capital risks...

The conditions of access to this sector concern:

- The initial minimum capital (in cash and entirely released with the constitution) fixed at:

2.5 billion DA, is 35 million \$ US, or 28.5 € million, for a universal bank;

500 million DA, is 7 million \$ US, 5.7 € million, for a financial establishment

- Legal requirements, but especially the requirements of standing and professionalism which the founders (people morals or physics) and the leaders of these institutions must satisfy before and during the performance of their duties.

At present, the procedures of authorization of constitution of banks and financial establishments and approval for the exercise of bankings are largely tested and systematized:

the authorization of constitution is given by the Council of the Currency and the Credit;  
approval for the exercise of bankings is granted by the Governor of the Central Bank.

The financial banks and establishments must have obligatorily the shape of a joint stock company (SPA).

The installation procedures of the representative offices of banks or foreign financial establishments are proceed from now on of an experienced vision.

The approval of the office and the representative is granted by the CMC.

The sector of the insurances is also opened with the capital deprived without distinction of origin. Thus, since the promulgation of the ordinance 95- 07 of 25 / 01 / 95 relating to the insurances, not less than seven private companies of insurance were created, among them two are with foreign capital. It is also about one very promising sector for the private investment insofar as the market services of insurance is still far from being saturated.

Lastly, the foreign investors have the possibility of investing in wallet. They can acquire the transferable securities: actions, obligations and any other title sides out of Movable Stock Market of Algiers.

They can also yield them and freely transfer the product from transfer.

It should be stressed. on this subject, that in addition to the four companies already with dimensions out of purse, the authorities come to announce the imminent introduction in purse of eleven companies



# CHAPTER 4

## PRIVATIZATION

Algeria has a very large public sector due to the choices that have been made in the past. In fact, even if a small private sector has always existed since the Independence, the general organisation has been centralized until the mid 80's: the agricultural lands were collectivized, nearly all the industry was under public control and the priorities were to develop the heavy industry and the mechanical industry.

At the end of the '80's, Algeria started to engage into far-reaching reforms and set into place the mechanisms necessary for a market economy. Deep changes resulted such as the practice of the freedom of prices, the abolition of external trade monopoly, and the access of the capital of certain public companies to private shareholders.

Privatization plays a fundamental role as the Algerian economy starts to open up to the market economy.

As part of the reforms, a privatization program of public firms was launched in 1995, and it started to be implemented in 1998.

A new ordinance n° 01-04 was adopted on August 20, 2001, providing for changes and the modernisation of the privatization regulatory framework that was set up in 1995.

Lastly, the foreign investors have the possibility of investing in wallet. They For some month, a new dynamics has engaged through there decision of the government to introduce eleven (11) companies out of purse and there redynamisation of the projects of partnership.

### **DEFINITION OF PRIVATIZATION**

Per the new ordinance, privatization refers to any transaction that consists in the transfert to individuals or legal entities of private law others than public enterprise owners, of:

all or part of the share capital of companies under direct or indirect Government control and/or of legal entities of public law, through the cession of stocks or shares, or the subscription to a capital increase;

Assets that form an autonomous operational unit of Government-owned companies.

**Entities in charge of privatization transactions:** The three entities in charge of privatization transactions are:

- . The Minister in charge of Participations ("Ministre chargé des Participations"): His functions are to have the value of the firm or of the assets to be yielded estimated, to study and select offers, to prepare a detailed report on the selected offer, to ensure the confidentiality of the information, and to transmit the cession file to the Commission on the Control of Privatization Transactions ("Commission de Contrôle des Opérations de Privatisation").
  
- . The Council on Government Participations ("Le Conseil des Participations de l'Etat"): The responsibilities of this Council are to develop a global strategy for Government participations and privatisation, define and implement policies and programs on Government participations, define and approve privatization policies and the programs of the economic public companies, and examine and approve privatisation requests. A Committee monitors privatisation transactions.
  
- . The Commission on the Control of Privatization Transactions ("La Commission de Contrôle des Opérations de Privatisation"): The role of this Commission is to ensure that the rules set for transparency, sincerity and equity during privatisation transactions are respected.

**Privatization procedures:** The ordinance stipulates that, before any privatization transaction can take place, the assets of the titles to be privatized must be evaluated by experts, following procedures that are usually accepted in this field.

Various methods can be used for privatisation transactions as follows:

Use of the mechanisms of the financial market (introduction to the Stock Market or public sale offer at fixed price);

Issuance of a Request for Proposals (R.F.P.);

Setting up of an friendly procedure to be authorized by the Council on Government Participations ("Conseil des Participations de l'Etat") after its review of a detailed report from the Minister in charge of Participations;

Use of any other privatisation modality that encourages the general public to become shareholders.

## **GUARANTEES AND ADVANTAGES OFFERED TO INVESTORS**

**Guarantees offered:** The guarantees offered to foreign investors are of a classic nature. On the one hand, equal salaries are guaranteed since foreign investors have the same status as local investors in respect to privatisation; and texts do not set any limit for foreign investors' participation. On the other hand, they benefit from the guarantees of the Code on Investments ("Code des Investissements") for privatisation transactions. The guarantees are as follows:

- Free transfer of capital and of their products;
- Protection against expropriation;
- Recourse to international arbitration for litigations.

**Negotiated advantages:** Buyers who are committed to rehabilitate or modernize a company, maintain all or part of the jobs, and keep the company running, can benefit from specific advantages that are negotiated on a case-by-case basis.

It is to be announced that the employees of the company to privatiser completely profit on a purely gracious basis from 10 % from the capital without voting rights nor of representation with the Board of directors.

## **PAYMENT MODALITES AND OWNERSHIP TRANSFER**

**Payment modalities:** In principle, buyers must pay cash. However, the Government can decide to grant to certain buyers and, under certain conditions, the option of paying by installments.

**Ownership transfer:** The conditions to be complied with for ownership transfer are stipulated in a Schedule of Specific Conditions ("Cahier des Charges Particulières") that is a full component of the cession contract in which the rights and obligations of the seller and of the buyer are prescribed.

# INVESTMENT JURIDICAL FRAMEWORK

## CHAPTER 5

### INVESTMENT REGULATIONS

The Algerian Investment Code ("Code des Investissements") that was amended by Ordinance n° 01-03 of August 20, 2001, stipulates the regulations that are applicable to national and foreign investments made towards the production of goods and services, and to investments resulting from the attribution of concessions and/or licenses. Any creation, extension, rehabilitation or restructuring that is conducted by a legal entity and that relates to economic activities producing goods and services (with the exception of trade) are susceptible to give access to advantages as specified for by the Investment Code ("Code des Investissements"). Regulations apply to both residents and non-residents.

The guiding principle is that, the greater the investment interest for the Algerian economy is, the more significant the advantages granted are.

**Investment regulatory entities:** An Investment National Council, I.N.C. ("Conseil National de l'investissement", C.N.1.) defines the governmental orientations in the investment field, and can authorize investments that it deems to be useful for the economic development of Algeria.

Investors' applications are reviewed by the National Agency for Investment Development", N.A.I.D. ("Agence Nationale de Développement de l'Investissement, A.N.D.I.). This Agency replaces the Agency for the Promotion, the Assistance and the Monitoring of Investments, A.P.A.M.1. ("Agence de Promotion, de Soutien, et de Suivi des Investissements", A.P.S.S.I.). Its mission is as follows:

Promote, develop, and monitor investments;

Welcome, inform and assist investors;

Facilitate the execution of formalities when companies are created;

Facilitate investment projects by decentralizing the services offered and grouping them in a single office;

Grant investors the benefits they can claim for under the current system;

Manage the programs of financial assistance to investors;

Make sure investors fulfill their commitments during the exemption period.

**A single investment office:** A single investment office has been set up within the N.A.I.D. (A.N.D.I.). It embraces the administrations and organisations that deal with investments. Decisions of the investment office are opposable to these administrations. Its objective is to ensure, in coordination with the administrations concerned, that the procedures and formalities to be complied with for the creation of companies are reduced in number and simplified, and that projects are implemented.

**Investment financial assistance:** A fund for investment financial assistance has been set up within N.A.I.D. (A.N.D.I.). Its goal is to finance the financial contribution of the Government that is part of the advantages offered to investors, especially for expenses related to infrastructure work that is required for the investment to materialize. A Governmental Order specifies the expenses that are susceptible to be assigned to this account.

## **SCOPE OF IMPLEMENTATION OF THE CODE ON INVESTMENTS ("CODE DES INVESTISSEMENTS")**

**Per Algerian,law, an investment is defined as being:**

The acquisition of assets, as part of - the creation of new activities, - the extension of production capacities, - a rehabilitation or restructuring process;

The participation in the capital of a company, in cash or in nature;

The re-initiation of activities as part of a partial or total privatization.

## **COMPULSORY PROCEDURE**

**Application form:** The application form must include the investment declaration and the request for fiscal benefits. Both documents must be presented concomitantly.

The investment declaration must be presented to the N.A.I.D. (A.N.D.I.). It must indicate in particular:

The field of activity,

The location;

- The jobs created;
- The technology used;
- Investment and financing plans;
- Measures for environmental protection;
- Anticipated length of time for the investment to materialize;
- Commitments related to investment materialization.

By presenting this request, the investor can benefit from the guarantees of stability and security that are provided for by law. The guarantees are as follows:

- Non-discrimination;
- Juridical security / inviolability of the law;
- Settlement of disputes.

Another application, namely, the request for fiscal benefits must be presented concomitantly to N.A.I.D. (A.N.D.I.) to be able to take advantage of one of the preferential taxation packages provided for by the Code on Investments ("Code des Investissements"). On the occasion of this application, the investor must choose one of the various fiscal preferential options offered.

Both these applications are still structured as they were under the previous regulations on investment laws, pending the adoption of the implementation texts for Ordinance of August 20, 2001.

N.A.I.D. (A.N.D.I.) has 30 days, from the day when the investment declaration and the request for fiscal benefits have been presented, to:

- Provide the investors with all required administrative documents necessary for the investment to materialize;

- Notify its decision as to acceptance or rejection.

If no answer is received, or the decision of N.A.I.D. (A.N.D.I.) is disputed, the investor can appeal to the supervisory authority of the Agency who has fifteen days to respond. The decision made by the supervisory authority can be subjected to a court appeal.

In case fiscal benefits are granted, the Agency determines how long they will be in effect, and specifies the time frame granted for the investment to materialize.

In the field of investments, the Algerian legislation provides for different preferential categories. There is a general category that allows for various advantages regarding

Application of customs' duties' reduced rates for goods that are imported and directly related to the investment materialization.

## 2. AFTER THE OPERATIONAL START-UP:

Exemption, for a period of ten (10) years of effective activity, of the Tax on Company Profits, T.C.P. ("Impôt sur le Bénéfice des Sociétés", I.B.S.), of the T.G.R. (I.R.G.) on profit distribution, of the Lump Sum Payment, L.S.P. ("Versement Forfaitaire", V.F.) and of the Tax on Professional Activity. T.P.A. ("Taxe sur l'Activité Professionnelle", T.A.P.);

Exemption of the land tax for real-estate properties, from the time when they were purchased and as long as they remain part of the investment during the ten (10) years' period;

Offer of additional benefits to improve and/or facilitate investments such as the postponement of deficits, and extended recouping time frames.

**Specific categories:** Investors who wish to take advantage of the attractive benefits offered by any of the existing specific categories must fulfill certain conditions. These categories provide for various benefits and fiscal exemptions, depending on the case under consideration.

The specific catégories concern:

**Specific areas:** They are areas that the Government wishes to promote for development.

**Privileged investments:** They concern investments that present a specific interest for the national economy, such as investments that involve environmentally friendly technologies, that protect natural resources, save energy and lead to a sustainable development. These types of investments are the subject of conventions between N.A.I.D. (A.N.D.I.) and investors.

### **Companies that benefit from Fiscal benefits:**

#### **i) Full benefit:**

The following companies can take advantage of all fiscal benefits provided for by the legislation on investment:

Limited Liability Companies, L.L.C. ("Sociétés à Responsabilité Limitée", S.A.R.L.);

Joint Stock Companies, J.S.C. ("Sociétés par Actions", S.P.A.),

Limited Partnership Stock Companies, L.P.S.C. ("Sociétés en Commandites par Actions", S.C.A.)

Partial benefit: Individual companies and the companies of persons ("sociétés de personnes") such as Companies in Collective Name, C.C.N. ("Sociétés en Nom Collectif", S.N.C.), Simple Limited Partnerships, S.L.P. ("Sociétés en Commandite Simple", S.C.S.), and Participation Companies, P.C. ("Sociétés en Participation", S.P.) who have not opted for the T.C.P. (I.B.S.) taxation, can take advantage of fiscal advantages, with the exception of T.G.R. (I.R.G.) benefits.

**Yielded or transferred investments:** In case the ownership of an investment is yielded or transferred before the exemption period has ended, benefits remain in full effect as long as the new owner promises the Agency that he will comply with all the obligations that the initial investor committed to.

## **GUARANTEES GRANTED TO INVESTORS**

Essential guarantees are granted to investors by law:

**Non-discrimination:** Foreign individuals and foreign legal entities are treated in the same way as Algerian individuals and Algerian legal entities are, as far as investment rights and obligations are concerned. Individuals and legal entities are all treated in the same way, subject to specific arrangements concluded, in the way of conventions for example, between the Algerian Government and the Government investors belong to.

**Juridical security / inviolability of the law:** Unless expressly required by the investor, future revisions or the future abrogation of the investment legislation are not applicable to projects that fall under a current legislation at the time of the investment.

**Settlement of disputes:** Any dispute between a foreign investor and the Algerian Government, whether it is initiated by the investor, or caused by a measure taken by the Algerian Government against the investor, is submitted to the competent jurisdictional court. Only multilateral conventions on conciliation and arbitration concluded by the Algerian Government, or specific agreements including compromising clauses or allowing the parties to agree on a special arbitration compromise, do not fall under this regulation.



To date, Algeria has:

Subscribed to the Convention for the recognition of the execution of foreign arbitration sentences, that was adopted at the United Nations Conference in New York on June 10, 1958;

Approved the Convention for the settlement of disputes regarding investments between a Government and the national of other Governments, Washington, 1965;

Approved the Convention creating the International Agency for Investment Guarantee ("Agence Internationale de Garantie des Investissements", MIGA).

# CHAPTER 6

## BUSINESS SET-UP OPTIONS

Law n° 78-02 of February 11th, 1978 granted the monopoly of foreign trade to the Algerian Government, and did not allow for the setting up of foreign businesses in Algeria. Since this text was repealed, a firm that is a foreign legal entity can establish itself in Algeria and choose the juridical form that best fits its own needs.

The investor who wishes to invest in Algeria can now select from one of the following options:

### **NO PRESENCE**

A foreign firm can execute a contract that has been concluded with an Algerian partner without having to formalize its presence through the opening of a Representative Office ("Bureau de Liaison"), or the creation of a business firm.

This contractual relation implies that the company must sign a contract and open a bank account with an Algerian bank. This contract must be registered by the taxoffice in charge of the area where the bank is located.

### **TEMPORARY PRESENCE**

Individuals who wish to be temporary present in Algeria, or wish to gain some preliminary knowledge as to the market potential can open a Representative Office ("Bureau de Liaison"). The Inter-Ministerial Instruction of July 30th, 1986 provides for the legal and fiscal status of Representative Offices ("Bureaux de Liaison").

### **Definition of a Representative Office ("Bureau de Liaison") per Algerian law:**

A Representative Office ("Bureau de Liaison") is a structure that falls under the regulations of the Algerian legal system, but has no legal entity and does not own any property. On the other hand, it has a fiscal and social identity because it has fiscal obligations if it stands as a stable company or engages into a full cycle of commercial transactions, and also because it can hire employees.

### **Approbation of Representative Offices ("Bureaux de Liaison"):**

The Office of the Organization of Commercial Activities ("Direction de l'Organisation des Activités Commerciales") at the Ministry of Commerce ("Ministère

du Commerce") authorizes the opening of Representative Offices ("Bureaux de Liaison"). This authorization is granted for a renewable period of two (2) years.

Authorizations are granted under the following conditions:

Payment, by the person in charge of the Representative Office ("Bureau de Liaison"), of a 20 000 USD security to the Ministry of Commerce. This amount must be deposited in an Algerian bank, in an escrow account, and must remain there during the full validity time of the authorization. In case the activities of the Representative Office ("Bureau de Liaison") stop, or its operational authorization withdrawn, the security amount can be released. It can also be transferred, if need be, upon the presentation of a release from the tax collector, and of a security release from the Ministry of Commerce ("Ministère du Commerce").

The opening of an Account in Convertible Algerian Dinars, A.I.C.A.D. ("Compte en Dinars Algériens Convertibles", C.E.D.A.C.) with the same bank;

A foreign currencies' payment in an amount at least equal to 3 (three) months of operating costs.

**Operation and obligations of Representative Offices ("Bureaux de Liaison"):** Representative Offices ("Bureaux de Liaison") must keep their accounting books in accordance with the existing regulations. Payments that relate to expenses and overheads of the Representative Office ("Bureau de Liaison") as part of its activities in Algeria must be made by checks drawn on the A.I.C.A.D. ("C.E.D.A.C.") account.

## **CREATION OF A COMPANY-TYPE STRUCTURE**

The creation of a company-type structure must meet various requirements as follows:

Commercial requirements (please refer to the Chapter on Company Law);

Fiscal requirements (please refer to the Chapter on Company Fiscality);

Accounting and banking requirements;

Possibly administrative requirements.

# CHAPTER 7

## TYPES OF COMPANIES AVAILABLE TO INVESTORS

### EXISTING FORMS

Commercial firms can take one of the following forms:

### COMPANIES OF PERSONS ("SOCIETES DE PERSONNES)

Company in Collective Name, C.C.N. ("Société en Nom Collectif", S.N.C.);

Simple Limited Partnership, S.L.P. ("Société en Commandite Simple", S.C.S.);

Company in Participation, ("Société en Participation")

### COMPANIES OF CAPITAL (« SOCIETES DE CAPITAUX »)

Limited Liability Company, L.L.C. ("Société à Responsabilité Limitée", S.A.R.L.);

Limited Liability Uni-personal Company, L.L.U.C. ("Entreprise Unipersonnelle à Responsabilité Limitée", E.U.R.L.);

Simple Limited Partnership, S.L.P. ("Société en Commandite Simple", S.C.S.);

Joint Stock Company, J.S.C. ("Société par Actions", S.P.A.);

Limited Partnership Stock Company, L.P.S.C. ("Société en Commandite par Actions", S.C.A.).

**Types of companies mostly used:** Investors who wish to establish a company in Algeria practically and exclusively select the Capitalization type of company, and more specifically the J.S.C. (S.P.A.) and the L.P.S.C. (S.C.A.).

### CHARACTERISTICS OF THE JOINT STOCK COMPANY, J.S.C. (S.P.A.)

A J.S.C. (S.P.A.) includes at least seven shareholders whose responsibilities are limited to capital contribution. A J.S.C. (S.P.A.) must have a share capital of five (5) million Dinars, if the company solicits savings from the general public; otherwise, a share capital of one (1) million dollars is acceptable. A notary public must attend to the writing of the By-Laws, and to the capital contributions.

The company only becomes a legal entity once it has become registered at the Trade Registration Office ("Registre du Commerce"). Before registration, numerous juridical and fiscal formalities must be accomplished.

### **MANAGEMENT AND ADMINISTRATION OF J.S.C. (S.P.A.)**

A J.S.C. (S.P.A.) is headed and administered either by a Board of Directors, or by a Directory with a Monitoring Council.

**The Board of Directors:** The Board of Directors must include at least three members, and at most twelve members, including a President.

#### **The Directors**

**Appointment / dismissal:** The first Directors are appointed in the By-Laws of the Constituent General Assembly. Then, an Ordinary General Assembly appoints them. They must own a number of shares that represent at least 20% of the share capital. The By-Laws specify the minimum number of shares that each Director can hold.

Directors can be dismissed at any time by an Ordinary General Assembly, and under the same conditions as the conditions under which they are appointed.

**Mandate length:** The By-Laws specify the length of the Directors' mandates that cannot exceed six (6) years. Directors can be re-elected, unless other measures have been provided for in the By-Laws.

**Nationality privilege:** The national Algerian does not benefit from any nationality privilege: the Board of Directors of an Algerian J.S.C. (S.P.A.) can include only foreigners.

**Remuneration:** The remuneration of the Directors is limited to:

- The payment of fees for each session that they attend;

- The reimbursement of traveling expenses and expenses incurred in the interest of the company;

- Exceptional payments for specific missions or mandates;

- Payment of a percentage of the distributable profit within a limit of 1/10, after reserves, money amounts to be carried over into the following year, and, eventually, distributed amounts of money have been deducted.

