

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/DZA/15

21 March 2002

(02-1466)

Working Party on the Accession of Algeria

Original: French

ACCESSION OF ALGERIA

Additional Questions and Replies

The Permanent Mission of the Republic of Algeria has communicated to the Secretariat the replies to the additional questions posed by Members. The questions and replies are reproduced below.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic policies

- (a) Main directions of the current economic policies
 - (vi) Programme of privatization of State-owned enterprises

Question 1

What is the status as regards the opening up or even the privatization of State-owned enterprises in the energy sector?

Reply

The process of reform and opening up of the energy and mining sector entered a new phase in 2000/2001, after the previous phase implemented between 1986 and 1991.

The Government programme states that it is no longer desirable to rely solely on public capital for the development of the energy and mining sector; as the partnership in the hydrocarbons sector has already shown, it is essential to involve domestic and foreign private investment in the exploitation of the vast development potential offered by this sector.

This has led to the framing of a new policy, geared towards liberalizing activities in this sector and based on the following principles:

- Separation of the State's role as the Government from that of State-owned enterprises. The State, which owns the country's mining resources (mines and hydrocarbons), is responsible for optimizing their development and maximizing its revenue. Through its institutions, it plays a regulatory role. State-owned enterprises act as economic and commercial agents, in a competitive environment.
- Abolition of the (*de jure* or *de facto*) monopoly of State-owned enterprises in the mining, electricity and hydrocarbons sectors. All sectors of activity will be opened up to domestic and foreign competition. Only activities forming part of "natural" monopolies (electricity transmission grid and hydrocarbons transport networks, storage of petroleum products) will be entrusted to operators responsible for managing them in a transparent manner, while guaranteeing access to infrastructure at non-discriminatory rates.
- Withdrawal of the State guarantee for financing investment in State-owned enterprises. Henceforward, these will have to rely on other financing mechanisms, including opening up their capital to domestic and/or international private investors. So far, the ongoing liberalization and opening up of the energy and mining sector has led to:
 - The adoption and enactment of the Law on Mines;
 - the adoption and enactment of the Law on Electricity and Pipeline Distribution of Gas;
 - the draft law on hydrocarbons (finalized and in the process of being adopted).

Question 2

Please update information on privatization.

Reply

Algeria has new legislation on the privatization of State-owned enterprises, to replace the previous Order on Privatization adopted in 1995. This was prompted by the Government's decision to adopt a series of measures designed to speed up the privatization process.

Order No. 01.04 on the organization, management and privatization of State-owned enterprises, enacted in August 2001, represents the culmination of this effort to adapt the legislative framework.

Order No. 01.04 has created a unified legal framework covering both the management of State holdings and privatization (formerly governed by separate provisions), and extends the scope of privatization to all State-owned enterprises, whatever their sphere of activity. It introduces more flexible privatization and control procedures and lays down rules to ensure transparency, and in particular equity and competition, in the conduct of privatization operations. The Order affords all guarantees for investment in privatization operations, in particular the right to transfer earnings, and gives buyers that undertake to maintain employment and activity substantial privileges.

The texts implementing the new Order have been adopted and enacted, and the legal system is now in force.

The privatization programme, drawn up by the Minister responsible for shareholdings, in consultation with the ministerial departments concerned, was adopted by the Council of Ministers, following approval by the Council of State Shareholders. The Minister responsible for shareholdings has primary responsibility for implementing the privatization programme.

The Government has adopted a pragmatic approach in drawing up and implementing the privatization programme. It has decided to back the privatization process through two privatization support programmes, undertaken with the World Bank and the European Union. The involvement of investment banks and national and international consulting firms will ensure that privatization operations are conducted with all due professionalism.

The Government intends swiftly to disengage from enterprises operating in competitive spheres by encouraging all opportunities to open up the capital of State-owned enterprises to domestic or foreign buyers. The privatization and sale of firms is demand-driven and planned according to market absorption capacity and the firms' level of preparedness. It is conducted through financial market mechanisms (public offer, stock exchange), invitations to tender or negotiated sales.

It should be noted that some progress has been registered in the transfer of State assets, with the privatization of pharmacies, the creation of some 1,800 companies set up through the takeover by employees of assets of dissolved enterprises, some 20 partnership operations, three operations involving disposal of equity through public offers of sale on the stock exchange (SAIDAL, ERIAD-Sétif and the EL AURASSI hotel), and the acquisition of foreign (HENKEL, LNM-ISPAT) majority interests in State-owned enterprises: ENAD (detergents) and ALFASID (iron and steel).