In principle, the President of the Board of Directors is at the head of a J.S.C. (S.P.A.).

However, the Board of Directors can give one or two individuals (a) mandate(s), and

assign him/her/them to the positions of General Managers, so that they can give assistance to the President.

## **President**

**Nomination / dismissal:** The President is an individual who is elected among the members of the Board of Directors. The non-respect of this procedure would nullify his nomination. The President can be dismissed and nominated by the Board of Directors, following the same protocol as the protocol used for his nomination.

**Length of the President's mandate:** The length of his mandate cannot exceed the length of his mandate as a Director. The President can be re-elected.

**Functions:** The President is responsible for the general management of the company, and represents the company in its interaction with third parties. The Assembly and the Council have certain powers, but the President is vested with the largest authority. Power limitation is not opposable to third parties.

**General Directors:** The President can propose to his Council the nomination of one or two General Director(s) whose mission(s) is / are to assist him. Both the President and the Council decide together as to the scope of action of the General Directors, and the length of their assignments.

## **Functioning of the Board of Directors**

Its President convenes the Council. It passes decisions based on the simple majority of the voting Directors. The President has the casting vote.

## **THE DIRECTORY AND THE MONITORING COUNCIL**

A Directory and Monitoring Council ensure the management and administration of a J.S.C. (S.P.A.).

### **The Directory**

The Directory has the following characteristics:

It includes three (3) to five (5) members who are appointed by the Monitoring Council who also nominates one of them as the President;

The By-Laws determine the length of its mandate within a two (2) to six (6) year time ; in the absence of such an indication, its mandate has a four (4) year duration;

It is vested with the largest powers, so that it can act in any type of circumstances, on behalf of the company;

It deliberates and takes its decisions in accordance with the terms of the ByLaws;

Its members discharge their functions under the control of the Monitoring Council;

Contrary to the Board of Directors, only individuals can be part of the Directory;

Its members can be dismissed by the General Assembly, if the Monitoring Council proposes such a measure.

### **The Monitoring Council**

The Monitoring Council has the following characteristics:

It is in permanent control of the company;

It includes at least seven (7) members, and, at most, twelve members. None of its members can be part of the Directory;

It elects a President among its members, and his role is to convene the Council and preside over the debates. The length of his mandate is the same as for the Monitoring Council;

Its members are elected by the Constituent General Assembly or an Ordinary General Assembly, and they can be re-elected, unless decided otherwise in the By-Laws;

A specific authorization from the Monitoring Council is necessary for certain transactions to take place, such as the cession of buildings and of participation, and the provision of securities (guarantees, pledges).

Its members are required to hold, as a guarantee, at least 20% of the share capital;

The length of its members' mandates is limited to six (6) years if they are appointed by the General Assembly, and to three (3) years if they are appointed by the By-Laws;

Its members receive remunerations in amounts specified by the General Assembly, and also exceptional remunerations for special missions or mandates;

At least once per quarter, and at the end of each accounting year, the Directory presents to the Monitoring Council a management report. The Monitoring Council submits to the General Assembly its observations on the report and on the business and financial transactions of the accounting year.

## **SHAREHOLDERS' MEETINGS**

Shareholders' meetings are either extraordinary when it is necessary to change the By-Laws, or ordinary in the other cases. Veto percentages are as follows:

For an Ordinary General Assembly, 50% of the votes;

For an Extraordinary General Assembly, 33% of the votes.

Meetings' procedural rules are of a classic nature. The finality of these rules must be complied with.

## **COMPULSORY CONTROL BY AN AUDITOR**

**Appointment:** For any J.S.C. ("SPA"), it is mandatory to appoint an auditor chosen among a list of licensed experts. An Ordinary General Assembly appoints the auditor. He has a three (3) years' mandate.

**Legal auditing of accounts:** The role of the auditor is to check upon the sincerity and accuracy, of the company's accounting work.

As part of his legal auditing mission, the auditor writes a report to the Yearly Ordinary General Assembly in which he summarizes the performance of his mission, underlining the irregularities or inaccuracies that have been eventually found.

As part of this same mission, the auditor writes a report on regulated conventions that he presents to the Yearly Ordinary General Assembly.

**Other missions:** The involvement of a third party is mandatory to control certain transactions of the company:

Cash contributions,



Merging (and assimilated transactions);

Capital transactions;

Changes.

### **CHARACTERISTICS OF THE L.P.S.C. (S.C.A.).**

**Preliminary remark:** All the rules that apply to the J.S.C. ("SPA") are applicable to the L.P.S.C. (S.C.A.), as long as they are compatible with any special measure taken.

However, rules that apply to the Board of Directors, the Directory and the Monitoring Council of a J.S.C. ("SPA") are expressly excluded.

**Shareholding:** An Algerian L.P.S.C. (S.C.A.) has one or more managers, and at least three capital sponsors. The managers act as traders and are responsible indefinitely and jointly for the debts of the company.

On the contrary, the responsibilities of the capital sponsors are limited to the amount of their financial contributions.

### **MANAGEMENT**

**Type of management:** A L.P.S.C. (S.C.A.) is managed by one or various managers who can associate. There is no Board of Directors. A Monitoring Council ("Conseil de Surveillance") ensures that the company is well managed.

**Appointment / dismissal of the manager:** The first manager(s) is / are designated in the By-Laws. They engage in the various formalities that need to be accomplished to set up the company, the creation itself of the company being the responsibility of the founding members. During the life of the company, and unless contradicted in the By-Laws, the manager(s) is / are appointed by an Ordinary General Assembly, with the agreement of all managing associates.

A manager can be dismissed according to the terms of the By-Laws. He can also be legally dismissed for a legitimate reason, upon the request of the company, or of one of its associates.

A manager combines the fonctions of a J.S.C. (S.P.A.) Board of Directors and of its President. He has the largest powers to commit the company, without the clauses on power limitation being opposable to third parties.

## **MONITORING COUNCIL**

**Appointment, composition:** The Monitoring Council is appointed by the Ordinary General Assembly. At least three (3) capital sponsoring shareholders must be appointed as part of the council. Managers cannot sit in the council; their participation would be nullified.

The other J.S.C. ("SPA") rules on the appointment of Directors and the length of their mandates are applicable to a L.P.S.C. (S.C.A.).

**Functions:** The Monitoring Council is in control of the management of the company on a permanent basis. To this effect, it enjoys the same powers as auditors do.

The Monitoring Council writes a yearly report on the annual accounts and submits it to the Ordinary General Assembly.

## **SHAREHOLDERS' MEETINGS**

Shareholders' Meetings are either extraordinary when a statutory change is mandatory, or ordinary in the other cases. A change in the By-Laws must be approved by all the managing associates, and two-thirds of the capital sponsors.

The operational rules for shareholders' meetings are the same as for a J.S.C. (S.P.A.) or a S.L.P. (S.C.S.).

## **CREATION PROCEDURE**

After a Constituent General Assembly has been held, the By-Laws are written and notarized, and the share capital is released on a bank account opened in Algeria, and in the name of the company that is being created.

The capital is transferred to an account in Dinars, and a capital transfer confirmation is issued to the founding members.

Legal announcements are published in the Official Bulletin of Legal Announcements ("Bulletin Officiel des Annonces Légales"), and in an Algerian daily authorized to publish legal announcements.

A fiscal declaration of existence is then filed with the Tax Office of the area where the headquarters of the company are located. Tax officers go to the premises to make sure that the company has a real physical existence. They establish a physical evidence report, at which point a fiscal status certificate can be produced and a fiscal registration number given to the company.

The next step is to register the company with the Trade and Companies' Registration Office ("Registre du Commerce et des Sociétés").

A receipt is given to the company pending the production of the final registration certificates.

Lastly, a number of registers must be obtained as follows:

A register on salaries, imprinted and initialed by the Clerk's Office;

A register on paid vacations, imprinted and initialed by the Labor Department;

A register on the staff, imprinted and initialed by the Labor Department;

A register on foreign employees, imprinted and initialed by the Labor Department;

A register on employees' health and safety, imprinted and initialed by the Labor Department;

A register on work-related accidents, imprinted and initialed by the Labor Department;

A register on the technical inspections of industrial installations and equipments, imprinted and initialed by the Labor Department.

**List of required documents:** The setting-up of a business firm that is regulated by the Algerian law involves the production of the following documents:

**For the By-Laws:**

Certificate issued by the Trade Registry Office ("Office du Commerce") to the associates or shareholding legal entities, certified true to the original;

By-Laws of the associates or the shareholding legal entities, certified true to the original;

Minutes of the Constituent General Assembly held by the firm to be created;

Proxy,, on the shareholding company's letterhead, giving certain individuals signatory power. This proxy must be certified by the Consulate of Algeria, or the Embassy of Algeria of the country where the headquarters of the company are located;

Birth certificates of the legal representatives of the company to be created;

Police records of the legal representatives;

Bailiffs writ on the physical existence of the premises of the company to be created,

Title deed and identity documents to be remitted by the owner of the premises so that the lease agreement can be written and notarized;

Certification that the name of the firm has not yet been registered, issued by the National Center of the Trade Register Office ("Centre National du Registre du Commerce").

**For the opening of a bank account and the release of the capital**

By-Laws of the company;

Rental agreement for the headquarters' premises;

Sample signature of the legal representative;

Identity documents of the legal representative.

**To process the fiscal déclaration of existence and obtain a certificate of fiscal position:**

Hand-written request for a certificate of fiscal position, signed by the legal representative;

By-Laws of the company that is being created;

Occupation title of the headquarters' premises;

Notarized signature sample of the legal representative;

Birth certificate of the legal representative;

Certified copy of the tax roll (land tax) provided to the owner of the rented premises.

**To register the company with the Trade and Companies' Registration Office ("Registre du Commerce et des Sociétés"):**

Official forms from the Trade Registration Office ("Registre du Commerce") to be filled out, signed and notarized;

Remittance of the company title regarding the headquarters' premises;

Two copies of the By-Laws (one original and one certified copy);

Notice of publication in the Official Bulletin of Legal Announcements ("Bulletin Officiel des Annonces Légales"), and in a national daily authorized to publish legal announcements;

Certified copy of a tax roll confirmed for its exactitude (land tax) issued by the Tax Collector's Office ("Recette des Impôts") to the owner of the premises;

Bailiffs report on the existence of the premises;

Certified copies of the birth certificates (of the birth places) of the legal representatives;

Certified copies of the police records of the legal representatives;

Certificate of fiscal position;

Confirmation that the name of the company has not yet been registered;

Certificate from the Town Hall Health Services, T.H.H.S. ("Services d'Hygiène de l'A.P.C.") certifying that the company activities are harmless (re. pollution, noise, etc.);

Payment of a fiscal stamp of 4 000 dinars;

Payment of registration taxes.

**Official record:** The creation of a business firm, and any change that it undergoes, must be officially recorded in an authenticated document, and must also be published in the Official Bulletin of Legal Announcements, O.B.L.A. ("Bulletin Officiel des Annonces Légales", B.O.A.L.) and with the National Center for Trade Registration, N.C.T.R. ("Centre National du Registre de Commerce, C.N.R.C.).

## **GROUPS OF COMPANIES**

A group of companies is a unit formed by various companies who have their own legal existence, but are connected among each other through various links. These links give an indication as to which company will act as the parent company to control the unit as a whole, and allow for decision unity.

The notion of a group of societies exists in Algerian law through the definitions given to the concepts of subsidiaries, participation and control. The fiscal definition of a group of companies is different from its legal definition.

**Derinition of a subsidiary:** When a company owns more than 50% of the capital of another company, the latter is considered to be a subsidiary of the former.

**Definition of participation:** A company is considered as having a participation in another company when the capital that it owns in this other company is less or equal to 50%.

**Definition of the notion of control:**

A company controls another company:

When it owns, directly or indirectly, a share of the capital granting it the majority of the voting rights during the General Assemblies of this other company (right of control);

When it is the only one to have the majority of the voting rights in this other company, further to an agreement made with other associates or shareholders that does not antagonize the interests of this other company (joint control);

When it can factually pass decisions during the General Assemblies of this other company, based on its voting rights (factual control).

The control is assumed to be exercised when the company has, directly or indirectly, more than 40% of the voting rights, and no other associate or shareholder has, directly or indirectly, a higher percentage of voting rights.

The control must be appreciated, not based on the share capital contribution, but according to the voting rights.

The company that has control over one or many companies is called a "Holding Company".

**Definition of the notion of self-control:**

The notion of self-control is defined as being the situation when a company is in charge of its own control through one or many other companies that it controls directly or indirectly.

The profit participation or shares that the controlled companies hold in the parent company are named self-control profit participation or shares.

The Business Code ("Code de Commerce") also provides for the potential existence of crossed participations with an intermediary branch. To this effect, it is stated that any participation, even if lower than 10%, held by a controlled company is considered as being indirectly held by the company that controls that company.

This same Code adds that a shareholding company that is indirectly in control of another company cannot own more than 50% of its own capital.

**Obligations arising from group membership:** When, during a fiscal year, a company has had a participation in a company headquartered in Algeria, or has

acquired more than half the capital of such a company, the event is mentioned in the report on the activities of the fiscal year that is presented to the associates and, if need be, in the auditor's report.

The Board of Directors, the Directory, or the Manager accounts, in his report, for the activities of the subsidiaries of the company, per sector of activity, and indicates the results.

At least 2 (two) auditors control the accounts of a "Holding Company".

A "Holding Company" that calls upon the general public savings must consolidate its accounts and publish them. Per Algerian legislation, consolidating accounts means to present the financial situation and the results of a group of companies, as if they were one single entity.

**For the opening of a bank account and the release of the capital**

Statutes of the company;

Leasing agreement of the buildings of the registered office;

Specimen of signature of the legal representative;

Identity paper of the legal representative.

**To carry out the registration of the company to the Register of Trade and Companies**

A recent legislative reform reduced them considerably formalities of inscription to the register of trade.

From now on, only the following parts are required:

the birth certificate,

the receipt for payment of the fees registration and the taxes

the extract of the criminal record

an approval for the regulated activities

form CNRC

# CHAPTER 8

## CURRENCY REGULATIONS

The transition from the Algerian economy towards an economy directed by the mechanisms of market, quite naturally requires the adaptation of the exchange control mode with an aim of its reduction with the prospect for its elimination in the long term.

The strategic option taken by Algeria, on the matter, is progressiveness in liberalization. Started since 1990, this process reached a remarkable stage with:

- The complete liberalization of the foreign trade;
- Partial liberalization of the current transfers (tourism, care abroad, grants);
- A total convertibility of the dinar for the current transitions;
- The controlled liberalization of the movements of the capital, in particular at the exit.

On the whole, the exchange control is always in force:

for the trade: it is a question of a control primarily in order to make sure of the adequacy of financial flows to real flows;

This possibility was extended to the Algerian moral people since September 1990. In February 1991, the physical and moral foreign people, resident or non-residents, saw themselves also authorized to open accounts currencies near the approved intermediaries.

The account currencies can be cash or in the long term. In both cases, the deposit is remunerated (except for the holders of foreign nationality whose term of the deposit which can be remunerated must be equal to or higher than three months).

This remuneration is ensured by the Central Bank which centralizes all the deposits in currencies; it is calculated like average of the rate prevailing on the principal world money markets, to which is added a premium being able to go up to 1.5 point of percentage. This premium is distributed between the holder of the account and the domiciliary approved intermediary which manages it (without expenses).

It can be an open account currencies for each currency; but an open account for a currency can receive payments and transfers made out in other currencies. This last principle being desirable in particular to facilitate to the holders (in particular



companies) the management of their transaction and at the domiciliary banks the management of the accounts

### **Operation of the accounts currencies:**

Detention by the Algerian residents of foreign means of payment is allowed in the regular manner under the condition which they are acquired, negotiated and lodged with an approved intermediary. In the case of material importation of foreign means of payment, their customs declaration is obligatory.

The account currencies must be constantly credit, except in the case of Algerian companies of private law having obtained an advance on future export earnings.

The accounts currencies of people morals and physics of foreign nationality resident or non-residents are credited with very amount representing:

a transfer coming from abroad, another account currencies gold year account CEDAC (Foreign Account in Convertible Dinars);

a material banknote payment or any other means of payment made out in currencies;

any sum in dinars filling the requirements in the regular manner for a transfer abroad.

### **Use of the accounts currencies :**

Within the limit of the credit balance available on their accounts currencies, the people morals or physics of foreign nationality can order any taking away for:

to carry out any transfer abroad;

to credit an account currencies or an account CEDAC;

withdrawal of foreign means of payment for their material export;

withdrawal or the transfer in dinars for any payment in Algeria.

This last element obeys the universal principle according to which, inside a country, the invoicing is done exclusively in local currency, except for the cases envisaged by the regulation or duty authorized by the proper authorities.

Thus, until 1995, the Algerian moral

people of private law and holders of accounts currencies were authorized to carry out, in addition to the preceding operations (excluded those concerning accounts CEDAC), of the purchases in currencies on the own territory: in particular near dealers approved by the CMC. But since this date, this possibility was isolated making thus the use of accounts currencies homogeneous for all the holders: payments of the external transactions in connection with their activities. In this

connection and as an example, the imports of goods and non- factors services paid on accounts currencies rise to a few 667 million US dollars into 2003, that is to say 5.3 % of the actually paid total imports of the year.

Even the foreigners going to Algeria, for any reason, are not obliged any more to pay their subsistence expenses in currencies.

At the beginning of 2003 in order to implement the exchange in the long term, but the answer is long in coming. Meanwhile, the dinar is stabilized.

However, and it is a question of time, the techniques of covering of the exchange rate risk will be introduced without delay, initially, for the commercial deals and in the second time, for the financial transactions.

### **Exchange:**

The mode and the policy of exchange being examined in chapters 3 and 9, it is advisable to add here some useful data elements relating to the techniques of covering of the exchange rate risk.

As of the summer 1991, the Central Bank implemented the mechanism of covering of the exchange rate risk.

But such a mechanism, which functioned until the spring 1994, could not remain in so far as the circumstances which ordered it were not more topicality (obligation to finance the imports by external appropriations being raised) and which it was not in conformity from the doctrinal point of view (the Central Bank was counters it part, whereas it is about activity of trade banks).

As of the end 1995, an interbank market of the exchanges was instituted and was to be operational as of the end of January 2<sup>nd</sup> 1996.

The exchange transactions relate to the cash exchange as well as the long term exchange. If the counter of the cash exchange is functional since this date, it is not the case of the counter of the long term exchange which, so far, is not yet open.

Because of the lifting of the obligation of external financing and increasing availability of the foreign-exchange reserves, the importers preferred to resort to the cash payment, that they obtain easily, thus avoiding any exchange rate risk.

Even those which resort to the external financings did not consider it useful to request the banks to set up the system of cover in the long term permitted by the regulation, of the fact in particular that the slip of the dinar was relatively moderate over all the period 1996/2001 (either some 5 to 6 % on average per year).

It is only into 2002, when the euro started its vertiginous rise that this problem of the exchange in the long term arose with acuity. A request of the economic operators was addressed to the authorities (Bank of Algeria)

at the beginning of 2003 in order to implement the exchange in the long term, but the answer is long in coming. Meanwhile, the dinar is stabilized.

However, and it is a question of time, the techniques of covering of the exchange rate risk will be introduced without delay, initially, for the commercial deals and in the second time, for the financial transactions.

## **Foreign trade**

The liberalization of the foreign trade, started in 1991, is entirely completed since 1996/97. All the constraints, in particular of financing as regards the imports, are raised.

Thus, any legal entity or physical registered with the register of trade can proceed to the importation of any good or service (not being the subject of prohibition or restriction) without any agreement or preliminary authorization or another requirement of financing. As an example, a few 87.6 % of the imports carried out into 2003 (except those not having given place to transfers) were paid cash (including 5.3 % paid on accounts currencies). Only the obligation of preliminary domiciliation is made for control later adequacy of financial flows with flows of goods and services.

The same mode is applied to exports (except mining hydrocarbons and products), with moreover, the obligation of repatriation of the related receipts. Except authorization express train of the Central Bank, repatriation must be done within 120 maximum day.

Lastly, it is reassigned with the exporters 50 % of their export earnings which they can place in their accounts currencies and to have about it freely within the framework of their activities. Also, 20 % of the reassigned amount can be spent with discretion of the holder and without any justification.

**Repatriation of the benefit abroad:**

The Algerian right guaranteed to the foreign investors the transfer of dividends, benefit and products of transfer of investments or transfer of activity.

The exchange control regulations specify the conditions and the procedures of transfer.

Profit from the mode of transfer any investment resulting from external contributions, namely:

- own capital stocks in currencies regularly imported;
- the contributions in kind whose external origin and the importation are regularly noted;
- financings external unguaranteed by a bank or a financial institution of Algerian right (or branch of a bank)

When the financing of the investment is mixed dinars/devises, the benefit to be transferred is evaluated in proportion to the external contributions.