Under its programme for 2002, the Government launched an initial series of privatization operations over the first half of the year, including:

- the sale of eight brick factories;

- the opening up of the capital of three major cement factories;
- the privatization of seven chemical enterprises and four enterprises in the ISMME (iron and steel, metal, mechanical, electricity and electronics) sector;
- the privatization of seven large city-centre hotels in operation and the sale of two hotels under construction;
- the opening up of the capital of the State cargo shipping line;
- the sale of the subsidiaries of State-owned milk and beverage production groups;
- the sale of the State-owned sugar production plant;
- the sale to employees of an initial lot of 70 small-sized local enterprises.

The process of abolishing the monopoly on activities, liberalizing markets and strengthening competition rules is being pursued with the reform of the legal framework regulating the infrastructure and utilities sectors. This is a matter of particular interest to the Government, which is planning to promote involvement of the private sector in these areas, so as to achieve greater efficiency and more stringent management in these key sectors. Modern procedures such as concessions and BOT- or BOO-type schemes will systematically be introduced.

Measures have already been taken to adapt and reform the legal and institutional framework in the mining, electricity and health sectors (with opportunities for private investment in the hospital sphere), as well as in the telecommunications sector, with the recent granting of the second GSM licence to a foreign investor, selected on the basis of competitive tendering.

Other draft laws, particularly in the hydrocarbons sector, are being finalized. In the transport sphere, new management rules have been introduced in the ports sector, and a programme granting concessions for port and airport infrastructures is under way.

(b) Monetary and fiscal policies

Question 3

Could Algeria provide further details on the internal consumption duties, i.e. a list of products concerned and the value of the tax?

Reply

Algeria's internal consumption duties are as follows:

- Internal consumption tax (TIC);
- tax on petroleum products;
- warranty fee;
- movement duty.

These duties are payable on both imported and domestically-produced goods, on the same terms.

- Internal consumption tax (TIC)

This applies to the products listed below, at the following tariffs or rates:

| <u>Product description</u> | <u>Tariffs</u> |
|---|--|
| Beer | 3610 DA/HL |
| Tobacco products and matches | |
| - Cigarettes | |
| dark tobacco | 1.040 DA/Kg |
| light tobacco | 1.260 DA/Kg |
| - Cigars | 1.470 Da/Kg |
| - Smoking tobacco | 620 DA/Kg |
| - Snuff and chewing tobacco | 710 DA/Kg |
| - Matches | DA 26 per 100 boxes containing at least 40 matches per box |
| Other products (per cent) | |
| - Salmon | 50 |
| - Fresh bananas | 20 |
| - Pineapples | 40 |
| - Kiwis | 50 |
| - Not decaffeinated | 10 |
| - Decaffeinated | 10 |
| - Not decaffeinated | 10 |
| - Decaffeinated | 10 |
| Other (Customs stamp (TD) No. 09.01.90.00) | 10 |
| - Caviar and caviar substitutes | 50 |
| - Whiskies | 90 |
| - Gin and Geneva | 90 |
| - Vodka | 90 |
| - Other (Customs stamp (TD) No. 22.08.90.00) | 90 |
| - Worn clothes and other worn articles | 20 |
| Off-road vehicles | 20 |
| - Other, of a cylinder capacity exceeding 2,000 cc but not exceeding 3,000 cc | 30 |
| - Off-road vehicles, of a cylinder capacity exceeding 3,000 cc | 20 |
| Other (Customs stamp (TD) No. 87.03.24.90) | 30 |
| - Off-road vehicles, of a cylinder capacity exceeding 2,500 cc | 20 |
| - Other (Customs stamp (TD) No. 87.03.33.90) | 30 |
| - <u>Tax on petroleum products (TPP)</u> | |

This applies to the petroleum products listed below, at the following tariffs:

| | |
|--------------------|---------------|
| - Premium gasoline | 777.50 DA/hl |
| - Regular gasoline | 629.50 DA/hl |
| - Fuel oil | 68.90 DA/hl |
| - Diesel | 163.80 DA/hl |
| - Propane | 260.80 DA/hl |
| - Butane | 35.65 DA/Kg |
| - LPG (fuel) | 25.20 DA/13Kg |

- Movement duty

Movement duty is payable on wine and spirits, at the following tariffs:

Wine 4,000 DA/hl

Spirits:

- Alcohol-based medicinal products, not for human consumption 10 DA/hl
- Perfumery and toilet products 980 DA/hl
- Alcohol used for the production of sparkling wines and natural sweet wines 1,460 DA/hl
- Wine-based aperitifs, vermouth, reinforced wines and similar products 62,000 DA/hl
- Whiskies and alcohol-based aperitifs (bitters, tar, gentian or aniseed-flavoured, etc.) 94,000 DA/hl
- Rum 62,000 DA/hl

- Warranty fee

The warranty fee is payable on the articles listed below, at the following tariffs:

- Gold articles 5,000 DA/hg
- Platinum articles 10,000 DA/hg
- Silver articles 50 DA/hg

Question 4

How does the Algerian Government plan to use the fund financed by petroleum earnings?

Reply

Article 10 of the supplementary Finance Law for 2000 established a trust fund entitled "earnings regulation fund", financed by tax surpluses earned when hydrocarbons prices exceed the estimates in the Finance Law.

Earnings held in this fund are used to regulate expenditure and the budgetary balance established by the annual Finance Law, in the event of a drop in the oil price per barrel on the international market.

In addition, they may be expended to service the public debt.

Question 5

What is the level of the slaughter tax applied to imports of live animals? Is a slaughter tax also applied to homebred animals?

Reply

Imported live animals are not subject to the slaughter tax but to VAT at a reduced rate of 7 per cent.

Homebred animals are not subject to this tax until they are slaughtered.

Question 6

It is stated that the fee for customs formalities is fixed at 2 per cent for every import declaration. Could Algeria explain on which basis the fee has been determined and how it corresponds to the cost of customs services? In principle, as the fee is expressed in *ad valorem* rate, it cannot be considered consistent with Article VIII of the GATT. The same holds true for the export fee.

Reply

Before the end of 2003, Algeria will align itself with the provisions of Article VIII of the GATT 1994, with levies of 2 and 4 per cent (four per mil).

Question 7

It is stated that a specific surcharge has been applied since 1991 and should soon disappear as a result of its integration in the single applied customs tariff.

Reply

The specific surcharge was abolished by the supplementary Finance Law for 2001, which came into force on 19 July 2001.

Question 8

Could Algeria provide details on the internal consumption duties, i.e. an exhaustive list of products concerned and the value of the tax?

Reply

The following duties are collected:

- Value added tax (VAT)

The products concerned are listed in the customs tariff nomenclature. A second column in the tariff represents applicable VAT rates (exemption, 7 and 17 per cent). VAT is payable on both domestically-produced and imported goods.

- Provisional additional duty (DAP)

The list of products subject to this duty, introduced under the supplementary Finance Law for 2001 and, under the Law due to be phased out over a period of five years, will be made available to the WTO Secretariat. The rate of duty was fixed at 60 per cent for 2001 and will be reduced according to the following timetable:

- 2001: 60 per cent;
- 2002: 48 per cent;
- 2003: 36 per cent;
- 2004: 24 per cent;
- 2005: 12 per cent;
- 2006: 0 per cent.

The DAP is payable on imports.

- Internal consumption tax

The products subject to the internal consumption tax are listed below. This duty is collected on imports and domestically-produced goods.

| Tariff Heading | Product | Tariff Rate |
|-----------------------|--|---------------------------|
| 0302.1200 | Salmon | 50% |
| 0803.0010 | Fresh Bananas | 20% |
| 0804.3000 | Pineapples | 40% |
| 0810.5000 | Kiwis | 50% |
| 0901.1100 | Coffee, not roasted or decaffeinated | 10% |
| 0901.1200 | Coffee, not roasted, decaffeinated | 10% |
| 0901.2100 | Coffee, roasted, not decaffeinated | 10% |
| 0901.2200 | Coffee, roasted and decaffeinated | 10% |
| 0901.9000 | Coffee, other | 10% |
| 1604.3000 | Caviar and caviar substitutes | 50% |
| 2208.3000 | Whiskies | 90% |
| 2208.5000 | Gin and Geneva | 90% |
| 2208.6000 | Vodka | 90% |
| 2208.9000 | Other | 90% |
| 2203.0000 | Beer made from malt | 3610.00 DA/HL |
| 2402.1000 | Cigars | 1470.00 DA/Kg |
| 2402.2010 | Cigarettes, light tobacco | 1260.00 DA/Kg |
| 2402.2090 | Cigarettes, dark tobacco | 1040.00 DA/Kg |
| 2403.1000 | Smoking tobacco | 602.00 DA/Kg |
| 2403.9900 | Snuff and chewing tobacco | 710.00 DA/Kg |
| 3605.0000 | Matches | 26.00 DA per 100 boxes |
| 6309.0000 | Worn clothes and other worn articles | 20% |
| 8703.2380 | Off-road vehicles, of a cylinder capacity exceeding 2,000 cc but not exceeding 3,000 cc (gasoline) | 20% |
| 8703.2390 | Other, of a cylinder capacity exceeding 2,000 cc but not exceeding 3,000 cc (gasoline) | 30% |
| 8703.2420 | Off-road vehicles, of a cylinder capacity exceeding 3,000 cc | 20% |
| 8703.2490 | Other, of a cylinder capacity exceeding 3,000 cc (gasoline) | 30% |
| 8703.3320 | Off-road vehicles, of a cylinder capacity exceeding 2,500 cc (diesel) | 20% |
| 8703.3390 | Other, of a cylinder capacity exceeding 2,500 cc (diesel) | 30% |

Domestic duties on alcohol, hydrocarbons and gold, silver or platinum articles are listed under the reply to question 9 below. They are payable on domestically-produced and imported goods, on the same terms.