The transfer is subjected to the authorization of the Central Bank on presentation of a request supported for a very simple file containing the following documents:

- Copy of the register of trade has;
- a copy of the statutes, for the moral people;
- documents in proof of the external contributions;
- a copy of the assessment certified by an auditor or an approved accountancy expert;
- a copy of the resolution of the general meeting of the shareholders deciding of the distribution of the dividends;
- a copie of the notarial act establishing the suspension of the investment or the transfer of activity.

The authorization is granted within two maximum month as from the date of filing of the complete file.

# CHAPTER 9

## BANKS AND FINANCES

### Banks and finances

The banking and financial Algerian landscape is clearly diversified last years. Its structure comprises two levels:

- the central bank as a lender of last spring while having a significant capacity of regulation and control of banking;
- financial banks and establishments carrying on the activities of bank: collect deposits of the public, granting of appropriations and management of the means of payment.

### The central bank:

#### Statute:

The statutes of the Central Bank are defined by the ordinance 03-11 of the 26/08/2003 which replaces law 90-10 of the 14/04/1990. The Central Bank, called Bank of Algeria (BA), is a national establishment equipped with legal entity and financial autonomy.

Since law 90-10, relating to the currency and the credit, the Bank of Algeria enjoys a broad autonomy with respect to the executive:

the Management of BA is ensured by a year assisted Governor of three Vice Governors; all named by order in Council;

the administration of BA is ensured by the Board of directors made up of the Governor, who chairs it, and of the three Vice-Governors to which three senior officials named by order in Council are added;

the Monitoring and the Control of BA are ensured by two Critics also named by order in Council.

In fact, the monetary capacity is exerted by the Council of the Currency and the Credit (CMC) which is **the single monetary authority**, largely autonomous with respect to the executive power.

The CMC are composed of the members of the Board of directors of BA, and are chaired by the Governor, to which two personalities are chosen according to their economic matter competence are added and monetary and named by order in Council.

The CMC are thus invested of all the capacities of regulation and determination of the standards for all banking, in particular:

- emission of the currency;
- granting of credit;
- countable standards;
- prudential standards;
- organization of the money market;
- regulation and control of the movements of capital;
- the authorization of constitution of banks and financial establishments and conditions of their approval, as well as the installation of representative offices of the foreign banks and financial establishments.

### **Monetary policy:**

The institutional framework of the monetary policy is defined by ordinance 03-11 relating to the currency and the credit whose article 35 (corresponding to article 55 of law 90-10) specifies the general mission of BA to know:

*" the bank of Algeria has the role of creating and of maintaining under the fields of the currency, of the credit and the exchanges, the conditions most favorable to a fast development of the economy, while taking care of the internal and external stability of the currency.*

*To this end, it is charged to regulate the money circulation, to direct and monitor, by all the adapted means, the distribution of the credit, to take care of the good management of the financial commitments with regard to the foreigner and to control the foreign exchange market ".*

The final objective of the monetary policy is thus to maintain the price stability. Concretely, this stability is conceived as being the increase moderate in the price index to consumption (IPC).

During the period of stabilization and structural adjustment (94-98), the principal intermediate objective of the monetary policy was the aggregate of the interior assets Nets of BA. But since 2001, with the development of the banking surliquidity and the increase in the external assets Nets, it is the monetary basis which became the relevant intermediate objective.

Since 1990, especially with the implementation of the stabilization programs and structural adjustment (94-98), the effort had treated the substitution of the indirect instruments to the direct instruments of the monetary policy.

At present, BA has a panoply of indirect instruments, namely :

- the directing misses (rediscount), fixed according to the macro-economic evolution and that of the monetary indicators. It is currently 4.5 %;

- a facility of refinancing (rediscount), not used since 2001 en raison of the banking surliquidity;
- instruments of money market: pension, open market and adjudicators of appropriations;
- an obligatory back-up system: since May 2004, this rate is fixed at 6.5 % of the deposits of all kinds. The obligatory reserves, whose rate is reversible with the rise as with the fall is being able to go from 0 % to 15 % maximum, are made up for one period one month: from the 15 to the 14. The obligatory reserves are currently remunerated by 1.75 %;
- since April 2002 the system of resumption of liquidities was introduced in order to control the surliquidity
- money market. The liquidities taken again by BA are remunerated by the rate of 1.75 %.

The effectiveness of the instruments of the monetary policy implemented since 1994 is amply tested to judge some by the reduction of the rates/rhythms of inflation (measured by the IPC) which turn around 2 to 3 %, level which is equal to see lower than that prevailing in the principal partners countries of Algeria.

### **Political of exchange:**

Until 1994, the rate of exchange of the dinar was given administratively by BA, in reference to a basket of 14 currencies introduces in 1974 following the collapse of the system of Bretton woods and the generalized flowering of the currencies.

With the crisis of 1986 (following the oil crisis), the policy of exchange consisted in making slip the rate of exchange in a way controlled in order to eliminate its overvaluation and to align it on the parallel rate of exchange. In spite of a strong depreciation of the official rate, alignment with the parallel rate was not reached since the premium with this last had amounted to 100% in 1991 and with 200% en 1994.

A consequent program total of stabilization thus was essential, which was made as from April 1994 and for one one year period April 94 - Mars 95.

Within the framework of the objectives of this program, whose adjustment of the rate of exchange of the dinar was the main thing, an attachment unit approaching the mechanism of market: the fixing (which is a sales engineering to the biddings) was introduced and was applied from September 94 to December 95.

But it is within the STEP framework covering a period of three years (Avril94 - Mars 98) that the interbank market of exchanges was founded and is functional since the 02/01/1996.

In 1997, the opening of exchange offices was authorized, but they are still not operational. The fundamental reason lies in the need, for BA, to preserve the

assets of stabilization in order to better sit the conditions of a durable growth without or with a moderate and controlled inflation. As BA remains principal granter of currencies, it could implement a policy of controlled undulation. It was a question of letting the course of the dinar depreciate itself gradually and moderately until reaching its true economic value (reflecting the level of development and competitiveness of the national economy) to stabilize it then.

the bet was largely successful, since the rate of real effective exchange was sufficiently stabilized with respect to the US dollar and of the euro, this the fulgurating explosion of this last as from June 2002 which caused the Dinar's lose with approximately 30 % of its face value.

At present, the effort of stabilization of the course of the dinar (in real effective terms) continues and seems to succeed as well with respect to the euro as with respect to the US dollar.

This last currency, compared to which the dinar lost approximately 95 % of its face value between 1985 and 2002 (while passing from 4 DA the dollar with 80 DA the dollar), has just known a depreciation of a few 10 % with respect to the dinar, since the end of 2003.

On the whole, the policy of exchange largely achieved its goal by allowing the consolidation of macro-economic balances necessary to the revival and especially definitively to sit the current convertibility of the DA for which Algeria adheres to article VIII statutes of the IMF since September 1997.

This also makes it possible to the foreign investors to have the best visibility and a guarantee of transfer of the fruits of their investments with a very high degree of certainty.

## **The banking structure**

### **Supervision:**

The supervision of the banks and the financial establishments is ensured by the Banking Commission (CB).

The CB is made up:

- of the Governor, who chair it, and of five members including three selected according to their banking, financial and countable matter competence;
- and two detached Magistrates of the Supreme Court

The members of the CB are named by order in Council, for one five years duration.



The CB is charged:

- to control the respect by the banks and the financial establishment of the legislative and lawful provisions which theirs are applicable;
- to sanction the failures which are noted.

The sanctions can go from a simple warning to the withdrawal of approval and liquidation.

Since 1995, the conditions and the authorization procedures of the approval of the banks and financial establishments are clearly defined and largely implemented. The exercise of banking is governed by a significant legal and lawful arsenal, in particular a device of prudential rules consisting in:

- the ratio of adequacy of the capital gold solvency says Cooke ratio (minimum of has 8 % of the own capital stocks brought back to the risks);
- the ratio of division of the risks: the total of the risks representing between 15 to 25 % of the own capital stocks should not exceed 10 times these capital stocks own;
- the ratio of external engagements (out - assessment) whose total should not exceed 4 times the own capital stocks;
- finally, the system of provisionnement of the incurred risks, being able to go from 30 % to 50 %, even 100% when the credit is completely compromised.
- The rigour in the implementation of the legislative and lawful device, in particular prudential, resulted withdrawing approval and, consequently, in liquidating two deprived banks with Algerian capital into 2003: El Khalifa Bank and the BCIA.

### **Principal characteristics :**

The Algerian banking structure is composed, in December 31<sup>st</sup> 2003, of six public banks:

Algerian External Bank (BEA), Algerian National Banks of (BNA), Popular Credit of Algeria (CPA), Banks of Local Development (BDL), Banque of Agriculture and the Rural Development (BADR), National Case of Saving and Precaution (CNEP-Bank);

a mutual bank: the National Case of Agricultural Reciprocity (CNMA);

fifteen banks with private capital:

Including three with Algerian capital: Mouna Bank, Company Algerian of Bank (CAB), Mediterranean General Banks (BGM);

eleven with private capital completely or mainly foreigners: City Bank Algeria (branch bank), Arab Banking Corporation - Algeria (ABC), Natexis - Algeria, General Company - Algeria, Al Rayan Algerian Bank, Arab Bank plc - Algeria, BNP PARISBAS Al - Djazaïr, TRUST Bank - Algeria, Arcobank, The Housing Bank for Trade year Finances - Algeria, GULF Bank Algérie;

a bank with mixed capital(Saoudien group Delh Al Baraka/BADR)

Seven financial establishments:

including four with Algerian private capital: Bank union, Algerian Company of Hiring of Equipment and Materials (SALEM - SPA), Company of Mortgage Refinancing (SRH), Sofinance;

and three with mainly foreign capital: Finalep, International Algerian Bank (Aib), Arab Leasing Corporation (Alc).

Among these financial establishments, two are leasing companies one of which is with mainly a foreign capital (ALC).

Lastly, in spite of their reduced number, the public banks monopolize a few 90 % of the market of the banking services.

## **THE TREASURE BILL MARKET**

The Treasure bill market was created in 1995. Before then, although Treasure securities existed, face-value interest rates did not reflect the conditions of the market, and their negotiations were theoretical in the absence of an organized market.

Since February 1998, only Specialists in Treasure Bonds, S.T.B. ("Spécialistes en Valeurs du Trésor", S.V.T.) authorized by the Treasury can act in this market. At this time, there are eleven S.T.B. ("S.V.T.):

- Six public banks (B.N.A., C.P.A., B.A.D.R., B.EA., B.D.L., C.N.E.P.);
- Four public insurance companies (C.A.A.T., S.A.A., C.A.A.R., C.N.M.A.);
- A private bank (Citibank), since January 1999.

The first adjudication of Treasury Bonds ("Bons du Trésor) took place in October 1995. The adjudication places the various S.T.B. ("S.V.T.") in competition so that bonds can be subscribed at the lowest rates, so that Treasury is guaranteed to have the least expensive financing conditions.

A total of 27 (twenty-seven) billion Algerian Dinars (DZD) were issued in 1998, and 30 (thirty) billion Algerian Dinars (DZD) in 1999. The Treasury proposes securities on a short and medium terms, and recently, on a long-term basis. The increase of the average duration proposed has caused a spectacular capitalization growth.

The secondary market has been in existence since March 1998. This market has quickly become liquid, as it is exemplified by the number of transactions that, over a period of 10 months in 1998, totaled 9.8 billion DZD, or 75% of the capitalization at the end of 1998. Transactions in the private sector have reached 4.4 billion DZD, or 45% of the total. The transactions ratio indicates the strong vitality of the market.

## **ALGIERS STOCK EXCHANGE**

Legislative Decree n' 93-10 of May 23, 1993 created Algiers Stock Exchange. This text defines Algiers Stock Exchange as being a framework for the organisation and the progress of transactions on transferable securities issued by the Government, legal entities under the jurisdiction of public law, and companies.

This decree has created two organisations

- The Commission on the Organization and Monitoring of Stock Exchange Transactions, C.O.M.S.E.T. ("Commission d'Organisation et de Surveillance des Opérations de Bourse", C.O.S.O.B.), the authoritarian entity for the transferable securities' market.

Its role is to make sure that savings invested in transferable securities are protected, and that the market is functioning properly.

- The Managing Company of the Stock Market, M.C.S.M. ("Société de Gestion de la Bourse des Valeurs", S.G.B.V.) which is a shareholding company made up of intermediaries for stock exchange transactions - its role is to observe the progress of transactions on transferable securities that are presented on the stock market.

The capital of the M.C.S.M. ("S.G.B.V.") is constituted by the Intermediaries in Stock Market Transactions, I.S.M.T. ("Intermédiaires en Opérations de Bourse", I.O.B.), who are the only operators authorized to act in the Stock Exchange. They are shareholding companies who must be authorized to operate by the C.O.S.O.B. There are five I.S.M.T. ("I.O.B.") that are made up of banks and insurance companies:

- Errachad el Mali (comprised of B.E.A., C.N.M.A., C.C.R.);
- S.O.F.I.C.O.P. (comprised of B.N.A., B.D.L., and S.A.A.),
- S.O.G.E.F.I. (comprised of C.P.A., C.N.E.P., and C.A.A.T.);
- S.P.D.M. (comprised of B.A.D.R. and C.A.A.R.);

- U.B. Brokerage (a subsidiary of Union Bank).

The activities of Algiers Stock Exchange have started in November 1997, with the issuance of the subscription for Sonatrach bond. The transactions first started on an interbank market on June 22<sup>nd</sup> , 1998, with the quotation for Sonatrach bond. Transactions on the stock market started on September 13<sup>rd</sup> , 1998, with the quotation for Eriad-Setif shares. Having only four titles (including a bond), the market is still not very liquid, and the part played by the Stock Exchange in the financing of the Algerian economy is negligible.

## **THE STOCK MARKET**

The current system of quotations used to start the activities of the Stock Exchange is the fixing system that is managed by the M.C.S.M. ("S.G.B.V.").

The main conditions for a capital title to be allowed to participate in Stock Exchange transactions are:

- To be a shareholding company according to the provisions of the Trading Code;
- Have a minimum capital of 100 million Dinars;
- Inject in the public at least 20% of its capital;
- Provide certified financial statements of the last three accounting years;
- Show a profit during the last three accounting years.

The main companies whose titles are quoted are:

- S.A.I.D.A.L., Société des Industries Pharmaceutiques (Company for Pharmaceutical Industries);
- ERIAD-SETIF, Groupement d'Entreprises de Transformation des Céréales (Group of Companies specialized in cereal processing);
- EL-AURASSI HOTEL.

With that two operations of bond launched are added by:

- SONATRACH (Algerian petroleum company).
- AIR ALGERIE

# CHAPTER 10

## CUSTOMS DUTY

Today, Algeria does not belong to any regional customs union since the terms of the Convention on the creation of the Arab Maghreb Union ('Union du Maghreb Arabe, UMA) are not yet applicable.

Algerian customs regulations provide for a general system of common law, the consumption release, and various special systems: acquired with a guarantee, warehouse, transit, USINE EXERCEE, temporary admission.

### LEGISLATION AND CUSTOMS REGULATIONS

Any good that is imported, exported or re-exported must be brought into the appropriate customs office so that it can be checked.

Special forms must be used when goods are declared. If they are not, goods cannot be unloaded in the temporary stores and warehousing areas. Pending the application of one of the customs systems, goods are placed under customs custody.

The Customs Administration calculates duties and taxes on the basis of the CAF (cost and freight) price, that is to say the price paid or to be paid by the consignees exclusive of taxes.

### STRUCTURE OF CUSTOMS DUTIES

The structure of customs duties, for goods released for consumption (general system of common law) is as follows:

#### Customs duty:

. Basis:

CAF value of the product

. Rate:

According to the product classification in the customs' nomenclature

#### Customs fees:

. Basis:

CAF value of the product

. Rate:

0.4%

## **Value Added Tax, V.A.T. ("Taxe sur la Valeur Ajoutée", T.V.A.) for importations:**

### **. Basis**

CAF value, increased with duties and customs fees 0 Rate

(Since January 1st, 2002), reduced (7%) or normal (17%) according to the classification of the product in the customs' nomenclature.

## **Deduction for goods exclusively imported for purchase / resale:**

### **. Basis**

CAF value increased by all duties and taxes paid to import the product.

### **. Rate**

2%

This deduction that is owed by firms organized under the individual or company-type form is deductible from the Global Income Tax, G.I.T. ("Impôt sur le Revenu Global", I.R.G.) in the B.I.C. category, or from the Company Profit Tax, C.P.T.

("Impôt sur les Bénéfices des Sociétés, I.B.S."), depending on the case under consideration.

## **SPECIAL SYSTEM OF TEMPORARY ADMISSION**

The special system of temporary admission is the system that is most likely to be used by investors.

**Beneficiaries:** Foreign companies that conclude contracts with national companies or the Algerian administration.

**Goods concerned:** Equipment used for the execution of the contract, with the exception of spare parts.

**Procedure:** Customs Authorities decide as to implement or not the temporary admission system.

To obtain the declaration visa, Customs Authorities must receive a bank guarantee in an amount equal to the duty amount that would be collected if the product were released for consumption.

This duty amount is negotiated on a case-by-case basis.

The VAT paid when importing goods can be recouped through the deduction process if the importation lasts for at least five years.

When the re-exportation deadline has expired, the goods that have been admitted on a temporary basis must leave the Algerian territory or be released for consumption.

## **SYSTEM OF TEMPORARY STORES AND OTHER WAREHOUSING UNITS**

The Finance Law of 1996 provides for "temporary stores and warehousing units" that are used to receive goods which, upon arrival to the customs' office, do not call for a detailed declaration, until this declaration is filed.

These stores can only receive goods that are scheduled to be exported.

Goods can stay for at most 21 days in the stores and warehousing units.

**Removal of the goods:** The authorization to remove the goods can only be given by the customs' administration after the duties and taxes have been paid, recorded or guaranteed.

As soon as the goods have been released, the party who has filed the customs' declaration must, within the following fifteen days, remove the goods from their location.

**Customs duties' and taxes' exemption:** The exemption concerns acquisitions in the form of gifts that consist in pollution prevention equipment and resources.

This measure is intended to exempt the following of duties and taxes:

Pollution control equipment and devices acquired as gifts by organizations and associations authorized by the Ministry of Interior ("Ministère de l'intérieur"), Local Collectivities ("Collectivités Locales"), and Environment Collectivities ("Collectivités de l'Environnement");

Importations of goods and services financed by the Government or by grants from foreign institutions or international organizations.

This exemption applies to Algerian legal entities of public law, as stipulated by the legislation and regulations in effect.

# CHAPTER 11

## CUSTOMS' LITIGATION

Any violation of the laws and regulations that the Customs Administration must implement is considered as a customs' infraction that is penalized per the provisions of the Customs Code.

Customs agents, officers, judicial officers and policemen, tax agents, national coast guards, as well as agents that conduct surveys on the economy, on competition, on prices, and on quality and fraud repression are authorized to discover and report on customs' infractions.

The discovery of a customs' infraction gives reporting agents the right to seize the following items:

- Goods that can be confiscated, including transportation means;
- Other goods that are held by the offender, as a guarantee, and up to an amount that equals the contemplated penalties;
- Any document that accompany these goods.

### **ACTIONS AGAINST INFRACTIONS**

For the repression of customs' infractions:

- The public minister takes action to see that punishments are implemented,
- The customs' administration takes action to see that fiscal sanctions are implemented.

The customs' administration is automatically part of all lawsuits engaged by the public minister, in their interest.

### **CUSTOMS' COERCIVE POWER**

Customs tax collectors have a coercive power for the recovery of duties and taxes, penalties and other amounts owed to the customs administration, as soon as this administration can confirm that an amount of money is owed following a transaction that results from the implementation of the legislation and regulations that the customs administration must implement. The President of the appropriate court of law must authorize coercive action.



## **NEGOTIATIONS**

Individuals who are prosecuted for customs' infractions are referred to appropriate jurisdictions to be punished according to the provisions of the Customs' Code ("Code des Douanes").

However, the customs administration is authorized to negotiate with individuals prosecuted for customs' infractions if they receive such a request from these individuals.

The negotiation is not possible when the infraction relates to merchandise that is prohibited both for importations and exportations.

The negotiation request is submitted, for advisory purposes, to a national commission, or to local commissions, according to the nature of the infraction, and the amount of duties and taxes that have been compromised or evaded.

The national commission gives its advice on negotiation requests when the amount of the rights and taxes evaded or compromised is more than one million (1 000 000) Dinars.

Local commissions give their advice on the transaction requests that relate to customs' infractions when the amount of the duties evaded or compromised is over 500 000 Dinars and equal to or less than one million (1 000 000) Dinars.