- Road use fee

This fee applies to road-haulage or passenger vehicles in transit through Algerian territory.

The amount, per vehicle, consists of a fixed and a variable part, as described below.

Road-haulage vehicles

- Fixed part, equivalent to the exchange value in foreign currency of:
 - DA 2,000 for vehicles of a gross weight not exceeding 10 tonnes;
 - DA 3,000 for vehicles of a gross weight of more than 10 and less than 19 tonnes;
 - DA 4,000 for vehicles of a gross weight of 19 tonnes or more.
- Variable part, calculated as a proportion of the vehicle's gross weight and the distance to be covered when the vehicle is loaded, according to the following scale:

| Gross Weight | Variable Part DA/Km |
|-----------------------|---------------------|
| Up to 8 tonnes | 0.80 |
| - 1 to 10 tonnes | 1.12 |
| - 10.1 to 14 tonnes | 1.60 |
| - 14.1 to 19 tonnes | 2.20 |
| - 19.1 to 22 tonnes | 2.60 |
| - 22.1 to 26 tonnes | 3.20 |
| - 26.1 to 30 tonnes | 3.60 |
| - 30.1 to 38 tonnes | 4.00 |
| - more than 38 tonnes | 6.00 |

As an exemption, road-haulage vehicles of a gross weight not exceeding 5.6 tonnes are subject only to the fixed part of the fee.

Passenger vehicles

- Fixed part, equivalent to the exchange value in foreign currency of:
 - DA 1,000 for vehicles with a capacity of 9 to 25 persons;
 - DA 1,500 for vehicles with a capacity of 26 to 50 persons;
 - DA 2,000 for vehicles with a capacity exceeding 50 persons.
- Variable part, calculated as a proportion of the vehicle's capacity and the distance to be covered when the vehicle is loaded, according to the following scale:

| Capacity | Variable Part DA/Km |
|------------------------|---------------------|
| - 9 to 25 persons | 0.40 |
| - 26 to 50 persons | 0.80 |
| - more than 50 persons | 1.00 |

Question 9

Please provide a comprehensive list of taxes applied to imports, e.g. VAT (its rate, coverage and exceptions), specific surcharges and internal consumption duties.

Reply

Import taxes, which apply on equivalent terms to domestically-produced goods, are as follows:

- Value added tax (VAT);
- internal consumption tax (TIC);
- tax on petroleum products;
- movement duty;
- warranty fee.
- Value added tax (VAT)

Value added tax is a general tax on consumption payable on sales, building construction work and supply of industrial, commercial or cottage industry-type services, performed in Algeria on a regular or occasional basis, and on import transactions.

VAT is levied on imports of products that are subject to VAT in the home market, on equivalent terms.

Imports of products exempt from VAT on domestic sales are VAT exempt, on equivalent terms and subject to the same reservations.

The following are likewise exempt from VAT on imports:

- Goods under one of the following regimes suspending payment of customs duties: warehousing, temporary entry, transit, transshipment or storage, subject to the special provisions of the Customs Code (in particular Article 178);
- goods allowed duty-free entry on an exceptional basis, under the terms of Articles 197, 202 and 213 of the Customs Code;
- sea-going vessels of tariff subheadings 89.01, 89.02, 89.04, 89.05, 89.06, 89.07 and 89.08, and aircraft for airline companies;
- raw or manufactured articles and products for the construction, rigging, fitting out, repair or conversion of sea-going vessels and aircraft covered by paragraph 3 above;
- aircraft and aircraft engines, equipment, spare parts, materials, fuel and lubricants for the exclusive use of aircraft and approved flight training schools and centres;
- refitting, repair and conversion of Algerian ships and aircraft abroad;
- monetary gold of subheading 71.08.20.00 and gold coin of subheading 71.18.90.10;

- barter imports under the terms and conditions stipulated by the legislation or regulations in force.

The products subject to VAT are listed in the customs tariff nomenclature. A second column in the tariff represents applicable VAT rates (exemption, 7 and 17 per cent).

- Internal consumption tax (TIC)

Products subject to the TIC are listed under the reply to question 3.

- Tax on petroleum products (TPP)

This applies to the petroleum products listed below, at the following tariffs:

| | |
|--------------------|---------------|
| - Premium gasoline | 777.50 DA/hl |
| - Regular gasoline | 629.50 DA/hl |
| - Fuel oil | 68.90 DA/hl |
| - Diesel | 163.80 DA/hl |
| - Propane | 260.80 DA/hl |
| - Butane | 35.65 DA/35Kg |
| - LPG (fuel) | 25.20 DA/13Kg |

- Movement duty

Movement duty is payable on wine and spirits, at the following tariffs:

| | |
|--|--------------|
| Wine | 4,000 DA/hl |
| Spirits: | |
| - Alcohol-based medicinal products, not for human consumption | 10 DA/hl |
| - Perfumery and toilet products | 980 DA/hl |
| - Alcohol used for the production of sparkling wines and natural sweet wines | 1,460 DA/hl |
| - Wine-based aperitifs, vermouth, reinforced wines and similar products | 62,000 DA/hl |
| - Whiskies and alcohol-based aperitifs bitters, tar, gentian or aniseed-flavoured, etc.) | 94,000 DA/hl |
| - Rum | 62,000 DA/hl |

- Warranty fee

The warranty fee is payable on the articles listed below, at the following tariffs:

| | |
|---------------------|--------------|
| - Gold articles | 5,000 DA/hg |
| - Platinum articles | 10,000 DA/hg |
| - Silver articles | 50 DA/hg |

- Specific surcharges

There has been no surcharge of any kind since the specific surcharge was abolished by the supplementary Finance Law for 2001.

(d) Investment and domestic investment policy

Question 10

What is Algeria's investor incentive regime, specifically the "agreement regime" for investments of strategic importance, which is granted by the State to the investor on the basis of a specific agreement?

Reply

The Order of 20 August 2001 on the development of investment replaces Legislative Decree No. 93.12 of 5 October 1993 on the promotion of investment, while preserving the inalienability of acquired benefits.

The new Investment Code establishes the following three regimes.

- General regime

The general regime applies to domestic and foreign investment in economic activities relating to the production of goods and services, and to investment in the context of concessions and/or licences.

Investors are eligible for benefits in terms of customs duties (reduced rate on imported capital goods), VAT (exemption for goods and services) and transfer fees (exemption for real-estate purchases).

- Special zone regime

This regime covers zones under development.

Investors in such zones (determined by regulation) enjoy the following advantages:

On investment

- The same benefits as those provided under the general regime;
- application of a reduced rate of 2 per mil (2‰) for the registration fee for articles of incorporation and increases in capital;
- full or partial State coverage of infrastructure costs.

In the period following entry into operation

- Exemption from tax on company profits (IBS) and on overall net income (IRG), the standing payment (VF), business tax (TAP, 10 years), and land tax on real-estate purchases (10 years);
- additional benefits (carry forward of losses, amortization periods).

- Agreement regime

Eligibility for benefits under this regime is restricted to investments of particular interest to the national economy that implement "clean" technologies, under a concession and/or a licence, and are geared towards:

- Environmental conservation;
- conservation of natural resources;
- energy conservation and sustainable development.

Exemptions and other benefits under the agreement regime are granted on equal terms to all investors, including foreign investors, that adhere to the "clean" technology strategy pursued by this regime.

Article 14 of the new Investment Code stipulates the following:

"Foreign natural and legal persons shall enjoy the same treatment as Algerian natural and legal persons in terms of the rights and obligations relating to the investment.

Foreign natural and legal persons shall all receive the same treatment, subject to the provisions of agreements concluded by Algeria with their countries of origin."

Lastly, the Investment Code:

- Guarantees the transfer of capital inputs, of the income generated by such inputs and of the real net proceeds from sales or liquidations;
- stipulates that investments made may not be requisitioned through administrative channels, except in cases provided for by legislation in force and subject to fair and equitable compensation;
- provides that disputes shall be submitted for settlement by the competent courts, except where Algeria has concluded bilateral or multilateral agreements on conciliation and arbitration and where there are specific agreements stipulating an arbitration clause or allowing the parties to reach a compromise through ad hoc arbitration.

(e) Price and competition policies

Question 11

Has Algeria considered if regulation is the best way to ensure adequate provision of milk, semolina and flour at reasonable prices? Whilst we do not question the social importance of these products, has Algeria also considered whether there is a WTO justification for maintaining these price controls?

Reply

Consumer price controls are applied to pasteurized milk and bread flour.

Such price "control" is in fact a form of consumer price regulation under a price cap scheme without financial intervention by the State.

The ceiling prices are fixed by ministerial order and implemented by the Trade Ministry's competition and price control services.

This regulation scheme, in force since 1997, has ensured adequate market supply at reasonable prices for such products of obvious social importance, thus increasing food security.

Question 12

Please identify all products, including HS numbers, that are still subject to price regulation. Does Algeria require minimum or maximum import or export prices for any of these products?