A negotiation that occurs before the final judgment cancels the fiscal action and the public action.

A transaction that occurs after a final judgment does not cancel punishment on freedom deprivation, penal fines, and legal expenses.

## **PRESCRIPTION OF THE ACTION OF THE CUSTOMS' ADMINISTRATION**

The enforcement of the customs' administration's action to recover duties and taxes has a 4 - (four) year deadline from the day when these duties and taxes became due for payment.

This time frame is extended to a 15 - (fifteen) year period when a fraudulent act by the taxpayer leads the customs' administration into the ignorance of the punishable act, so that they cannot exercise their action.

# CHAPTER 12

## LABOR REGULATIONS

The Algerian législation provides for regulations that are applicable to Algerian employees, and for specific rules for the employment of foreigners in Algeria.

### CONDITIONS OF EMPLOYMENT FOR ALGERIAN EMPLOYEES

#### Employment freedom:

The principle of employment freedom.

An employer can conclude an employment contract directly with an employee.

#### Use of placement agencies:

To hire employees, the employer can use the following public employment agencies:

- National Agency for Employment, N.A.E. ("Agence Nationale de l'Emploi", A.N.E.M.),
- Local Agency for Employment, L.A.E. ("Agence Locale de l'Emploi", A.L.E.M.).

The intervention of intermediaries other than these placement public structures is prohibited.

### WORK CONTRACT

The contract can be concluded for an undetermined or determined duration.

It can be for full time (40 h / week) or part time (at least 20 h / week).

**Contract of undetermined duration:** It can be written or verbal. When it is written, there is no specific formalisation to comply with. The contract is considered to be concluded for an undetermined length, unless it is stipulated otherwise in writing.

In the absence of a written stipulation, the work contract is considered to be concluded for an undetermined length.

**Contract of determined duration:** The employer can use a contract of determined duration in the following cases:

·When the employee is hired for the execution of a contract related to the performance of works or services that are non-renewable;

- When there is the need to fill in a position on a temporary basis, due to the absence of the employee;
- When the employer wants periodical work of a discontinued nature to be performed;
- When there is a work overload or for seasonal reasons;
- For activities or employments limited in time, or of a temporary nature.

The work contract must be a written document. It must specify how long the work relation will last, and the reasons for the needs of a contract of limited duration.

Any work contract that is concluded for a determined duration and does not comply with above provisions is considered to be a contract of undetermined duration.

## **WORK CONDITIONS**

### **Work of minors:**

- An individual must be at least 16 years old to be accepted for a job;
- There is a dispensation for apprenticeship contracts;
- The minor can only be hired upon the presentation of an authorization from his / her tutor
- The minor cannot be hired to perform dangerous, unhealthy and harmful activities, or activities that are prejudicial to his / her morals.

### **Working time:**

There are 40 (forty) hours of working time per week, and they must be distributed over at least 5 (five) working days.

When working hours are performed under the system of continued working session, the employer must allow for a break that cannot exceed one hour, of which half an hour is considered to be working time. The daily working time cannot, in any manner, exceed 12 (twelve) hours.

**Overtime:** Overtime must respond to an absolute necessity, and be of an exceptional nature.

Overtime cannot exceed 20% of the legal working time.

Overtime gives right to payments at higher rates that cannot be less than 50% of the normal hourly salary.

**Night work:** Any work that is performed between 9:00 p.m. and 5:00 a.m. is considered to be night work.

Rules and conditions for night work, as well as the rights involved, are stipulated in collective conventions or collective agreements.

Employees who are not over 19 years old cannot perform work at night.

The employer is forbidden to use female employees for night work.

However, the local Labor Inspectors can grant special dispensations when justified by the nature of the activity and the specific nature of the position under consideration.

**Posted work:** When needed for production purposes or to perform work in a department, the employer can set up a succession of working teams, an arrangement also called "posted work". Posted work gives right to an indemnity.

**Rest and time-off:** Employees are allowed to rest for one full day per week. Under normal working conditions, Fridays are the weekly rest days.

Employees are also allowed to take, on a yearly basis, time-off paid by the employer. Employees who hold difficult or dangerous jobs can be allowed to increase the duration of their main time-off. Collective conventions or collective agreements stipulate applicable provisions. This paid time-off is calculated on the basis of 2 1/2 (two and a half) days for each month the employee has worked., and its global duration cannot exceed 30 (thirty) days for each year the employee has worked. The yearly reference period is from July 1<sup>st</sup> of the current year until June 30<sup>th</sup> of the following year.

## **MINIMUM WAGES AND METHOD OF CALCULATION**

The remuneration of an employee can be:

- A salary; and / or
- A revenue that is proportional to the results of the work performed.

The remuneration is agreed upon between the employer and the wage earner within the following double tier limit:

- The basic salary results from the professional category of the wage earner as specified by the collective convention that is applicable to the employer.
- The Guaranteed Minimum National Salary, G.M.N.S. ("Salaire National Minimum Garanti", S.N.M.G.), based on 40 (forty) hours of work per week (i.e. 173.33 hours per month) is 8 000 DA per month.
- The hourly rate is 46,15 DA.

## **LAY-OFF**

The Algerian legislation provides for regulations regarding two types of lay-offs: lay-off for economic reasons, and lay-off for serious fault.

### **Lay-off for economic reasons:**

**Definition:** Staff reduction is the expression used in Algeria for an economic lay-off. When justified by economic reasons, the employer can reduce the staff employed. Staff reduction is a collective lay-off measure. It takes the form of simultaneous individual lay-offs.

**Procedure:** Only companies with more than 9 (nine) wage earners can use this procedure.

Before resorting to staff reduction, the employer who has gathered all the necessary conditions to do so must first try to reduce the number of lay-offs by all means.

This social phase comprises two steps:

The first step includes one, a number, or all of the following measures:

- Use of the indemnity system;
- Reorganization of the forms and levels of remuneration;
- Training actions - wage-earners' professional reorientations;
- Progressive cancellation of overtime;
- Reduction of working hours;
- Work on reduced schedules;
- Pensioning off,
- Non-renewal of contracts of determined length.

The second step includes at least one of the following actions:

- Review of possibilities of staff transfer to other activities, or other firms;
- Creation of activities.

On the occasion of this second step, the employer must define parameters and criteria that will allow to identify wage earners who will benefit from the protection measures scheduled.

The decision on staff reduction is taken afterwards, through a collective negotiation process. Collective conventions and agreements specify the implementation modalities indicated.

#### **Lay off for serious fault:**

The Algerian legislation provides for regulations when the employee must be laid-off, due to a serious fault that he has committed. The faults at stake are stipulated in companies' internal regulatory codes. The implementation of these regulations is carefully monitored and must be approved by the Labor Inspection Office. ("Inspection du Travail").

#### **Indemnities:**

##### **For economic lay-off-**

- There is no indemnity for wage earners who benefit, as a measure of compensation for their lay-offs, from a job, from the admission to retirement, or from an anticipated retirement.
- When a wage-earner who is laid off has been accepted to receive unemployment benefits, he / she receives the equivalent of a 3 (three) months' salary from his / her employer.

**Lay-off for serious fault:** Companies' internal regulatory codes specify conditions under which workers benefit from lay-off indemnities. Indemnities are equivalent to one month's salary for each year that has been worked, within a limit of fifteen months, after the right to pay annual time-off has been consumed.

## **EMPLOYMENT CONDITIONS FOR FOREIGN EMPLOYEES**

To become a permanent resident in Algeria, a foreign wage earner must first obtain a work- permit to be able to receive a foreign resident card.

**Employment conditions:** The employer cannot hire foreign employees, even on a temporary basis, unless they have at least a technical level of qualification.

This principle is nullified when the employee belongs to a country with which Algeria has concluded a treaty or a convention on employment.

The Minister in charge of Employment can grant exceptional derogations, in "force majeure" cases, and upon presentation of an explanatory report from the employer.

A request for a work permit is presented to the Labor Department ("Direction du Travail"). A foreign worker must then obtain a permit to stay.

**CONDITIONS TO STAY:** A foreign employee obtains his / her residency by presenting a request to the police- station with the following supporting documents:

- Copy of passport;
- Photos;
- Medical certificates;
- Work Certifications;
- Fiscal stamps;
- Work permit;
- Accommodation arrangements certificates

The validity of the residency corresponds to the duration of the work permit.

### **Employers' obligations:**

- Make the necessary deductions in relation with the payment of the Tax on Global Revenue ("Impôt sur le Revenu Global");
- Record deductions on a pay registry or any other document of the kind,
- Give employees pay stubs;
- Pay this tax on a regular basis, at the same time as set payments owed by all employees are made;
- File a yearly déclaration on salaries paid and deductions taken.

# CHAPTER 13

## SOCIAL SECURITY

### DESCRIPTION OF THE ALGERIAN SOCIAL SYSTEM

There is in Algeria a compulsory social security system that is managed by the National Fund on Social Security, N.F.S.S. ("Caisse Nationale d'Assurance Sociale", CNAS). By law:

- Every employer must register with his / her local Social Security Office with 10 days following the beginning of activities.
- Every employee who is hired must be declared by his / her employer to the Social Security Office within 10 (ten) days after being hired. On this occasion, a file on the wage earner is also opened.

### SOCIAL CONTRIBUTIONS

Social Security contributions are paid at a 35% rate. They are distributed as follows:

26 % is the employer's responsibility; 9 % is the employee's responsibility. The 35 % rate is broken down as follows:

Calculation of the contributions is based on all salary elements, but indemnities and expenses.

Social Security contributions are paid in a single payment, by the employer, to the local Social Security office and within the following time framework:

- within the first thirty days following each civil quarter deadline, if the employer has less than ten employees;
- within the first thirty days following each monthly deadline, if the employer has more than ten employees.

### SOCIAL SECURITY CONVENTIONS

There is a number of Social Security Conventions that are in effect with France, Belgium, Tunisia, and Romania.

An agreement with Sweden has been signed in the health care sector.



These various conventions allow wage earners on secondment to remain affiliated to the Social Security Fund ("Caisse de Sécurité Sociale") they belonged to, before being dispatched. The dispatch of these employes should not exceed a certain duration that is specified in the various conventions.

For example, as far as French expatriates are concerned, they will remain affiliated to the Social Security Fund ("Caisse de Sécurité Sociale") that they belonged to before being dispatched, within a 3 years' limit. The employer must pay the contributions that are owed to the Fund in the country of origin.

Within the framework of the Convention that has been signed with France, a certification is given to the individual on secondment by the Fund of the country of origin to justify the non-payment of the contributions to the Algerian Social Security Offices.

Items	Share to be paid by the employer	Share to be paid by the SALARIE	Total
Social insurance	12.5 %	1.5 %	14 %
Work related accidents/ work related diseases	1.25 %	-	1.25 %
Retirement (01/01/99)	9.5 %	6.5 %	16 %
Unemployment insurance	1.25 %	0.5 %	1.75 %
Anticipated retirement	1%	0.5%	1.5%
Share for Charities' Fund	0.5%	0.5%	-
<b>Total</b>	<b>26%</b>	<b>9 %</b>	<b>35 %</b>

# FISCAL SYSTEMS

## CHAPTER 14

### FISCAL SYSTEM APPLICABLE TO COMPANIES

#### COMMON LAW

**Generalities:** Foreign companies that do business in Algeria under the system of common law are subject to the following taxes in particular:

On their turnovers:

- Added Value Tax, V.A.T. ("Taxe sur la Valeur Ajoutée", T.VA.)
- Tax on Professional Activities, T.P.A. ("Taxe sur l'Activité -Professionnelle", T.A.P.)

On their profits:

- Tax on Companies' Profits, T.C.P. ("Impôt sur le Bénéfice des Sociétés", I.B.S.)

On real estate, built and unbuilt, that they own and occupy:

- Land tax
- Sanitation tax

Foreign companies that do not have permanent business premises in Algeria and that are engaged in construction and public works on a contractuel basis with Algerian partners are also subject to this fiscal system.

If the business transaction concluded concerns the performance of services, the foreign company that does not have premises in Algeria is subject to a special fiscal Withholding Tax ("Retenue à la Source") system.

If the business transaction concluded concerns the exécution of real estate work and, incidentally, includes the performance of services, the existence of stable premises in Algeria accounts for the entire contract to be under the system of common law, without taking into account the specificity of each activity.

If a foreign company has concluded separate contracts for real estate work and for the performance of services, the existence of stable premises in Algeria accounts

for all the contracts that are concluded by the firm to be under the system of common law, whatever the nature of the work to be performed is.

However, due to the fact that the Withholding Tax ("Retenue à la Source") system is maintained for the performance of services, service contracts fall under this system.

However, the firm can, per Article 156 bis of the Code on Direct Taxes ("Code des Impôts Directs") opt for the 'real system' ("Régime du Réel")

The existence of international conventions that supersede domestic law in Algeria has an effect on the way the Algerian fiscal system is applied to foreign firms.

From a conventional point of view, a non-resident firm is taxed according to whether it has stable premises or not.

The notion of "stable premises" that is similar, but for a few exceptions, to territoriality rules provided for by Governments' domestic laws, designates established business premises through which a company carries out part or all of its activity.

As soon as it has been proved that a foreign company has stable premises, it is subject to taxation under common law.

Special attention is given to the specific case of construction sites, which, although they are established premises, are only considered to be stable premises per conventional provisions beyond a period of time defined bilaterally. As a general rule, this period cannot exceed 12 (twelve) months.

Past the conventional period, the firm will be considered to have stable premises and will be submitted to common law for all activities performed.

Five conventions that have been concluded by Algeria have come into force and are producing results (see previous Chapter on Business Environment).

Construction sites are considered to be stable premises if they last longer than: .

- 3 (three) months for the convention with Italy;
- 3 (three) months for the convention among U.M.A. countries;
- 6 (six) months for the convention with Turkey,
- 6 (six) months for the convention with Romania,

Although the convention with France does not provide for any timeframe, construction sites are only considered as stable premises if they last over 6 (six) months, in application of the clause on the most favored nation provided for in Article 5 - 4 ' of this convention.

The construction site life is calculated from the date when the contractor starts his activity, and until the work is finished or definitively abandoned.

However, the construction site life calculation is not put on hold if the work is momentarily interrupted due, for instance, to bad weather or to a lack of human resources or equipment, or to the subcontracting of part of the work.

### **TAX ON COMPANIES' PROFITS, T.C.P. ("IMPÔT SUR LE BÉNÉFICE DES SOCIÉTÉS", I.B.S.)**

**Companies liable to T.C.P. (I.B.S.) tax:** As provided for by the Trading Code Trade ("Code du Commerce"), all capital and assimilated companies are liable to T.C.P. (I.B.S.), whatever the nature of their activities is. However, certain companies of persons ("Sociétés de Personnes") can opt for this taxation system. It mainly concerns shareholding companies that are Shareholding Companies, S.C., per say ("Sociétés Par Actions", S.P.A.), Limited Partnership Stock Company, L.P.S.C. ("Sociétés en Commandite par Actions", S.C.A.), and Limited Liability Companies, L.L.C. ("Sociétés à Responsabilité Limitée", S.A.R.L.).

**Territorial basis for T.C.P. (I.B.S.) Tax calculation:** The tax is due based on profits made in Algeria. In particular, the following profits are considered to be profits made in Algeria:

- Profits made by companies consequently to the usual performance of activities of an industrial, commercial or agricultural nature, in the absence of stable premises;
- Profits made by companies who are assisted, in Algeria, by representatives who do not have a business identity different from these companies;
- Profits made by companies who, although they do not operate a business or use representatives in Algeria, still perform, directly or indirectly, an activity that translates into a full cycle of business transactions. When a company performs its activity both in Algeria and outside of the national territory, and

unless distinct accountings prove otherwise, its profit is considered to occur in Algeria to the prorata of the production it achieves, or, if not applicable, to the prorata of the sales performed in this territory.

Profits made by Algerian capital companies are liable to the payment of the Tax on Companies' Profits ("Impôt sur les Bénéfices des Sociétés") as long as they are within the territorial implementation field of this tax.

Foreign companies that perform services and do not have permanent premises in Algeria are subject to a special system.

Unless the implementation of international conventions dictates otherwise, profits that are made in Algeria are liable to taxation.

**Fiscal year:** Normally, the fiscal year lasts for twelve months. It does not necessarily coincide with the civil year.

Except for the specific cases of company cession or termination, T.C.P. (I.B.S.) taxations are calculated during the year following the year when the profits were made.

## **CALCULATION OF TAXABLE PROFIT**

### **Notion of taxable revenue**

Taxable profit corresponds to the variation of net assets.

It is calculated based on the results of the transactions of any nature that have taken place during the fiscal year of reference.

**Posting of incomes and expenses:** Commercial firms use a commitment accounting system ('comptabilité d'engagement'). Incomes and expenses are entered into the fiscal year of their acquisition or their commitment. T.C.P. (I.B.S.) is calculated yearly.

**Deduction of expenses:** The net profit is calculated after all expenses have been deducted. These expenses are as follows:

- general expenses of all nature, rents of buildings, staff and labor expenses, unless other specific provisions are applicable;
- Interests, charges and other financial expenses that relate to monies borrowed outside of Algeria, fees for patents, licenses, trademarks, expenses

- for technical assistance, fees payable in foreign currencies, as long as a transfer agreement delivered by an appropriate financial authority has been obtained, and if the payment has effectively been made during the exercise;
- Amortizations really entered within the limit of usual acceptance based on the specific practices of the sector of industriel, commercial or other business activity under considération, and calculated per the linear mode with an open option for an amortization sliding scale;
  - contingencies' monies indicated on the contingencies' monies statement;
  - Reportable deficits.

The general conditions under which déductions can be made for expenses incurred are of a classic nature:

- They must be related to the firm and made in its interest;
- They must correspond to a decrease in the assets of the firm;
- They must be justified;
- They must have originated during the accounting year under considération.

### **Expenses that cannot be deducted**

The following expenses cannot be deducted when calculating the fiscal net profit:

- Tax on Companies' Profit, T.C.P. ("Impôt sur les Bénéfices des Sociétés", I.B.S.) itself,
- Tax on Added Value ("Taxe sur la Valeur Ajoutée") for companies liable to this taxation;
- Land tax on buildings not directly used for operational activities;
- Personal taxes of managers;
- Fines and penalties, managers' personal insurance premiums, as well as insurance premiums of buildings not used for operational activities;
- Liberalities, gifts and donations, with the exception of marketing gifts of a limited unit value of 500 DA per beneficiary, as well as grants, liberalities, and donations, with the exception of those given in cash or in nature to humanitarian organisations and associations when they do not exceed an annual amount of 20 000 DA.

**Contingencies' monies:** Contingencies' monies that are set-aside on a regular basis and sufficiently justified are déductible when calculating the fiscal results. They must be listed in the bookkeeping records of the fiscal year under considération, and on the contingencies' monies' statement that is attached to the yearly fiscal déclaration. Contingencies' monies must be re-allocated as soon as they have lost their justification, either by entering them with the results as an income, or by definitively considering them as expenses.

**Amortizations:**

The amortization of fixed assets is calculated per the linear system. However, taxpayers can use a sliding scale amortization, under specific conditions that are established by law.

**Linear amortization:** Amortizations are tax déductible within the limits of what is generally accepted, based on the practices of the industriel, commercial, or other business activity under considération.

The calculation of the amortization of fixed assets giving right to a V.A.T. (T.V.A.) deduction and serving for the performance of an activity that is subject to V.A.T. (T.V.A.) is based on the purchase or cost price, exclusive of V.A.T. (T.V.A.).

The amortization of fixed assets used for an activity that is not liable to the V.A.T. (T.V.A.) is calculated including the V.A.T. (T.V.A.).

A sample of rates of linear amortization accepted by the administration or the jurisprudence is presented below:

Nature of the fixed assets	Annual amortization rate
- Commercial buildings	2 to 5 %
- Furniture	10 %
- Equipment	10 to 15 %
- Automobile	20 to 25 %
- Lay out	5 to 10 %
- Office equipment	10 to 20 %
- Computer equipment	20 to 33 %
- Tools	20 to 33 %

**Decreasing amortization:** The amortization of equipment that participâtes directly in the production process can be calculated according to the decreasing system of amortization.

The coefficients used for the calculation of the decreasing system of amortization are:

Use length	Yearly amortization rate
- 3 or 4 years	1.5%
- 5 or 6 years	2.0%
- over 6 years	2.5%

To benefit from decreasing amortization, the taxpayer must be under the system of taxation on real profit and must opt for this type of amortization.

This option must be chosen in writing, when the déclaration on the results of the closed fiscal year is produced. It is irrevocable for the fixed assets concerned.

**Increasing amortization:** The increasing amortization practice is exclusive of any other type of amortization.

To benefit from this amortization system, companies must add an option letter to their yearly déclaration.