Reply

The following products are subject to price regulation:

- 04.01.20.10 Packaged pasteurized milk
- 10.01.90.90 Common wheat
- 11.01.00.00 Common bread flour
- 19.05.10.00 Ordinary and improved bread
- 22.01.90.00 Drinking water and water for agricultural use
- 27.10.00.12 Premium gasoline
- 27.10.00.13 Regular gasoline
- 27.10.00.41 Diesel
- 27.10.00.44 Fuel oil
- 27.11.11.00 Domestic natural gas
- 27.11.12.20 LPG fuel
- 27.11.12.20 LPG bulk
- 27.11.12.20 Propane
- 27.11.13.20 Butane
- 27.16.00.00 Electricity
- Chapter 30 Medicines (human health).

No minimum or maximum import or export prices are fixed for any of these products.

Question 13

We note that some price controls (on milk, semolina and flour) still remain uncovered, because of their considerable social importance.

Whilst we do not question the social importance of these products, has Algeria considered whether there is a WTO justification for maintaining these price controls?

Reply

Semolina was withdrawn from the list of products subject to price regulation in February 1997.

The following food products remain subject to the price regulation regime:

- Common flour (selling price to bakers: DA 2,000/100kg.);

- ordinary bread (selling price: DA 7.50/250-gr. unit);
- improved bread (selling price: DA 8.50/250-gr. unit);
- pasteurized milk (DA 25/1-litre carton); free pricing was introduced for other forms of packaging in February 2001.

Prices are fixed by internal regulation, in conformity with Article III of the GATT on National Treatment on Internal Taxation and Regulation. The regulation affects offer for sale and is not applied to imports or domestic products in such a way as to protect national production.

The fixing of ceiling prices for flour and pasteurized milk is consistent with Article III of the GATT. It is applied for social purposes and has no effects prejudicial to the interests of WTO Members supplying such products.

Prices of goods in all economic sectors are determined freely by market forces, with the exception of the following products and services:

Products subject to price regulation

| Product | Price Fixing Stage |
|---|--|
| Pasteurized milk | Production price Wholesale margin Retail margin |
| Common wheat | Production price |
| Common bread flour | Price to bakers Price to retailers Price to consumers |
| Ordinary bread | Price to consumers |
| Improved bread | Price to consumers |
| Drinking water and water for agricultural use | Price to users |
| Regular gasoline | Price to resellers |
| Premium gasoline | Price to bulk users |
| Diesel | Pump price |
| Fuel oil | Price to users |
| Domestic natural gas | Price to users |
| LPG bulk | Price to resellers Price to users |
| Propane | Price ex-filling plants Price to retailers Price to users |
| Butane | Price ex-filling plants Price to retailers Price to users |
| Electricity | Price to users |
| Medicines | Production margins Packaging margins Wholesale margins Retail margins |

- Services subject to price regulation
 - Rail transport;
 - passenger transport by taxi (motor vehicle);
 - hydrocarbons pipeline transport tariffs.

Pricing for the above goods and services is fixed by executive decree, following consultation among the various ministries concerned.

Algeria will apply price controls in a WTO-consistent manner, taking into account the interests of exporting Members, pursuant to Article III:9 of the GATT 1994. The list of goods and services subject to price control and any modification to current price controls will be published in the *Journal Officiel*.

Question 14

Algeria reports that it is in the process of breaking up State trading monopolies, but that some have not yet been fully reformed in this fashion.

Please indicate which State trading monopolies are still functioning, e.g. in the hydrocarbons sector.

Reply

In the hydrocarbons sector, the State oil company SONATRACH has a monopoly on hydrocarbons prospection, production, transport and marketing.

The new draft law currently before the Government provides for the breaking-up of such monopolies. Only natural monopolies will remain (hydrocarbons pipeline transport networks and storage infrastructure) and will be governed by the regulatory authority in order to ensure, *inter alia*, unrestricted access to such networks.

Question 15

Natural monopoly pricing could constitute a subsidy under the WTO Subsidies Agreement. We understand that Algeria is attempting to liberalize its domestic prices for gas, electricity and water.

Please provide a description of existing price mechanisms for natural gas, water and electricity, and any reforms being implemented or proposed, with updates on these efforts.

Reply

Prices for electricity and natural gas in the home market are currently regulated by decree and apply to both industrial and domestic customers. Electricity and natural gas rates are periodically reviewed on the basis of marginal development costs; they were last adjusted on 1 September 2000.

The reforms provided for in the recently adopted Law on Electricity and Gas establish new electricity and gas pricing mechanisms.