Increasing amortization is obtained by multiplying the amortizable basis by a fraction that admits as a numerator the number of years corresponding to the length of time already elapsed, and as a denominator  $n(n+1)$ , "n" representing the amortization time frame.

## **RATE OF THE TAX ON COMPANIES' PROFITS, T.C.P. ("IMPÔT SUR LES BÉNÉFICES DES SOCIÉTÉS I.B.S.)**

### **General system:**

The normal rate of T.C.P. (I.B.S.) is 30 %.

However, profits can be taxed at a 15 % reduced rate, as long as they are re-invested.

Oil companies continue to be subject to the 38 % rate for their T.C.P. (I.B.S.) taxation.

### **Specific systems:**

- . Special déductions on certain revenues:



Certain déductions are only applicable to certain types of revenues. The T.C.P, (I.B.S.) rate is:

- 10 % for revenues from loans, deposits and guarantees, by applying a withholding tax to each payment that gives right to a tax credit,
- 20 % for monies received for management contracts that are taxed under the withholding tax system;
- 30% for anonymous cash vouchers, by applying the withholding tax.

## **REVENUES FROM MOVABLE PROPERTY**

### **Fiscal credit note:**

The Algerian législation provides for a tax credit technique that allows easing the double taxation on dividends, the T.C.P. (I.B.S.) tax being imposed first on the distributing company, and a second time on the company that benefits from these revenues.

Tax credits are applicable to legal entities that have their fiscal headquarters in Algeria, as long as the revenues distributed are included in the T.C.P. (I.B.S.) calculation basis.

### **Tax credit:**

The Algerian législation gives the beneficiary company liable to T.C.P. (I.B.S.) the option to deduct from the payment of the tax, according to its activity, the amounts of withholding taxes related to its revenues, loans, deposits and guarantees.

To benefit from this deduction, the company must provide supporting documents with its yearly déclaration.

## **APPRECIATIONS OF YIELDED ELEMENTS OF FIXED ASSETS**

Appreciations that result from yielded elements that are part of fixed assets are taxed differently, depending on whether they are spread over a short-term or long-term period of time:

Short-term appréciations concern yielded elements that have been acquired or create'd within less than 3 (three) years;

Long-term appréciations concern yielded elements that have been acquired or created for more than 3 (three) years.

The amount of appréciations resulting from the partial or total cession of fixed assets to be included in the taxable profit is:

- 70 % for short-term appréciations;
- 35 % for long-term appréciations.

Appreciations that result from the cession of elements of fixed assets during the operational phase are not included in the taxable profit of the accounting year during which they have occurred, on the following condition: the tax payer must be committed to reinvest into fixed assets, within 3 (three) years from the time when the accounting year during which the appréciations occurred was closed, an amount of money equal to the amount of these appréciations, increased by the cost price of the elements that have been yielded.

The reinvestment commitment must be added to the déclaration on the company's results for the fiscal year during which the appréciations occurred.

## **MERGERS**

They consist in the reunion of a number of companies into one:

- either by dissolving the companies that are being merged and creating a new company;
- or by having one of the merged companies, called the absorbing firm, absorb the other merged companies.

Absorbed firms benefit from an appreciation when the value of the new shares of the absorbing or new firm is higher than the accounting value of the net capital invested (accounting value per the documents remitted minus the amount of liabilities the company is relieved from). In the opposite case, there is a depreciation that is deducted from the profit made during the previous fiscal year.

These appréciations are tax-exempt, as long as all the companies that have participated in the transaction are shareholding companies, and the new or absorbing firm limits its amortizations to the accounting net value of the elements of assets absorbed.

## **SUPPLIES OF ASSETS BY ONE COMPANY TO ANOTHER**

They concern appreciation transactions that result from the supply, by one company to another, of part of its assets that constitute a separate branch of activities.

As it is the case for mergers, companies must be shareholding companies, and companies that benefit from these new assets must limit their amortizations to the accounting net value of the investments concerned.

When all the assets of a company are brought in, the transactions must result from the application of conventions that all have the same date (simultaneous), and cause, as soon as they have been performed, the immediate dissolution of the company that has brought in all its assets.

### **Re-invested appreciations:**

Appreciations that result from the cession of fixed assets during the operational phase are not included in the taxable profit of the fiscal year during which they have occurred. This option is offered to tax payers committed to re-invest the monies in fixed assets in their firms within 3 (three) years from the time the fiscal year under consideration was closed. The re-invested amount of money must equal the amount of appreciations added to the cost price of the yielded elements.

This commitment must be presented with the déclaration on the results of the company for the fiscal year during which the appreciations occurred.

If the money is re-used within the deadline indicated above, deducted appreciations ('plus-values distraites') of the taxable profit are considered to be allocated to the amortization of new fixed assets, and they come in deduction of the cost price for the calculation of amortizations and appreciations that occurred afterwards.

In the opposite scenario, they are entered within the taxable profit of the fiscal year during which the appreciations occurred.

### **POSTING DEFICITS**

In case a deficit occurs during an accounting year, this deficit is considered as being an expense for this accounting year. If the profit is not sufficient for the full deduction to take place, the excess deficit is carried over onto the following accounting years up to the fifth accounting year following the deficit accounting year.

This deficit must be the result of a regular and thorough accounting work performed during the course of the accounting year under consideration.

The deficit to be posted is the fiscal deficit, that is to say, the accounting deficit after it has been increased or decreased further to the various re-processing procedures imposed by fiscal regulations.

In case many successive deficits coexist oldest deficits must be posted first.

## **DIVIDENDS'DISTRIBUTION**

Subject to the implementation of tax conventions of non double taxation, the distribution of the dividends by the Algerian companies of common right, to the physical people holders of social shares, is the subject of a deduction at the source of income tax total (IRG) at the legal tender rate of 15 %.

The incomes coming from the distribution of benefit having been subjected to the tax on the benefit of companies or expressly exonerated, are not included in the tax basis on the total income.

## **SPECIAL SYSTEM FOR COMPANIES WITHOUT PERMANENT PREMISES**

**Scope of implementation:** Revenues of foreign companies that do not have permanent business premises in Algeria and perform services are subject to the withholding tax based on their temporary activity per the contracts negotiated.

For this withholding tax to be applicable, the company must have business premises of a temporary nature.

A service is considered to take place in Algeria when it is materially performed on the national territory. A service is considered being used in Algeria when the effective place for the use of the service is in Algeria. In a rental situation, the only criterion to be considered is the place where the rented property is used.

Services can take on various forms and the following activities are more specifically targeted:

Assembly, repair or maintenance in Algeria of a piece of equipment, studies of any type performed in Algeria, technical assistance provided in Algeria, marketing conducted in Algeria, contracts on geophysical research, on professional training, supply of information of an industrial, business or scientific nature, and remittance of technical studies with results effectively used in Algeria, license fees for patents and trademarks, fees, commissions, etc.;

. Management contracts

**Taxable basis:** For the performance of services, the gross receipts of payments under contractual terms represent the taxable turnover.

However, the interests that are paid for term payments related to a business transaction are not included in the taxable basis.

The rate of exchange used for amounts paid in foreign currency is the rate in effect on the date when the contract or the modification to the contract is signed and per which the amounts in question are due.

## **Tax calculation**

The rates used for the calculation of the withholding tax are:

- 24 % on the amounts received as part of the service contract;
- 24 % on the sums paid in remuneration of services of any nature provided or used in Algeria
- 20 % on the amounts received as part of a management contract.

These contractual deductions at the source exempt the foreign companies of the payment of the companies income tax, the tax on the occupation and the value-added tax.

**Taxation location:** The withholding tax must reach the miscellaneous tax collection office within twenty days following the month to which the withholding taxes were applied. The miscellaneous tax collection office must be selected according to the location of the headquarters or of the residence of individuals, companies, organisations or associations that make the tax payments.

**Modalities of the withholding tax payment:** Withholding taxes are processed by the paying entity when the monies owed to a foreign company are paid.

For each withholding tax to be paid, the paying entity provides the foreign company with a receipt that is pulled out from a counterfoil book supplied by the Administration.

The amount of withholding taxes to be paid is calculated by applying the current rate to the payments of the month under consideration.

Withholding taxes that relate to payments made during a specific month are paid to the tax office of the taxation location with a G 50 déclaration within twenty (20) days following the month during which the payments occurred.

If no withholding tax related to a specific month are paid, the party in charge of the withholding process must present a déclaration that bears a "not applicable" mention.

In order to protect the Public Treasury's interests, bank institutions make sure that fiscal obligations of the company under consideration have been fully satisfied. before any funds are transferred to the benefit of a foreign company.

**Solidarity of the parties:** In accordance with the dispositions of Articles 165 2 d paragraph of the Code on Direct Taxes ("Code des Impôts Directs"), T.C.P. (I.B.S.) withholdings on services can be claimed from foreign companies jointly and wholly responsible with the party directing the work ("MoCitre d'Ouvrage').

## **OTHER TAXES PAID BY EMPLOYERS**

### **Lump sum payments:**

Lump sum payments are deducted from wages, salaries, indemnities and émoluments paid by individuels and organisations that have an existence in Algeria or perform an activity there. ,

The taxable basis includes the amounts paid as salaries, indemnities, and émoluments, and takes into account the value of the advantages in nature.

The lump sum payment is calculated by applying the following rates to the yearly taxable amounts:

Wages, salaries, indemnities and émoluments, including the value of the advantages in nature	2%
Pensions and life annuities	Exempted

For lump sum payments, the taxable basis corresponds to the total amount of net salaries effectively paid during the month or the quarter under consideration.

The amount of the lump payment to be made is calculated by multiplying the taxable basis by a 4 % rate.

### **Exemptions that apply both to lump sum payments and to the Tax on Global Revenue ("Impôt sur le Revenu Global")**

- Indemnities for traveling expenses;
- Indemnities based on geographical zoning;

- Family type of indemnities provided for by social legislation such as supplementary benefits, family allowances, maternité benefits;
- Temporary indemnities, services and life annuities given to the victims of job injuries or their eligible parties;
- Redundancy indemnities;
- Advantages in nature, only for food and lodging, to wage earners working in areas to be promoted;
- Salaries below 12 000 DA that are paid monthly to employées who have a mental or spastic handicap, who are blind or deaf and dumb;
- Unemployment allocations, indemnities and services rendered, in any form and paid by the State, local administrations and public entities, in conformité with assistance and insurance laws and decrees

### **COMPULSORY DECLARATIONS**

Any individuel or legal entity that must pay the Tax on Professional Activities ("Taxe sur l'Activité Professionnelle") and the Tax on Profits ("Impôt sur le Bénéfice") must, before April 1<sup>st</sup> of each year, present to the tax office in charge of the area where the headquarters or the main establishment of the company is located, a déclaration indicating the amount of the taxable profit for the previous accounting year, as well as a déclaration on its total turnover or gross business revenue, depending on the case under considération, for the taxable period.

If the company shows a deficit, a déclaration on the amount of the deficit must be produced under the same conditions.

The déclaration must clearly indicate the fraction of the turnover that may be given special considération.

For wholesale transactions, the déclarations must be documented with a statement indicating the following information for each client:

- Statistical identification number;
- Number of the taxable item;

- Last Name, first name, middle name or company's name; a Address;
- Amount of sales performed;
- Registration number with the trade registration office;
- V.A.T. (T.V.A.) amount invoiced.

This statement must be produced with the yearly déclaration.

Taxpayers must produce a déclaration for each establishment or unit that they operate in each of the communities where they are established.

This yearly déclaration results in a taxation that is notified through a tax list and a notice indicating the total amount of the tax that remains due, or the overpayment to be reimbursed.

## **FISCAL SYSTEM APPLICABLE TO GROUPS OF COMPANIES**

**Condition for eligibility:** A group of companies is considered to be any economic entity formed by two or more companies through shares that are legally independent, and in which one of the company known as the parent company holds directly 90 % or more of the capital of another company.

The parent company cannot have 90% or more of its share capital held, in a direct manner, by a third company eligible as parent company. In fact, because of the conditions indicated above under which the share capital is held, the company is considered as a member company, and, therefore, cannot benefit from the fiscal system applicable to groups of companies in its status as parent company.

When the share capital is indirectly held, this situation does not give to the controlled company the status of group member even if, from a legal point of view, it can be considered as a branch. Member companies must show positive results over the last two (2) accounting years.

Companies that stop fulfilling these conditions, or show deficits over two (2) consecutive years during the implementation of the taxation system for groups of companies are, from a fiscal point of view, automatically excluded from the group.

**Companies that cannot benefit from the fiscal system applicable to groups of companies:**



The code on direct taxes excludes the following companies to benefit from the fiscal system applicable to groups of companies:

- Oil companies

Oil companies refer to the Algerian company SONATRACH, as well as to any company whose main purpose of activity is related to the exploitation, transportation, processing or marketing of hydrocarbons and by-products;

- Companies who entertain working relations that are not exclusively regulated by the Trading Code ("Code du Commerce");
- Companies from a group that hold crossed shares.

### **The preferential fiscal system for groups of companies:**

Groups that fall under the fiscal system applicable to groups of companies (see above) benefit from the following fiscal advantages:

- Application of a 15% reduced rate to profits that help acquire shares allowing a 90 % participation in the capital of other companies belonging to the same group;
- Exemption of the registration fees when by-laws of companies are modified in order to form a group of companies; .
- Consolidation of profits taxable per the T.C.P. (I.B.S.) taxation for all the companies members of the group with, however, a limit for the deductions of expenses at the group level;
- Exemption of the T.C.P. (I.B.S.) on dividende collected by the companies for their participation in the capital of the other companies members of the groupe
- T.C.P. (I.B.S.) exemption for the appréciations of cessions performed between member companies;
- Exemption of registration fees for acts on property transfers between members of the same group;

- A 50 % T.A.P (T.A.P.) rebate for business conducted between member companies;

Tax exemption on profits from appréciations resulting from the partial or total cession of fixed assets between companies of a same group;

Exemption of the registration fees for legal documents related to changes in companies in view of the intégration of the new structure into the group.

# CHAPTER 15

## FISCAL SYSTEMS APPLICABLE TO INDIVIDUALS

In the absence of a fiscal convention, the regulations of the Algerian Code on Direct Taxes ("Code des Impôts Directs") are applicable to foreign workers under the same conditions as for Algerian workers.

### TAX TERRITORIALITY AND FISCAL DOMICILE

**Scope of implementation:** In the absence of a fiscal convention, the Algerian Tax on Global Revenue, T.G.R. ("Impôt sur le Revenu Global", I.R.G.) is applied as follows:

- to individuals who have their fiscal domicile in Algeria for all their revenues;
- to individuals who do not have their fiscal domicile in Algeria for their revenues of an Algerian source.

### Determination of fiscal domicile:

In the absence of a convention, a tax-payer is considered to have his fiscal domicile in Algeria if-:

- he has a dwelling there (as an owner or a renter for a continuous period of at least one (1) year);
- he has there his main residence, or main interests;
- he has a business activity there, for which he receives wages or not.

When a convention is applicable, the criteria mostly used to determine the fiscal domicile are as follows:

- criterion on permanent residence;
- if the criterion on permanent residence is not workable, the criterion of the Government with whom the individual has the closest personal and economic relations (center of his/her vital interests) applies;
- if the criterion on the center of the vital interests of the tax-payer is also unworkable, the criterion on the usual residence (rule of the 183 days) must be used;
- if this criterion is unworkable, the criterion on the nationality of the taxpayer is used: the individual is taxed in the country of his citizenship.

- If none of the above four criteria can be used to determine the fiscal domicile of a tax-payer, the fiscal authorities of the two countries make a decision by mutual agreement.

## **TAX ON GLOBAL INCOME, T.G.1. ("IMPÔT SUR LE REVENU GLOBAL", I.R.G.)**

**Determination of taxable items:** The net profit or revenue that is determined differently according to the specific rules of each category is totaled on an annual basis to determine the global revenue. Out of this global net revenue, certain expenses can be deducted.

Expenses that can be deducted from the global net revenue are:

- Contributions for old age pensions and welfare that are paid by the tax payer on an individuel basis;
- A deficit recorded for one (1) year in a category of revenues;
- Interests for loans and debts that have been contracted for business purposes, as well as those contracted for the acquisition or construction of dwellings to be paid by the tax payer;
- Alimonies
- The insurance policy contracted by the landlord.

### **Specific cases:**

**Exceptional revenue:** When, during the course of one (1) year, a tax payer has had an exceptional revenue and the amount of this revenue is higher than the average net revenue according to which this tax payer has been submitted to the T.G.1. (I.R.G.) for the last three (3) years, this individuel can ask that, in order to determine the T.G.1. (I.R.G.), this revenue be spread over the year when it occurred and the previous years that were not covered by the prescription.

**Taxable revenue of foreigners who have their fiscal domicile in Algeria:** Foreigners who have their fiscal domicile in Algeria are taxable under the conditions of common law.

**Taxable revenue of foreigners and individuels who do not have their fiscal domiciles in Algeria:** The taxable revenue of individuels who do not have their **fiscal** domiciles in Algeria only comes from the revenues of Algerian source, more specifically:

- Revenues from properties located in Algeria;
- -Revenues from Algerian transferable properties;
- Revenues from business paid or unpaid activities conducted in Algeria;

- Appreciations and profits related to the opération of businesses or to buildings located in Algeria, etc.

Individuals who do not have their fiscal domicile in Algeria but have revenues of an Algerian source must designate a fiscal representative in Algeria within twenty (20) days following the request sent to them by the direct tax office.

**Evaluation of the taxable revenue according to certain elements of life style:**

Unless justified otherwise by the taxpayer, the taxable revenue cannot be less than a set amount calculated by applying a tax scale to certain elements of life style (main and secondary résidence, personal vehicles, leisure boats, etc.).

**Tax rates**

The revenue is taxed according to the following increasing scale:

<b>Fraction of the taxable revenue</b>	<b>Rate</b>
Within 60.000 DA	0%
From 60.001 to 180.000 DA	0%
From 180.001 to 360.000 DA	20%
From 360.001 to 1.080.000 DA	30%
From 1.080.001 to 3.240.000 DA	35%
Over 3.240.000 DA	40%

**Tax allowance:** Taxpayers benefit from a decreasing tax allowance of an amount that varies according to their family status:

**For tax payers who are bachelors:** 10% without the allowance being less than 1 800 DA or more than 6 000 DA per year;

**For tax payers who are married:** 30% without the allowance being less than 3 000 DA or more than 15 600 DA per year;

In addition, remunerations paid for a contract of expertise or a training contract benefit from a 20% allowance.

Also, specific allowances that can reach up to 50% are applicable to revenues that come from prescribed activities conducted by individuals in certain Wilayas.

**Withholding tax and tax credit:** Certain revenues are subject to withholdings at source that are imputed to the amount of T.G.R. (I.R.G.) owed. A tax credit is also given for the distribution of dividends.

**Declaration:** Individuals subject to T.G.R. (I.R.G.) must produce, before April 1<sup>st</sup> of every year, a déclaration on their global revenue. This obligation concerns also all individuel taxpayers, with the exception of those who have only one salary and of those who perform teaching assignments in addition to the activities for which they receive a salary occasional in intellectual and indebted matter of a total income tax according to the mode of the deduction at the legal tender source, and whose annual value gross of remunerations while coming, does not exceed 500 000 DA.

The déclaration must indicate separately the amount of the revenues of any kind, received in Algeria and overseas.

Taxpayers must also declare the rent or the rental value and the address of their main résidence, of their secondary résidences in Algeria and outside of Algeria, the value of their automobiles, yachts and planes, as well as the number of household staff they employ.

**Payment:** Taxes are due on first day of the third month following the month when the tax list is implemented.

**Sanctions:** Any debtor and employer who has not processed or under-processed the legal withholding taxes must pay the amount of the withholding taxes that have not been taken care of, increased by 25% according to the specific situation under consideration.

If a payment slip is not produced and the corresponding dues are not paid within the stipulated time frame, the debtor must pay a 1 0% penalty.

## **WAGES AND SALARIES**

**Scope of implementation:** The revenues under consideration are the wages, indemnities, émoluments, salaries, pensions and life annuities.

Per the Algerian fiscal législation, the following items are considered to be salaries:

- Remunerations to minority associâtes of L.L.C. (S.A.R.L.);
- Payments received by individuels for work that they perform at home on account of a third party;
- Set indemnities, reimbursements and allowances for expenses paid to companies' managers;
- Productivity and miscellaneous bonuses or other payments that are not given on a monthly basis and usually given by the employer;

- Amounts paid to individuals who perform teaching, research, supervising or assistantship assignments on a temporary basis, in addition to their main activities for which they receive wages;
- Remunerations for occasional activities of an intellectual nature,
- Tips;
- Profit sharing by wage earners. Profit sharing is considered to be a salary as long as there is no participation in eventual losses. In fact, in this hypothesis, it would not be a service contract but an association contract;
- Indemnities for paid vacation;
- Premiums for life insurance paid by an employer for an insurance contract for the benefit of the wage earner.

The following items are also considered to be taxable wages and salaries:

Remunerations and miscellaneous allowances (transportation allowance, lunch allowance, seniority allowance, etc.);

Benefits in nature that mainly consist in lodging, heating, lighting, are also taxable for a value estimated by the employer according to the real value of the advantages provided for.

However, the following items are not included in the tax base and are, therefore, tax-exempt:

- Advantages in nature that only concern food, lodging, as long as they are received by a wage earner working in zones to be promoted;
- Indemnities for transportation or mission expenses and indemnities for geographical zoning;
- Indemnities of a family nature;
- Indemnity for lay-off.

#### **Determination of taxable revenue:**

The taxable revenue includes wages, indemnities, émoluments, salaries, pensions, and life annuities paid and of the benefits in nature (except for wage earners working in zones to be promoted).

The taxable basis is determined by deducting from the gross amount of payments and benefits in nature the following items:

- Withholdings processed by the employer for pensions or retirements funds;
- The worker's contribution to welfare.

### **Taxation modality**

The taxation of salaries is done as part of the T.G.R. (I.R.G.).

**Withholding tax:** The withholding tax is applied to each payment made. The amounts withheld for a specific month must be repaid within the first twenty (20) days of the following month.

Individuals, associations or organizations who pay wages, salaries, pensions and life annuities must produce, before April 1" of each year, an itemized statement of the amounts paid to the Tax Office of the location of the résidence of the individuel or of the headquarters of the company or of the office who has paid the wages.

Tax payers who receive, from individuels or legal entities who do not have their fiscal domicile in Algeria, taxable revenues must calculate themselves the tax owed on the monies received, and pay the tax as indicated in the above paragraphe

Wage earners of foreign companies that are not located in Algeria must fulfill all fiscal obligations (including déclarations) that are normally incombent to the employer.

**Allowances:** Revenues from wages, indemnities, émoluments, salaries, pensions and life annuities are included in the global revenue and, therefore, benefit from the proportional tax allowance.

**Family status and dependents:** The family status to take into considération is the family status that exists on the first day of the month during which or for which wages, salaries, and life annuities are allocated.

The following family members are considered as dependents of the taxpayer for the month when the payment is made, as long as they do not have revenues distinct from the revenues that serve as the basis of calculation for the taxpayer's taxation:

His/her children, if they are less than eighteen (18) years old or less than twenty five (25) years old with a justification that they are continuing their studies, or, without any age limit if they prove to be handicapped, based on handicap rates defined in regulatory texts;

Under the same conditions, the children he/she shelters under his/her own home, and for whom he/she receives family allowances or custody allowances.



As a dérogation to the previous provisions, a female spouse who receives a salary is considered as being married without any dépendent, no matter how many children live under the household, when the husband receives a salary, and, as a conséquence, family allowances. And vice versa, the male spouse who receives a salary is considered as being married without any dépendent, no matter how many children live under the household, when the wife receives a salary and, as a conséquence, family allowances.

### **Specific cases**

#### **Salaries of foreign technical and managerial staff employed in Algeria by foreign companies**

Salaries of foreign technical and managerial staff employed in Algeria by foreign companies in certain sectors of activities are subject to a monthly Withholding Tax, W.T. ("Retenue à la Source", R.A.S.) at a set 20% rate, as long as they have a valid work permit and earn a minimum gross annual salary of 80 000 DA.

The activities of these sectors are defined through regulations and are more specifically related to hydrocarbons, the iron and steel industry, the pharmaceutical and medical equipment industry, tourisme capital goods, etc.

This full W.T. (R.A.S.) is applicable, whatever the marital status of the wage earners is.

#### **Productivity bonuses, gratifications, and extra-salary remunerations:**

Productivity bonuses, gratifications, or others, that are given on a regular basis but not on a monthly basis and usually paid by the employer, as well as the monies paid to individuals who perform, in addition to their main activities as wage earners, teaching, research, monitoring or assistantship assignments on a temporary basis, as well as the related subsequent payments are subject to the W.T. (R.A.S.) of the T.G.R. (I.R.G.) at a 15% rate, and no allowance is authorized.

#### **Occasional activities of an intellectual nature:** Remunerations received by

wage earners in addition to their main activities are subject to the 15% withholding tax that is in full discharge of the T.G.R. (I.R.G.) payment. However, the 2001 law on finances limits this W.T (R.A.S.) discharge mechanism to occasional revenues of an intellectual nature of an amount not to exceed 500 000 DA. Wage earners whose salaries do not exceed 500 000 DA must produce their fiscal déclarations.

## **LAND REVENUES FROM RENTED BUILT AND UNBUILT PROPERTIES**

Land revenues are taxed under the T.G.R. (I.R.G.) system. However, they are the subject of specific rules regarding the détermination of taxable revenue and the obligations of the taxpayers.

### **LAND TAX ("TAXE FONCIERE") ON BUILT PROPERTIES**

#### **Scope of implementation**

With the exception of certain temporary or permanent exemptions, the Land Tax (Taxe Foncière) is determined on a yearly basis for:

- built properties;
- premises to be used to shelter people or goods or to store products;
- commercial premises located in the perimeters of airports, harbor stations, railway stations, haulage depots and bus stations, including their related building such as the warehouses, the workshops, and the maintenance yards;
- the soil on which buildings of all kinds are built and the land that are in an indispensable and direct dependence;
- land that is not cultivated that is used for commercial or industrial purposes, such as yards, depots to warehouse goods, and other places of a similar nature.

#### **Taxation rate**

The following rates are applied to the calculation basis:

- . built property: 3%;
- . land related to built properties when they cover an area that is:
  - less than 5 382 sq. ft: 5%;
  - between 5 382 sq. ft and 10 764 sq ft: 7%;
  - over 10 764 sq. ft: 10%.

## **Collection**

The collection is done using a tax list.

## **LAND TAX ("TAXE FONCIERE") ON UNBUILT PROPERTIES**

### **Scope of implementation:**

With the exception of certain temporary or permanent exemptions, the land tax ("taxe foncière") is calculated on a yearly basis for unbuilt buildings of all kinds.

**Calculation of the taxable basis:** The fiscal rental value is the basis used for taxation purposes. For the other catégories of land, the basis is calculated per square meter, and for agricultural land by the hectare. No allowance is provided for.

### **Rate**

The following rates are applied to the calculation basis:

For unbuilt properties in non urbanized sectors: 5%;

For unbuilt properties in urbanized sectors when they cover an area that is:

- less than 5 382 sq. ft: 5%;
- between 5 382 sq. ft and 10 764 sq ft.: 7%;
- over 10 764 sq. ft: 10%.
- for agricultural lands: 3%.

**Collection:** The collection is done using a tax list.

## **APPRECIATION OF BUILT OR UNBUILT BUILDINGS YIELDED**

### **AGAINST PAYMENT**

**Scope of implementation:** Appreciations that result from the cession, against payment, of built or unbuilt buildings by individuals who yield, outside of the scope of their business activities, built buildings or parts of buildings, unbuilt buildings, and the property rights related to these properties are taxable.

However, appréciations achieved on real estate properties that are yielded as part of a succession to liquidate an existing inherited jointly held property are not subject to taxation.

### **Determination of the taxable appréciation:**

It consists in the différence between:

- The price of the yielded property,
- The assignor's acquisition price or creation value by the assignor.

The cession price is reduced by the amount of the taxes and expenses borne by the seller on the occasion of the cession transaction.

The acquisition price is increased every year by 8% to take into account the expenses incurred for acquisition, maintenance and improvement.

Lastly, the taxpayer can give justifications for his real expenses, as long as the deductible fraction does not exceed 30% of the acquisition price or of the creation value. If he cannot justify these expenses, they are assessed by the administration at 10% of the actualized value of the property at the time of the cession.

The administration has also the right to re-assess per certain modalities.

The following allowances are applied to the revenue obtained:

- 100% when the cession occurs within more than fifteen (15) years from the time of acquisition or creation of the yielded property;
- 80% when the cession occurs with ten (10) and fifteen (15) years from the time of acquisition or creation of the yielded property;
- 60% when the cession occurs between six (6) and ten (10) years from the time of acquisition or creation of the yielded property;
- 40% when the cession occurs between four (4) and six (6) years from the time of acquisition or creation of the yielded property;
- 30% when the cession occurs between two (2) and four (4) years from the time of the acquisition or creation of the yielded property.

**Taxation modalities:** The revenue is taxed as part of the T.G.R. (I.R.G.) at a 15% rate that is in full discharge of tax payment obligations.

Taxpayers who benefit from appreciations must produce, within thirty (30) days following the date of the sales deed, a special déclaration to the Direct Tax Inspector ("Inspecteur des Impôts Directs") of the area where the property has been yielded.

If the seller does not reside in Algeria, a duly authorized proxy must make the déclaration.

**Collection:** The Tax Inspector calculates, within ten (10) days after the receipt of the déclaration, the taxable amounts.

These amounts are the subject of individual tax lists that must be paid once it is due for collection.

## **TAX ON PATRIMONY ("IMPÔT SUR LE PATRIMOINE")**

### **Scope of implementation**

The 1993 Finance Law provides for a Tax on Patrimony ("Impôt sur le Patrimoine") that replaces the Solidarity Tax on Real Estate Patrimony ("Impôt de Solidarité sur le Patrimoine Immobilier").

The following individuals must pay the Tax on Patrimony ("Impôt sur le Patrimoine"):

Individuals who have their fiscal domicile in Algeria, for their properties located in Algeria or outside of Algeria,

Individuals who do not have their fiscal domicile in Algeria, for their properties located in Algeria.

The tax liability is assessed on January 1" of each year.

**Tax base:** The tax base consists in the net value of all the property, rights and taxable values as of January 1" of the taxation year. Certain elements that are specified in the texts must be declared. Married women are subject to a distinct taxation for all the goods, rights and values that constitute their patrimonies.

### **Exempted properties:**

The following items are tax exempt:

- The capitalisation value of certain life annuities,
- Annuities or indemnities received to repair physical damage,
- Professional property, i.e., the property needed to perform industrial, commercial, agricultural or liberal activities, crafts, as well as the shares and stocks of companies that do not manage, as their primary activities, their own movable or real estate patrimony.

**Assessment of property:** Buildings are assessed according to their real venal value. The assessment of transferable property is done pursuant to the regulations on liquidation and on the payment of the Transfer Tax due to Death ("Mutation par Décès").

**Deductible debts:** Debts on tax payers' patrimonies are déductible, especially for real estate property. Loans contracted for the construction or the acquisition of these properties are déductible as long as they represent an equal amount to the remaining capital due on January 1<sup>st</sup> of the taxation year, increased by the interests due and not paid, and the current interests on that date.

Deductible debts, for transferable goods are identical to those provided for by the Registration Code ("Code de l'Enregistrement") for the Transfer Tax due to Death ("Mutation par Décès")..

Deductible debts must be duly justified and detailed in the déclaration that must be filed for the Tax on Patrimony ("Impôt sur le Patrimoine").

### Tax calculation

Tax calculation is as follows:

<b>Fraction of the taxable net value of the patrimony</b>	<b>Rate</b>
Less or equal to 12 000 000 DA	0%
From 12 000 001 to 18 000 000 DA	0.5%
From 18 000 001 to 22 000 000 DA	1%
From 22 000 001 to 30 000 000 DA	1.5%
From 30 000 001 to 60 000 000 DA	2%
Over 60 000 000 DA	2.5%

Tax payers who possess property located outside of Algeria and who, for this reason, have paid taxes that are équivalent to the Tax on Patrimony ("Impôt sur le Patrimoine") can allocate this tax to the tax that is owed in Algeria for these same properties.

**Mandatory déclarations:** Every four (4) years, and latest on May 31<sup>st</sup> of the fourth year, tax-payers must file a déclaration for the properties they possess with the Direct Tax Office ("Inspection des Impôts Directs") of the area where they reside.

Individuals who do not have their fiscal domicile in Algeria but have properties there, as well as Governmental agents on a mission abroad can be asked by the fiscal administration to designate a représentative in Algeria who is authorized to receive any communication related to this tax.

In the absence of a ro er déclaration within thirt 30 da s followin a formal request, a taxation decision is automatically enforced.

## **NON COMMERCIAL REVENUES**

### **Scope of implementation:**

The following items are considered as being non commercial revenues or assimilated to non commercial revenues:

- Profits made by liberal professionals and individuels who do not act as traders when performing their jobs;
- Products from royalties or those received by inventors for conceding exploitation licenses of their patents or for conceding trademarks, processes or manufacturing formulas.

**Assessment of the taxable profit:** The profit to take into considération as part of the taxation basis consists in the surplus of the total income over the expenses that are necessary to perform the job. Certain expenses that are related to the activities performed are déductible.

**Taxation -modalities:** The revenue is taxed according to the Tax on Global Revenue ("Impôt sur le Revenu Global"). The 2001 Finance Law provides for two special systems of déclarations:

- The system of the controlled déclaration that is automatically applied to the tax payers who have a yearly income of more than 300 000 DA;
- The system of the administrative assessment that is applied to tax payers who have a turnover lower than the above ceiling.

**Withholding Tax ("Retenue à la Source"):** The following revenues that are paid by debtors established in Algeria to beneficiaries having their fiscal domicile outside of Algeria are subject to the Withholding Tax ("Retenue à la Source") that is in full payment of the T.G.R. (I.R.G.).

- Sums paid in remuneration of an activity carried on in Algeria in the exercise of the one of the professions liable to the BNC, at the rate of 24%;

- -Revenues that are assimilated to B.N.C. and received by inventors or as royalties, as well as all products resulting from industrial or commercial ownership and from assimilated rights, at a 20% rate;
- -Remunerations for services of all kinds supplied or used in Algeria, at a 24% rate. This withholding includes the Tax on Professional Activity ("Taxe sur l'Activité Professionnelle").

Deposits and Guarantees ("Impôt sur les Revenus des Créances, Dépôts et Cautionnements"), that is to say, the following products in particular:

- mortgage loans, privileged and chirographic loans;
- money deposits at sight or with a fixed expiration date;
- guarantees in cash;
- current accounts,
- cash vouchers.

Revenues from debts, deposits and guarantees are no longer exempted.

**Exemption:** Products from stocks and assimilated securities that are officially quoted at the Algiers Stock Exchange are exempt from the Tax on Global Revenue, T.G.R. ("Impôt sur le Revenu Global", I.R.G.) during a five (5) year period from the 1999 Finance Law.

Revenues from negotiable bonds and loan securities of banking institutions and public organisations with a total duration equal to or over five (5) years are T.G.R. (I.R.G.) exempt during a period of five (5) years from January 1<sup>st</sup>, 1998.

Since January 1<sup>st</sup>, 2001, this T.G.R. (I.R.G.) temporary exemption is extended, for a period of five (5) years, to the products from the bonds, stocks, or shares of collective organisations that invest in transferable securities.



## **Assessment of taxable revenue**

**i) Product of stocks or social shares and assimilated revenues:** For each taxation period, the total distributed revenues are considered as being split between the various beneficiaries to calculate the revenue of each of them.

**ii) Revenues from loans, deposits and guarantees:** The taxable amount is calculated by applying to the gross amount of the interest, arrears or other products an allowance of 200 000 DA. The product of the loans accounted for "without interests" is calculated by applying to these debts the Central Bank advance rate increase by two points.

### **Taxation modalities: The revenue is taxed as part of the T.G.R. (I.R.G.)**

**i) Product of stocks or shares and assimilated revenues:** Individuals who benefit from the product must produce a déclaration before April 1 s'of each year.

**ii) Revenues from loans, deposits and guarantees:** Individuals who benefit from interests, are established in Algeria and paid on an account outside of Algeria must produce, before April 1s' of each year, a special déclaration. Beneficiaries of interests paid in Algeria even if there is no written document to prove it must meet the same obligation.

### **Withholding Tax ("Retenue à la Source")**

**i) Product of stocks, shares and assimilated revenues:** The debtors who distribute transferable securities are held to carry out a deduction at the source whose amount is fixed at 15%. This reserve opens directly to the profit of the recipient to a tax credit equal to the amount of reserve and ascribable on the IRG.

The amount of this withholding is set at 15% for the percentages, directors' fees and other remunerations that are paid to the members of the Board of Directors or of the Monitoring Council.

This withholding is indicated on a statement-notice and the beneficiaries who have their fiscal domiciles located outside of Algeria receive from the tax inspector a confirmation of payment of the Withholding Tax ("Retenue à la Source").

Debtors must repay the Treasury during the first twenty (20) days of the month following the withholdings.

**ii) Revenues from loans, deposits, and guarantees:** Revenues from debts, deposits and guarantees are subject to a 10% or 30% withholding to be processed by the debtor when interests are paid, or recording to the debit of an account in Algeria:

- 10% on revenues from loans, deposits and guarantees;
- 40% on the anonymous product of cashier vouchers.

The 10% withholding on revenues from loans, deposits, and guarantees gives the beneficiary a tax credit of an equal amount to the amount of the withholding that is imputable to the T.G.R. (I.R.G.) or T.C.P. (I.B.S.) owed by the beneficiary.

The 40% withholding rate on the anonymous products of cashier vouchers is in full payment of the T.G.R. (I.R.G.) or the T.C.P. (I.B.S.).

Within the first twenty (20) days of the following month, the debtor remits to the Miscellaneous Tax Collector ("Receveur des Contributions Diverses") a certified statement indicating, for the past quarter, the total amount for which the tax is due, and the tax is immediately paid.

## **FISCAL SYSTEM FOR THE DISTRIBUTION OF DIVIDENDS**

**Taxation basis:** In the absence of applicable fiscal conventions, the receipt of dividende is subject to taxation in Algeria. The taxable basis consists of the gross amount of the distributed dividends, including its related fiscal credit.

**Taxation modalities:**

**Withholding Tax ("Retenue à la Source"):** Only the distributive firm must practise a deduction at the legal tender source of 15% on the dividends poured with its shareholders

# CHAPTER 16

## VALUE ADDED TAX, V.A.T. ("TAXE SUR LA VALEUR AJOUTÉE", T.V.A.)

### SCOPE OF IMPLEMENTATION

The following items are liable to the V.A.T. (T.V.A.) taxation:

- Sales, real estate work, and the performance of services, other than those that are liable to special taxation, of an industrial and commercial nature and that are performed in Algeria on a regular basis;
- Imports.

### TAXABLE TRANSACTIONS

The law provides for a list of transactions that are taxable, and for a certain number of exemption cases.

The V.A.T. (T.V.A.) is due in a compulsory manner for:

- Sales and deliveries made by producers;
- Real estate work;
- Sales and deliveries of imported products and merchandise as are, performed by importing traders;
- Sales performed by wholesale traders;
- Deliveries to oneself,
- Transactions for the hiring and performance of services, study and research work, as well as all transactions other than for sales and real estate work;
- Sales of buildings or of businesses performed by individuals who buy these properties, on a regular or occasional basis, in their names, for resale purposes;

- The trading of second-hand items other than tools, made totally or partly of platinum, or of silver, of natural gemstones listed under n' 71 01 and 71 02 of

the customs tariff, as well as original works of art, antiques and collection items listed under n'99 06 and 99 07 of the customs tariff,

- Transactions performed as part of a liberal profession by individuals or legal entities;
- Shows, games, and entertainments of all kinds;
- Telephone and telex services performed by the Post Office;
- Sales performed by large stores;
- Transactions performed by banks and insurance companies;
- Multiple trade and retail trade.

### **Entities liable to the V.A.T. (T.V.A.) tax**

Commercial firms are in principle liable to the V.A.T. (T.V.A.) tax.

### **Territoriality**

A business transaction is performed in Algeria:

- For sales, when the business transaction is paid according to the delivery conditions of the merchandise in Algeria;
- For the performance of services when the services rendered, the yielded right, the rented objects or the studies executed are performed, used, or taken advantage of in Algeria.

### **Generating factor**

Generating factors are as follows:

- For sales, the generating factor is the juridical or physical delivery;
- For real estate work, the generating factor is when the payment is partially or totally cashed. However, there are two exceptions:
- For foreign companies, concerning the amount of the tax that is still owed when the work is finished after the tax interim payments have been made, the generating factor arises from the final réception of the work done,

- For real estate work performed by real estate developers as part of their activities only, the generating factor arises from the juridical or physical delivery of the property to the beneficiary;
- For deliveries to oneself, the generating factor is the delivery;
- For imports, the generating factor arises from the introduction of the merchandise into customs, and for exports, from their presentation to customs. The tax debtor is, in this specific case, the customs declaring party;
- For the performance of services in general, the generating factor arises from the partial or total cashing of the payment. However, contractors and service companies may be authorized to be exempt based on the debits and, in this case, the V.A.T. (T.V.A.) generating factor arises from the debits themselves.