These mechanisms are based on the following principles:

- The production of electricity is open to competition. Qualifying (i.e. industrial) customers may freely negotiate electricity and gas prices and volumes with producers, distributors or commercial agents.
- Electricity transmission and gas transport are natural monopolies in the hands of utility companies (one for electricity and one for gas). The principle of free third party access to the grids is guaranteed by law.

- The rates for use of the electricity transmission and gas transport grids are set by the Electricity and Gas Regulatory Commission, using a methodology and parameters established by regulation and required by law to be transparent and non-discriminatory and to be published.
- The rates for non-qualifying (i.e. domestic) customers are set by the Electricity and Gas Regulatory Commission, using parameters that are established by regulation and are uniformly applied throughout Algeria. These rates must factor in all costs incurred by operators (electricity production or gas supply costs, transmission/transport and distribution costs, marketing costs, permanent costs and diversification costs).
- As regards the implementation schedule, the Law stipulates that the electricity and gas markets shall be opened up, each in an amount of at least 30 per cent, no later than three years after the enactment of the Law.

Question 16

Please describe Algeria's pricing levels and policies for gas and electricity, as they relate to domestic industry and export.

Reply

Prior to the new Law, the electricity and gas pricing policy was to gradually adjust rates to marginal development costs. For industrial electricity and gas customers, the rates now match the costs.

Export prices are freely negotiated between the relevant national producer and its customers and are governed by international market conditions.

Question 17

Does Algeria supply gas to domestic firms at different prices? If so, please describe the policy.

Reply

Gas is supplied to domestic firms at a price regulated by decree, without discrimination and regardless of the customer. Gas exports are sold at a different price, which is negotiated between the gas producer and its customers and is governed by international market conditions.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE

1. Powers of the executive, legislative, and judicial branches of government

(c) The Judiciary

Question 18

Could Algeria specify which part of the Judiciary hears commercial cases?

Reply

Commercial cases are heard by the commercial chamber of the tribunal, composed of a magistrate (who presides) and two business assessors, who play an advisory role.

Appeals against the tribunal's decisions are heard by the court, which is a collegiate body composed of three magistrates.

Appeals for cassation of the court's decisions may be lodged with the Trade and Maritime Chamber of the Supreme Court.

Question 19

Appeals against administrative actions may be lodged with the judicial authorities. Are ways of seeking redress directly by the administration foreseen? If this is the case, can the plaintiff pursue the administrative way first or can he/she directly appeal to the judiciary?

Reply

Requests for annulment of decisions by the local administration may be lodged with the administrative tribunals; in the case of decisions taken by the central administration, requests must be lodged with the Council of State.

Requests for annulment are only admissible if they have been preceded by an appeal to a higher administrative authority or, in its absence, by an application for review addressed to the person who took the decision.

The prior administrative appeal must be made within two months of the notification or publication of the decision contested.

Appeals for annulment do not suspend application of the decision. Nevertheless, an administrative judge may, as an exceptional measure and at the specific request of the applicant, suspend application of the decision contested.

Annulment of administrative decisions may give rise to compensation.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import regulation

- (a) Registration requirements for engaging in importing

Question 20

Despite efforts to liberalize trade since 1994, Algeria still requires that economic undertakings keep a "commercial register" and have "domiciliation" at an approved banking intermediary.

Please clarify what these requirements entail for a firm or individual that wishes to import.

Please describe the reasons for these requirements and the process that foreign and domestic firms and individuals must comply with to import or to export.

What are the steps for getting a commercial registration? Please include information on all fees associated with becoming registered and a list of the relevant ministries that must be approached.

Reply

The following must have a commercial registration:

- Traders, whether natural or legal persons;
- commercial firms or enterprises of an industrial or commercial nature;
- industrial or commercial firms whose headquarters are abroad and which set up an agency, branch or any other establishment in Algeria;
- small-scale enterprises, service providers, whether natural or legal persons;
- lessees or managers of businesses;
- commercial legal persons whose form or purpose is trade, with headquarters in Algeria or which open an agency, branch or any other establishment.

The requirements for inclusion in the commercial register concern the commercial activity, the place where it is carried out and the person.

As regards the commercial activity, a distinction has to be drawn between unregulated activities, which are open to any applicants that meet the general conditions governing the status of trader, and regulated activities, which require prior authorization from the competent authorities.

Concerning the conditions related to the place of the activity, commercial registration is accorded to any person who can prove that he is legally established, through ownership or rental of commercial premises. In this connection, dangerous, unsanitary or harmful activities require prior verification by the local administration before they can be established (classified establishments).