### **Calculation base and rate**

To determine the taxable turnover, it is necessary to add the following amounts to the value of the merchandise, work or services:

Transportation expenses when they are not invoiced separately; packaging expenses, when the packaging is not returned; expenses that stand as operating expenses (intermediaries' remuneration, commissions, brokerage, insurance premiums and, in general, all the expenses that are paid by the seller and invoiced to the client);

- Duties and taxes in effect, to the exclusion of the V.A.T. (T.V.A.);
- Secondary income

However, the following items can be deducted from the taxable basis, when they are invoiced to the client:

- Rebates, discounts, refunds given;
- Fiscal stamps rights;
- Transportation expenses under certain conditions;
- Expenses for returnable packaging.

There are two VAT (T.V.A.) rates: a 17 % normal rate and a 7 % reduced rate. They are applicable to the prices, exclusive of taxes of products, goods, services and transactions listed by law.

## DEDUCTIONS

**Principle of the deduction:** Apart from the right to deduction, the VAT (T.V.A.) that is indicated on importation invoices or documents in addition to the elements of price of a taxable transaction is déductible from the tax that is applicable to this transaction.

The tax on bank transactions is déductible under the same conditions for persons liable to the VAT. (T.V.A.)

The deduction of the VAT (T.V.A.) that has been added to a transaction can only be done on the déclarations that are filed by the persons liable to the V.A.T. (T.V.A.) and must be applied to the turnover of the month following the month during which the importation invoice, mémorandum or document has been produced.

For amortizable elements, the deduction can be applied to the month of acquisition or creation of those goods.

In case the tax due for a specific month is lower than the déductible tax, the credit is reported to the following month and so on and so forth.

The right to the deduction of the tax on purchase is subordinated to the production by the debtor of this tax of a monthly state joint to its monthly declaration of sales turnover on which it will be made mention of the number and date of the invoice opening right to the deduction, of names, first names or corporate names and addresses of the good supplier or the service, its statistical identification number, its number of trade register ,amount including all taxes of the invoice and the deductible VAT.

This deduction practice cannot result in a V.A.T. (T.V.A.) reimbursement, even if partial, except and especially in one of the following cases:

- for the exportation or the delivery of goods and services when their V.A.T. (T.V.A.) free acquisition or importation appears on the last turnover déclaration;
- when they are rate differentials between the V.A.T. (T.V.A.) rate applicable when the materials or products are acquired, and the rate applicable at the time of the cession of the products or the performance of taxable transactions, when the credit balance covers a three (3) month period.

If the VAT (T.V.A.) is not due for all the business transactions performed by the taxpayer, the amount of the deduction is reduced by a classic proportional calculation..

At the end of each civil year, tax-payers determine the percentage of deduction as it is reflected from the transactions that have taken place during the year, and they send it within the first twenty (20) days of March to the Department on Turnover Taxes, D.T.T. ("Service des Taxes sur le Chiffre d'Affaires", T.C.A.). If this percentage is more than 5 % compared to the initial percentage, a regularization must be done through repayment or complementary deduction within the first twenty (20) days of March of the following accounting year.

**Transfer of the deduction right to foreign companies:** Algerian legislation allows foreign companies that are under a contract with an Algerian partner to benefit from the deduction of the VAT (T.V.A.) that has been added to the price of the work performed, as long as:

- the contract is for supplies and the performance of site work;
- the party directing the work ('Maître d'Ouvrage') imports or buy locally in his name all or part of the supplies that are scheduled in the contract.

The MAITRE D'OUVRAGE sends the request of authorization for the transfer of the tax deduction right to the Tax Director of the Wilaya.

**Exclusion of the right to deduction:** Although the scope of implementation of V.A.T. (T.V.A.) déductions is relatively large, there still remains cases of exclusion of this right to deduction.

The following items do not give right to deduction according to Article 41 of the Code on Turnover Taxes ("Code des Taxes sur le Chiffre d'Affaires"):

- Goods, services, materials, buildings and premises that are not used for an activity liable to this tax;
- Vehicles used for tourism and the transportation of passengers that do not represent the, main tool used by the company liable to V.A.T. (T.V.A.) to run its business;

- Goods and services delivered by tax payers who fall under the system of estimated income;
- Real estate properties acquired or created by tax payers who fall under the system of estimated income;
- Products and services offered as gifts and liberalities;
- Services, spare parts and supplies used to repair goods that are excluded from the right to deduction.

### **Declaration - liquidation**

Within thirty (30) days from the time activities liable to VAT. (T.V.A.) have started, any individual must file a déclaration of existence. The following documents must be attached to this déclaration: a certified copy of the bye-laws and of the legalized signature of the manager or of the président.

Any tax-payer must then remit, before the 20<sup>th</sup> of the following month, to the miscellaneous tax collector, a statement indicating the business performed during the previous month, and the detailed taxable transactions.

The V.A.T. (T.V.A.) that is due is paid with the monthly déclaration.

Tax-payers who have had an activity for at least six (6) months and who have a permanent establishment in Algeria can be authorized, upon request, to pay the tax under the system of partial payments. The request must be presented before February 1<sup>st</sup> and the option is renewable tacitly for the whole year.

### **Exemptions**

Certain transactions conducted inside the country, or as importations, remain exempt from the VAT. (T.V.A.) In particular, the following transactions that are specified by law are exempt from the VAT (T.V.A.):

Sales and 'affaires de façon' that concern exported goods, as long as they are in conformité with the law and regulations;

Sales of cut or uncut gems, fine pearls, precious metals, jewelry, and other precious metal works.



## **Other taxes**

Beers, tobacco products and matches are liable, in addition to the VAT (T.V.A.) taxation, to an internal consumption tax based on the quantities of taxable products sent for consumption.

The same is true for oil and assimilated products, imported or obtained in Algeria, especially in exercised factory ('usine exercée). These are liable, in addition to the VAT (T.V.A.) taxation, to a tax based on the quantities of taxable products sent for consumption.

The tax on oil products that are imported is collected by the customs administration, under the same conditions and following the same rules as for customs duties when goods are declared to be released for consumption.

The tax on oil products is not added to the taxation basis that incorporates all the other duties and taxes these products are liable to. On the other hand, it is incorporated in the V.A.T. (T.V.A.) calculation basis.

Exported oil products are exempted from the tax on oil products.

## **V.A.T. (T.V.A.) FREE PURCHASES AND RESTITUTION OF THE V.A.T. (T.V.A.)**

**V.A.T. (T.V.A.) free purchases:** The following items can be purchased free of the V.A.T. (T.V.A.), as stipulated by the Code on Turnover Tax ("Code des Taxes sur le Chiffre d'Affaires"):

- . Goods and services covered under the current legislation, that are acquired by suppliers of oil companies and intended to be directly assigned to prospecting, research, exploitation and pipeline transportation of liquid and gas hydrocarbons;
- Purchases or importations of goods performed by an exporter, that are assigned to be exported or re-exported as they are, or to be incorporated in the manufacturing, composition, conditioning or packing of products that are due to be exported, as well as services directly related to the exportation transaction;
- Purchases of raw material, of specific components or conditioning EMBALLAGES used for production, conditioning or commercial presentation of the products expressly exempt from VAT or assigned to a sector that is

exempt of the VAT, unless the present code provides for different dispositions;

- The acquisitions of equipment goods, with the exclusion of tourist vehicles, assigned to the performance of transactions liable to the VAT. (T.V.A.), when they are performed by companies or units recently created that use young promoters eligible for assistance under the National Fund for Employment Assistance to Young People ("Fonds National de Soutien à l'Emploi des Jeunes").

To benefit from the V.A.T. (T.V.A.) exemption for goods, products and services acquired for the above-mentioned sectors, companies must be duly authorized by the tax officer of the Wilaya concerned.

To obtain this authorization, the following procedure must be completed:

- Presentation of a prior request;
- Regular bookkeeping;
- Production of the tax list with confirmation of payment or indicating that payment facilities have been granted.

For duty free purchases, the beneficiary must remit to the seller or the customs office a certification that is visaed by the proper tax office and includes the commitment by the company to pay the corresponding taxes in case the merchandise would be diverted from its privileged destination.

This certification, which is removed from a counterfoil book, is provided to authorized companies by the fiscal administration.

**V.A.T. (T.V.A.) reimbursement:** Pursuant to the provisions of Article 50 of the Code on Turnover Taxes ("Code des Taxes sur le Chiffre d'Affaires"), companies liable to the V.A.T. (T.V.A.) who cannot fully impute the deductible V.A.T. (T.V.A.)

To the V.A.T. (T.V.A.) owed can ask to be reimbursed for the V.A.T. (T.V.A.) credit only in the following cases:

- when the transactions concern exports of goods, site works, services or delivery of products that can be purchased on a duty-free basis;

- when it results from the processing of the mandatory déclaration on stocks of merchandise held on the day when the activities are terminated and of the processing of the last turnover déclaration produced by individuals or companies who stop performing the activities that make them liable to the tax, taking into account the legal rule of the time lag for V.A.T. (T.V.A.) déclarations;
- when the deduction is the result of a différence between the V.A.T. (T.V.A.) rate applicable when materials or products are acquired and the applicable rate when products are yielded or taxable transactions are performed.

The V.A.T. (T.V.A.) reimbursement can occur as soon as the credit balance concerns a period of over three (3) months.

Tax-payers who wish to receive a V.A.T. (T.V.A.) reimbursement must file with the fiscal services a request that indicates the reason for the reimbursement, the amount of the tax to be reimbursed for each taxable period, and provides a precise itemized statement with supporting documents.

Further to Article 153 of the Code on Turnover Taxes ("Code des Taxes sur le Chiffre d'Affaires") the request must be filed within four (4) years to be accepted. This time frame starts when the transaction that is within the scope of the reimbursement is initiated, or more precisely from the day when the taxpayer has the right to obtain the reimbursement through deduction or direct reimbursement.

**Fiscal safeguard:** In case the législation changes, Article 84 of the Finance Law for 1984 allows foreign operators (and also national ones) who hold transactions in progress to opt for the most favorable fiscal system regarding the Value Added Tax, V.A.T. ("Taxe sur la Valeur Ajoutée, T.V.A.) and customs duties.

This possibility depends on two conditions that must be met both:

- Investment transactions must have started before the change occurred in the fiscal législation.

In fact, in case these transactions would not have been started as of yet, the companies under consideration will be automatically subject to the new législation.

It is to be noted that the beginning of the performance of the investment operations starts when these transactions start materializing, and not when the administrative and juridical procedures are conducted to this effect.

The option must be requested by regular mail sent to the tax inspector of the appropriate Wilaya along with the proper documents on the activity performed.

**Length of this measure:** The benefit of the most favorable fiscal system cannot exceed four (4) years.

# CHAPTER 17

## OBLIGATIONS OF LEGAL ENTITIES

### ACCOUNTING OBLIGATIONS

The Algerian legislation stipulates that accounting work must be performed according to current laws and regulations, especially per the Trading Code ("Code du Commerce") and the National Accounting Plan ("Plan Comptable National")

The main obligations that are specified by the texts are as follows:

- Keep a journal where the transactions of the company are entered, or the results of these opérations are recapitulated on at least a monthly basis;
- Take an inventory of the assets and liabilities and enter it on an inventory register;
- Establish a statement of account at the end of the fiscal year, a balance sheet and a result account that must be reproduced on the inventory book.

The journal and the inventory book must be kept in a chronological sequence without empty spaces or alterations of any kind, or posting in the margins. They are marked and initialed by a judge per the usual practice.

These books and documents must be kept during a period of ten (10) years.

Within thirty (30) days from the beginning of its activity, the company must notify the tax office of the area where it is located of its existence using a form that is provided by the fiscal administration. This notification must be accompanied of the following documents: certified copy of the by-laws, authenticated signature of the manager or of the person in charge of the company; when these executives are not mentioned in the by-laws, a certified copy of the Minutes of the Board of Directors or of the Shareholders' Meeting sanctioning their appointments must be produced.

Foreign firms that conduct taxable transactions and do not have stable business premises in Algeria must have a representative domiciled in Algeria authorized by the fiscal administration. This representative must fulfill all tax formalities and pay the tax for and on behalf of the foreign company.

Therefore, he/she must also notify the tax office of the existence of the foreign company in Algeria within one (1) month following the beginning of the company's activities. A copy of the contract must also be filed within one (1) month. Any amendment or change to the main contract must be brought to the attention of the tax office within ten (10) days.

**Identification plate:** Pursuant to Article 60 of the Taxation Code on Turnover ("Code des Taxes sur le Chiffre d'Affaires"), individuals or legal entities that conduct transactions that are liable to the Value Added Tax ("Taxe sur la Valeur Ajoutée") must install in a most visible manner and at the entrance of the building where they conduct all or part of their activities, a plate with their last name, first name or the corporate name of the company, as well as the nature of the activity, except when they use other means of identification such as signs.

Also, individuals or companies that conduct real estate work must post, in a clearly visible manner immediately outside of each site where they conduct their activities, and during the whole time when they conduct these activities, the following information:

- Last names, first names or corporate name and address of the general contractor;
- The nature of the work;
- The name of the party directing the work ('Maitre de l'Ouvrage').

When contractors use, to perform their activities, the services of subcontractors, they must file with the tax office of their area, before the end of the month following the month when the subcontracting work started, a déclaration with the following information:

- Last names, first names or corporate name and address of the subcontractors;
- The nature of the subcontracting work;
- The names of the sites where the subcontractors are used.

**V.A.T. (T.V.A.) invoicing:** Pursuant to Article 64 of the Taxation Code on Turnover ("Code des Taxes sur le Chiffre d'Affaires"), anyone liable to the V.A.T. (T.V.A.) taxation who delivers goods or performs services for anyone liable to taxation must

provide him / her with an invoice or a document taking the V.A.T. (T.V.A.) into account.

It must be prepared according to the provisions of Decree n' 95 305 of October 7 1995 on invoicing procédures.

Invoices or documents must show separately the V.A.T. (T.V.A.) amount that is claimed in addition to the price or as part of the price.

Whether or not he/she is liable to the V.A.T. (T.V.A.) any individuel who indicates this tax when it is not really paid for is personally responsible for this action.

**Certifications of V.A.T. (T.V.A.) free purchases:** Pursuant to the provisions of Article 67 of the Taxation Code on Turnover ("Code des Taxes sur le Chiffre d'Affaires"), sales or transactions that are tax exempt or V.A.T. (T.V.A.) free must be justified by certifications that must be issued from a counterfoil book by the **fiscal** administration (tax office) to the tax exempt beneficiary, or the beneficiary who is authorized to make purchases on a V.A.T. (T.V.A.) free basis.

For exemptions that are granted on a punctual basis, the certification and the copies are removed from a record book held at the tax office level.

**The system of interim payments for the T.C.P. (I.B.S.):** The T.C.P. (I.B.S.) is paid as three (3) interim payments , from February 15 to March 15, from May 15 to June 15, and from October 15 to November 15 of the year following the year when the profits that serve as a basis for the calculation of the aforementioned tax have been made.

The amount of each interim payment is equal to 30% of the tax on profits made during the previous accounting year closed on its due date, or, when no accounting year has been closed for one (1) year, on profits made during the last taxable period, However, if an accounting year lasts less or more than a year, interim payments are calculated on the basis of profits calculated over a period of twelve (12) months.

For newly created companies, each interim payment is equal to 30% of the tax calculated on the product assessed at 5% of the subscription capital.

The foreign companies temporarily installed in Algeria within a contractual framework for the realization of a real constructional works contract as well as the foreign companies of provisions of services having chosen the tax mode of common right, are held to pay a provisional installment IBS equal to 0,5 % on any advance or perceived situation of work. This payment constitutes a credit tax to be worth on the IBS due.

## **MONTHLY FISCAL DECLARATIONS - FORM G 50**

**Value Added Tax ("Taxe sur la Valeur Ajoutée"):** Any individuel or legal entity conducting transactions liable to the V.A.T. (T.V.A.) must hand-deliver or send by registered mail within twenty (20) days following the civil month a statement to the tax officer of the area where his/her headquarters or main company are located. This statement must indicate the turnover amount for all taxable transactions and payment of the tax due according to this statement. must be made immediately.

However, tax payers who do not have a centralized accounting management system are authorized to file a turnover statement for each of their units with the tax inspector of the area concerned.

When the legal deadline to file the déclaration expires on a legal holiday, the deadline is postponed until the next week day.

Tax payers who have permanent premises and who have conducted their activities for at least six (6) months can be authorized, upon their requests, to pay the V.A.T. (T.V.A.) per the interim payments' system.

The request must be presented before February 1", and the option renewable by tacit renewal is valid for the whole year, except in cases of cession or cessation.

**Tax on Professional Activity, T.P.A. ("Taxe sur l'Activité Professionnelle", T.A.P.):** Just like for the V.A.T. (T.V.A.), turnovers or gross professional revenues are liable to a monthly T.P.A. (T.A.P.) per Declaration Form G 50 to be filed within twenty (20) days following the civil month.

In the case of the existence of multiple premises, the tax is due in the district where the taxable transaction has occurred.

## **WITHHOLDING TAX ("RETENUE À LA SOURCE") FOR THE TAX ON REVENUES ("IMPÔT SUR LES REVENUS")**

Articles 108 and 157 of the Code on Direct Taxes ("Code des Impôts Directs") specify that individuels or legal entities paying taxable amounts must, at the time when these amounts are paid to beneficiaries with a fiscal domicile outside of Algeria, apply to these amounts the Withholding Tax ("Retenue à la Source") related to the Tax on Global Revenue, T.G.R. ("Impôt sur le Revenu Global", I.R.G.) , or the Tax on Corporate Profit, T.C.P. ("Impôt sur le Bénéfice des Sociétés", I.B.S.), per the modalities specified under Articles 109, 158, and 159 of the same code.



The concerned parties receive a receipt that is removed from a counterfoil book provided by the administration.

The amount of the payment is calculated by applying the current rate to the payments of the relevant period.

The company must be in a position to prove that the payment of the Withholding Tax ("Retenue à la Source") has been made. To this effect, each time there is a request for fund transfert the tax collector issues a document of acknowledgement.

Duties must be paid within the first twenty (20) days following the month for which these duties are owed to the tax collection office of the area of the debtor of the taxable amounts, using Declaration Form G 50.

## **ANNUAL DECLARATION**

**Tax on Professional Activity, T.P.A. ("Taxe sur l'Activité Professionnelle", T.A.P.):** Any legal entity that is liable to the Tax on Professional Activity ("Taxe sur l'Activité Professionnelle") and to the Tax on Profits ("Impôt sur le Bénéfice") must file, before April 1" of each year, with the tax office of the area where the headquarters or main premises are located, a déclaration on the amount of the taxable profit pertaining to the previous accounting year, as well as a déclaration on its total turnover or its gross professional revenue, according to the specific situation under consideration, for the taxable period.

If the company has incurred a deficit, a déclaration on the amount of the deficit must be produced under the same conditions.

The déclaration must indicate clearly the fraction of the turnover that may be liable to a 'réfaction'.

As far as wholesale transactions are concerned, a statement including, for each client, the following information, must accompany the déclaration:

- statistical identification number;

- number of the taxable item;
- last name and first name or corporate name;
- address;
- amount of sales performed;
- trade registry registration number;
- amount of the invoiced V.A.T. (T.V.A.) (L.F. 2002).

This statement must be filed with the yearly déclaration.

Tax payers must produce a déclaration for each establishment or unit that they manage in each of the corresponding districts.

The taxation that results from this yearly déclaration is presented on a tax list and a notice is sent mentioning the total amount of the remaining tax due or the overpayment to be refunded.

**Declaration of the Tax on Corporate Profit, T.C.P. ("Impôt sur les Bénéfices des Sociétés", I.B.S.):** Companies must prepare a yearly déclaration to be received before April 1" of each year by the local tax office using a form that is provided for by the administration. They must attaché to this déclaration a detailed statement of the amounts paid by the company to third parties for subcontracting work, studies, the hiring of equipment or staff, rentals of all kinds and technical assistance, per Article 162 of the same code (this obligation concerns companies that do not have permanent professional premises in Algeria).

# CHAPTER 18

## FISCAL SYSTEMS APPLICABLE TO SPECIFIC SECTORS

### FISCAL SYSTEM APPLICABLE TO THE OIL SECTOR

The law on hydrocarbons was passed on August 19, 1986. Subsequently, it was modified and completed by two other laws in 1991. This law provides for various arrangements concerning the activities related to hydrocarbon prospecting, research, opération and pipeline transportation and stipulates a specific fiscal system for certain activities in this field.

This law reconfirms also the Government's ownership of hydrocarbon reserves, and the delegated monopoly to Algerian public companies for activities related to hydrocarbon prospecting, research and opération. There is the possibilité for foreign legal entities to perform the prospecting, research, and operational activities in association with SONATRACH. Many decrees have been issued to specify these provisions in greater details.

**Scope of implementation:** The hydrocarbon fiscal system is specific and its scope of implementation is limited to research and/or operational activities. ON the contrary, distribution and marketing activities are excluded from this specific fiscal system and are liable to the regular fiscal system.

**Fiscal system specific to hydrocarbon activities:** The law on hydrocarbons provides for the payment of important dues and taxes that override common law.

#### **Rate of dues:**

The rate of dues applicable to the value of hydrocarbons extracted from the fields is set at 20%. Rebates or lower dues can be granted in order to allow for the recouping of the funds invested. These reduced rates cannot be less than 10%.

On the other hand, other rates are provided for according to the area of activities; Zone A has a 16.25% rate, and Zone B has a 12.50% rate.

#### **Tax on Results, T.O.R. ("Impôt sur les Résultats", I.D.P.):**

Tax on Results, T.O.R. ("Impôt sur les Résultats, I.D.P.): the rate of the Tax on Results owed by foreign companies as part of their contracts on production sharing and service contracts is equal to the rate that is applicable for the Tax on Corporate Profit, T.C.P. ("Impôt sur les Bénéfices des Sociétés", I.B.S.) which is 38%.

The service contract that can take the following form:

a risk service contract;

a non-risk contract of technical assistance or of technical cooperation.

The participation contract;

The production sharing contract.

### **Profit sharing options**

There are three (3) profit sharing options:

Put oil fields at the disposal of foreign associates, and allocate part of the oil field production proportionately to their participation in the association;

Reimburse foreign associates for their expenses and services, and allocate part of the oil field production (as defined in the association contract),

Pay foreign associate rights, for the reimbursement of their expenses and services, in nature or cash.

### **Production sharing contract**

The main characteristics of a production sharing contract are as follows:

- The exploration risk is borne by the foreign associate;
- The research and the exploitation are financed by the foreign associate;
- As a compensation for their expenses, foreign associates receive part of the production at the loading wharves;
- This part is free of all charges and taxes, as well as of all oil fiscal obligations or funds repatriation;
- The part of the production that foreign associates are entitled to is calculated yearly and includes the following:
  - a part representing the expenses they have incurred,
  - a part representing their remunerations (profit-oil).

**The reform in the hydrocarbon sector:** The Algerian government has initiated reform of the legislation on hydrocarbons. A draft bill has been prepared. It is based on the new energy policy that intends to respond at best to:

- the accelerated globalization process of the world economy;
- the liberalization of the hydrocarbon sector in a competitive market;
- the financing of the development of the energy potential without the Government being involved.

## Purpose of the reform under way

The purpose of this draft bill is as follows:

- Define the juridical system for hydrocarbon research, operational, and pipeline transportation activities;
- Opt for open competition regarding hydrocarbon refining and processing, oil product storage and distribution, as well as for the works necessary for these activities to take place;
- Define the rights and obligations of individuals and legal entities performing one or a number of these activities;
- Define the institutional framework within which these activities take place.

**The redéfinition of the Government role:** The Government remains, under any circumstances, the owner of the mining sector. Only the quantities of hydrocarbons that are extracted and the rights on mining titles, and titles for the research and exploitation of these products, are of a business nature. The difference lays in the recognition of the separation of the Government as the owner of the mining sector and the regulator and protector of the public interest, and of the public enterprise, the economic and commercial operator. Two (2) agencies will be created, the Hydrocarbon Regulatory Agency ("Autorité de Régulation des Hydrocarbures") and the National Agency for the Development of Hydrocarbon Resources ("Agence Nationale pour la Valorisation des Ressources Hydrocarbures"). These Agencies will respectively carry out the following general missions:

- Make available to oil operators useful information, promote investments in this sector, assign research and/or exploitation contracts, and collect oil dues;
- Regulate the natural monopolies (transportation by pipelines, storage of oil products), enforce compliance with applicable norms, standards and regulations in this sector regarding health, safety and environmental issues.

These two national agencies will be self-managed and will be administered by a Board of Directors. From an administrative point of view, they will report to the Ministry in charge of hydrocarbons.

**A new fiscal system:** The reform aims at implementing a fiscal system that will offer more incentives in order to attract more investors, while maintaining the annual revenues of the Government.

A simple system has been devised in this draft bill for the research and exploitation activities. For the other activities, the general fiscal system will be the fiscal system to be implemented.

For the research and exploitation activities, the fiscal system would consist of the following:

- A non-deductible superficiel tax payable to the Treasury;
- Dues to be paid on a monthly basis;
- A Tax on Oil Revenue, T.O.R. ("Taxe sur le Revenu Pétrolier", T.R.P.) payable on a monthly basis to the Treasury;
- A Complementary Tax on Results, C.T.R. ("Impôt Complémentaire sur le Résultat", I.C.R.) payable on a yearly basis to the Treasury;
- A land tax for the goods others than the exploitation goods as specified by the general fiscal regulations.

The contracting parties would be exempt of the following for their research and/or exploitation activities:

- Value Added Tax, V.A.T. ("Taxe sur la Valeur Ajoutée", T.V.A.) for the goods and services related to the research and/or exploitation activities;
- Tax on Professional Activity, T.P.A. ("Taxe sur l'Activité Professionnelle", T.A.P.);
- Customs duties, taxes and dues for the importations of equipment goods, substances and products to be assigned and used for research and/or the exploitation of hydrocarbon fields;
- Any current or future tax and any or current dues other than those that are mentioned under certain provisions of the law, on operational results and collected for the benefit of the Government, public organisations, and any legal entity of public law.

Algerian institutions are reviewing this draft bill before it can be passed, a process that could generate substantiel modifications.

### **FISCAL SYSTEM APPLICABLE TO THE TOBACCO SECTOR**

Since year 1963 and until December 31, 2000, the manufacturing, marketing and importation of tobacco products (cigarettes, cigars, tobacco used for smoking, snuff

and chewing tobacco) were under the exclusive monopoly of the National Company on Tobacco and Matches, N.C.T.M. ("Société Nationale des Tabacs et Allumettes", S.N.T.A.)

The provisions under Articles 31 to 34 of the finance law for year 2001 have the following purposes:

- Allow any legal entity who is duly authorized by the Treasury Department to manufacture tobacco;
- Terminate the N.C.T.M. (S.N.T.A.) monopoly by allowing all tobacco manufacturera to import tobacco.

**Conditions to operate:** To be able to work as a tobacco manufacturer, concerned legal entities must be authorized by the Treasury Department, until the regulatory entity for tobacco and tobacco products is created and becomes active.

To this effect, Article 298 of the modified Code on Indirect Taxes ("Code des Impôts Indirects") specifies that only joint stock companies with a share capital equal to or over 30 000 000 DA can be authorized to operate as tobacco manufacturera.

To receive this authorization, a schedule of conditions to be specified by an executive statutory order will have to be subscribed to.

This schedule of conditions will specify, in particular, the partnership conditions that the manufacturera must comply with.

**Obligations of manufacturés:** Article 299 of the Code on Indirect Taxes ("Code des Impôts Indirects") specifies that tobacco manufacturera must be responsible for warehousing, in the sense that they can store in their warehouses tobacco products or substances that are necessary to their manufacturing (tobacco in leaves) with a tax credit, i.e. the tax being on hold.

This warehousing system implies that:

- One or a number of guarantees are presented, indicating a joint commitment with the tobacco manufacturer to pay the tax on tobacco products;
- The premises are arranged as needed;

Bookkeeping records on the substances used are kept.

On the other hand, pursuant to Article 32 of the 2001 law on finances, authorized tobacco manufacturera can be allowed to import manufactured tobaccos under conditions that will be regulated.

# CHAPTER 19

## FISCAL CONTROL AND LITIGATION

The Algerian fiscal system is a déclarative system. It provides for fiscal controls for both individuals and legal entities. Out of court settlements and settlements through legal action are also provided for.

### ADMINISTRATION CONTROL AND REPOSSESSION RIGHTS

The fiscal administration allows itself the right to control, within the prescription deadline, the sincerity of the turnover and profit figures given by tax payers.

**Prescription of the action of the administration:** For direct tax or dues on turnovers, there is a three (3) year deadline, in addition to the current year, to correct oversights or gaps in the tax déclarations, and collect monies.

- For direct taxes: as of January 1<sup>st</sup> of the current year during which the accounting year for which the revenues are submitted for taxation was closed..
- For turnover taxes: as of January 1<sup>st</sup> of the current year during which the taxable transactions are performed.

### Time frame for tax payers' complaints

The notice for vérification is not included in the above-mentioned deadline.

The tax payer has forty (40) days to respond to the proposal for payment of back taxes.

**Direct taxes:** Complaints are accepted until December 31<sup>st</sup> of the year following the tax collection, or the occurrence of events that motivate these complaints.

The complaint deadline expires:

- On December 31<sup>st</sup> of the year following the year during which the tax payer has received new warnings when, due to mailing mistakes, such warnings would have been sent to him/her by the Tax Under-Director of the Wilaya.



- On December 31s' of the year following the year during which the tax payer became fully aware of the existence of tax amounts incorrectly enforced. due to false use or duplication.
- When the tax under considération does not call for the establishment of a tax list, complaints are presented as follows:
  - For complaints on Withholding Tax ("Retenue à la Source"), until December 31 s' of the year following the year during which these withholdings occurred,
  - In other cases, until December 31 " of the year following the year for which taxes are paid.

**Tax on Turnover ("Taxe sur le Chiffre d'Affaires"):** There is a four (4) year deadline from the time of payment to return amounts of monies that have been received due to an error.

**Monitoring structures:** There are two (2) monitoring entities that conduct indepth controls of tax payers' bookkeeping records:

- The Wilaya tax office for all companies with an annual turnover that do not exceed ten (1 0) million dinars;
- The regional monitoring agency, under the aegis of the Central Agency for Investigations and Verifications ("Direction Centrale de Recherche et de Vérification"), for companies with a turnover exceeding ten (10) million dinars.

**The Treasury privilège:** To ensure that direct and assimilated taxes are collected, the Treasury Department benefits from a privilège that overrides all other privilèges during the legal period of collection. This privilège applies to any movable property or piece of fumiture , whatever their location is, as well as any equipment used to operate a business entity that is not under a conventional mortgage.

## FISCAL LITIGATIONS

### LITIGATION JURISDICTION

**Direct taxes:** For taxes that need a tax list to be established, taxpayers can file complaints for mistakes that have been made in the basis used for calculations, or in the calculations of the taxes, or to benefit from a right they can claim before December 31 " of the year following the year when the taxes have been collected or the events that have led to these complaints have occurred.

When taxes do not call for the establishment of a tax list, complaints are filed as follows:

- Until December 31" of the year following the year when the Withholding Tax has been processed;
- Until December 31 " of the year following the year when the taxes are paid in the other cases.

The complaint is filed with the Tax Inspector of the Wilaya who, after delivering a receipt, makes a decision within four (4) to six (6) months, according to the case under study, following the date when the complaint was filed.

**Appeal commissions for direct taxes:** These commissions, at the community, regional, or national level, give their advice on the case presented to the court by the tax-payer, after the Administration has dismissed the case based on the amounts of money involved.

the time of sasine of the commissions is of two months as from the notification of the decision. The recourse to these commissions cannot take place after the sasine of the courts of the legal order

Since January 1<sup>st</sup>, 1998, these commissions can also act for the Tax on Turnover ("Taxe sur le Chiffre d'Affaires").

**Administrative Chamber of the Supreme Court:** While waiting for the administrative courts to become operational, the décisions made by the tax inspector of the Wilaya on litigations that do not fully satisfy the concerned parties can be presented to the administrative chamber of the Supreme Court.

Therefore, after a decision has been made by the Administration, or advice given by the Appeal Commission, or in the absence of a response within four (4) months,

the litigation can be presented to the administrative chamber of the Supreme Court.

The plaintiff or the Administration can lodge an appeal with the administrative chamber of the Supreme Court to dispute the decision of the lower administrative chamber.

**Added Value Tax ("Taxe sur la Valeur Ajoutée"):** Complaints on automatic taxation must be filed with the tax inspector of the Wilaya. The tax inspector makes the decision. If no response is received within four (4) months, the tax payer can present, within four (4) months, his/her case to the administrative chamber of the Supreme Court, or to an appeal commission for direct taxes and V.A.T. (T.V.A.) (See above).

### **GRATUITOUS JURISDICTION**

**Direct taxes:** Under certain conditions, tax rebates and réductions can be granted to tax payers who are requesting them to the tax inspector of the Wilaya. Arrangements can also take place.

The decision is made by:

- The regional director when the tax or the penalty exceeds 250 000 DA;
- The tax inspector of the Wilaya for amounts lower than or equal to 250 000 DA.

**Added Value Tax ("Taxe sur la Valeur Ajoutée"):** Under certain conditions, a fiscal penalty can be reduced gratuitously. This request must be made after the tax has been paid to the tax inspector of the Wilaya.

The decision is made by:

- The local regional tax inspector, once the commission that has been set up for this purpose at the regional level has given its advice, when the penalty or the late payment fees exceed 250 000 DA;
- The person in charge of the fiscal administration of the Wilaya, once the commission that has been set up at the Wilaya level has given its advice, when the penalty or the late payment fees are lower than or equal to 250 000 DA.

# **CHAPTER 20**

## **OTHER TAXES AND DUES**

Other taxes are due by companies because they are employés, or because of their professional activities. Others are due for property considérations.

### **AS AN EMPLOYER**

#### **Tax of vocational training and tax on the training**

These taxes are due by the companies employing more than ten paid employees.

These employers must devote at least 1 % of the annual wage bill to the vocational training actions and training of their staff.

The difference between the rate of 1 % and the real rate devoted to the vocational training actions and training, if it is lower, semi-annually constitutes the rate applicable to the wage bill

### **RELATED TO THE ACTIVITY OF THE COMPANY**

#### **Tax on Professional Activities, T.P.A. ("Taxe sur les Activités Professionnelles", T.A.P.):**

It is due in particular by tax payers who must pay the T.C.P. (I.B.S.), based on the turnover, exclusive of taxes, achieved in Algeria during the fiscal year of reference.

The applicable rate is 2%.

#### **Sanitation Taxes ("Taxes d'Assainissement")**

##### **Tax for Domestic Waste Collection ("Taxe d'Enlèvement d'Ordures Ménagères")**

It is applicable in addition to the land tax for all built properties.

The tax amount varies between 375 DA and 50 000 DA, depending on the type of built property, of its nature and of the size of the community.

##### **Tax for Sewer Disposal ("Taxe de Déversement à l'Egoût")**

The tax represents 1 0% of the price paid, exclusive of taxes, for the use of drinking and industrial waters.

**Other taxes due based on the company's activities**

- Dues for the National Trading Center and the Institute of Patent Rights ("Centre National du Commerce et Institut de la Propriété Intellectuelle");
- Dues for TV and radio;
- Dues for TV antennas;
- Levy for Chambers of Commerce;
- Dues for the use of the road network;
- Domain dues;
- Yearly housing tax.

**Other taxes and dues on expenditures - Internal tax for consumption;**

- Additional specific tax;
- Tax on oil products;
- Additional tax on solidarité;
- Yearly housing tax;
- Tax on polluting activities.

# CHAPTER 21

## REGISTRATION STAMPS - NOTARIAL TAXES

### REGISTRATION FEES

The main registration fees for documents or modifications to documents related to companies' contracts are as follows:

Type of transaction	Rate
Opening of an office of connection	100 000 DA in foreign currency
Setting up, prorogation., change of company and mergers (for company of mixed economy, the tax will be collected progressively according to the capital that is released)	0,5% on the capital without being lower 10 000 DA and superior with 300 000 DA for the joint stock companies
<b>NB:</b> documents acknowledging companies' changes for group intégration are exempt from the registration dues.	
Cession of titles or of shares	2,5% of the value of the titles
<b>NB:</b> documents on patrimonial transfers between companies of a same group are exempt from the registration dues	
New issue of capital by incorporation benefit, reserves or provision	1%
Winding-up of companies without transmission of movable property or buildings between the associates	Right fixes of 3 000 DA Si more been worth right and tax
Divisions of movable or real property between Co owners, Co associated heirs	1,5 % So more been worth IRG of 15 %
Lease at limited duration of goodwill	

or of commercial room	2%
Transfer of business or clientèle property in return for payment	5%
Exchanges of real estate	2,5%
Documents on ownership of personal property in return for payment	5%
Documents on usufruct ownership or use of property located in foreign countries	3%
Adjudications, sales, resales, retrocession, withdrawals that take place after the expiration of the deadlines agreed upon in sales contracts and all other civil, administrative and judicial documents that indicate ownership or usufruct of real estate in return for payment	5%
Sales of national buildings	5%

**Special tax:** It is applicable to transfers in return for payment of buildings and real estate rights and for transfers in return for payment, of businesses; the basis is represented by the price increased by the expenses and the rate is established as follows:

If the price increased by the expenses does not exceed 100 000 DA	4%
If the price increased by the expenses does not exceed 200 000 DA	6%
If the price increased by the expenses exceeds 200 000 DA	8%

**Stamp:**

**Dimension stamp**

Legalpaper	60 DA
Normal paper	40 DA
Minimum half a page of normal paper	20 DA

Above rates are reduced by half when only one side of paper is used for a written statement that has more than one page, as long as the other side is cancelled by an indelible process that is authorized by a decision of the tax general inspector.

**Stamp for the trade registry:** A 4 000 DA stamp fee is applicable when the trade registry is opened or modified. When the modification is the result of a decision or a document from the duly authorized administrative authority, it is exempt from the payment of the stamp fees.

**Notarial taxes:** The 1988 Finance Law provides for a notarial tax to be paid by users when the liquidation and payment are to be taken care of by the person in charge of the notary public office. (This tax comes in addition to the registration fees).

Types of procédures	Rates
<b>Rental</b>	
Rental by private agreement for a fixed period:	
From 1 to 50 000 DA	1.50%
above	0.75%
Rental by adjudication (including the schedule of conditions)	
From 1 to 50 000 DA	3%
above	1.50%
<b>Rental cession for the remaining years</b>	
Rental by private agreement for a fixed period	
From 1 to 50 000 DA	3%
above	1.50%
Rental by adjudication (including the schedule of conditions)	
From 1 to 50 000 DA	3%
above	1.50%
<b>Cession of shares and social rights</b>	
From 1 to 50 000 DA	1.50%
From 5 0 001 to 1 00 000 DA	1%
above	0.50%
<b>Company (document on)</b>	
Creation, increase of capital, merger	
From 1 to 50 000 DA	2%
above	1%
<b>Prorogation, changes in the company</b>	
From 1 to 50 000 DA	1%
above	0.50%



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Sale

Per private agreement, of buildings, fruits and harvests, furniture and movable property in general, businesses, ships and boats, industrial and commercial values and other incorporeal rights:

From 1 to 50 '000 DA 3%

From 50 001 to 100 000 DA

above 2%

By adjudication 1%

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# CHAPTER 22

## MAIN TAXES IN ALGERIA

### RECAPITULATIVE TABLE

Types of taxpayers	Types of Taxes	Rates	Modalities Taxation
Companies domiciled in Algeria	Tax on Corporate Profit, T.C.P. (I.B.S.)	Ordinary rate 30 % Reduced rate 15 %	Levyng with tax list
	Dividends	IRG 15% Phys pers Moral pers exonated	Withholding Tax at the time distributrion
Oil companies domiciled in Algeria	Tax on Corporate Profit, T.C.P. (I.B.S.) Dues Dividends	30 %  20 % included in T.C.P. (I.B.S.) basis	Levyng with tax list
Individuals domiciled in Algeria	Tax on Global Revenue, T.G.R. (I.R.G.) Dividends Interests Dues	0 to 40 %  15 % 10 % - 40 % 0 to 40 %	Increasing tax scale  Withholding Tax Withholding Tax Increasing tax scale
Non domiciled companies	Tax onCorporate Profit, T.C.P. (I.B.S.) Dividends Interests Dues	30 % - Work real 24% - Prest. services 15% 10 à 40% 24%	By way of role  Withholding Tax
Individuals non domiciled in Algeria	Tax on Global Revenue, T.G.R. (I.R.G.) Dividends Interests Dues BNC	20% on the wages  15% 10 % - 40 % 24% 24%	Withholding Tax  Withholding Tax Withholding Tax Withholding Tax
All taxpayers	V.A.T. (T.V.A.) (Rate exclusive of taxes)	Normal rate 17 % Reduced rate 7 %	

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