Lastly, the following are the requirements relating to the person concerned:

- Natural persons must possess legal capacity and civil rights;
- legal persons must be established in accordance with the law;
- general partnerships (*sociétés en nom collectif* (SNC));
- limited partnerships (*sociétés en commandite simple*);
- limited liability companies (SARL, EURL); and
- joint stock companies (SPA).
- Fees applicable

The fees charged by the National Centre for the Commercial Register (*Centre National du Registre de Commerce* (CNRC)) for keeping the local and central commercial registers and for legal notices are the following:

Natural persons

| Registration category | Fee (DA) |
|---------------------------|----------|
| Registration | |
| Itinerant traders | 1,300.00 |
| Retailers | 1,800.00 |
| Supermarkets | 2,700.00 |
| Wholesalers | 2,700.00 |
| Import/export wholesalers | 2,700.00 |
| Suppliers of services | 2,200.00 |
| Production/processing | 2,700.00 |
| Changes | 1,350.00 |
| Cancellation | 750.00 |

Legal persons

| Registration category | Fee (DA) |
|---|----------|
| Principal registration | |
| Capital < DA30,000 | 5,600.00 |
| Capital DA30,000 to 100,000 | 5,700.00 |
| DA100,001 to 300,000 | 5,950.00 |
| Capital DA300,001 or more | 6,100.00 |
| Secondary registration | 5,600.00 |
| Change without increase in capital | 2,100.00 |
| Capital increase of DA10,000 to 50,000 | 2,200.00 |
| Capital increase of DA50,001 to 100,000 | 2,450.00 |
| Capital increase of DA100,001 or more | 2,600.00 |
| Cancellation + dissolution | 1,300.00 |
| Deposit of articles or deeds (other than dissolution) | 500.00 |
| Deposit of deed of dissolution | 400.00 |

Importing is only open to legal persons listed in a commercial register, in other words, legal persons must be established in accordance with the law and this applies to general or limited partnerships, limited liability firms and joint stock companies listed in a commercial register.

An Algerian or foreign firm or an Algerian or foreign person must be listed in a commercial register as a “legal person” in order to import or export.

Registration in the commercial register is an authenticated deed attesting to the full legal capacity to engage in trade. It gives the right to exercise a commercial activity freely.

Registration requirements

- Commercial firms

A person wishing to become listed in the commercial register must deposit the articles of the firm, the minutes of the constituent general assembly(ies), the results of the election of the administrative and management bodies, the powers given to executives, and any other deeds specifically provided in the legislation in effect.

The official at the commercial register, acting as a public official, must immediately verify whether the commercial status of the firm complies with the legal requirements in force, that the legally required capital has in fact been paid up and that the firm has established a proper head office.

The official hands over a receipt attesting to registration and this is valid unless any person with an interest opposes it.

- Natural persons

Any natural person possessing civil capacity and civil rights who expresses a wish to carry out an activity covered by commercial law must make a declaration before a duly authorized public official, stating specifically that he wishes to exercise the activity in accordance with the law and according to commercial custom and that he has not been the subject of any measure prohibiting him from carrying out that particular activity.

The following are the competent authorities:

- The National Centre for the Commercial Register (CNRC), which is an autonomous administrative body responsible *inter alia* for issuing and administering commercial registrations;
- for activities that are regulated, the competent authorities issue approvals (Ministries of Health responsible for Tourism, Transport, the Interior, Vocational Training, Energy and Mines, Agriculture, Finance, the Bank of Algeria, the Customs).

Formalities for registration applications

- Natural persons

- An application for inclusion in the commercial register drawn up on the form supplied by the CNRC;
- birth certificate and police record;
- lease of the commercial premises or copy of the ownership deeds;
- attestation of the fiscal situation;
- approval authorizing the exercise of the activity in the case of regulated activities.

- Legal persons
- An application for inclusion in the commercial register drawn up on the form supplied by the CNRC;
- the firm's articles drawn up in a notarial deed;
- Publication of extracts from the firm's articles in the Official Gazette of Legal Notices (*Bulletin officiel des annonces légales* (BOAL)) and a national newspaper;
- birth certificates and police records of the executives;
- proof of the existence of the head office;
- attestation of the fiscal situation;
- approval authorizing the exercise of the activity in the case of regulated activities; and
- description of branches, if any.

Keeping the commercial register

The CNRC is responsible for keeping the commercial register (under the law, the CNRC is an autonomous administrative body under the supervision of the Minister for Trade); it is present in each of the 48 *wilayas* (departments) in Algeria in the form of local branches of the CNRC set up for this purpose.

The register is kept by the official in charge of the branch, who is a public official representing the law and enjoys a special status conferred by Executive Decree.

The official in charge of the branch has direct authority for entries in the commercial register (registration, changes, cancellation), under the supervision of a judge appointed to oversee the commercial register.

The official notes down the registration in an analytical register classified and signed by the President of the Tribunal with territorial competence, after the contents of the file submitted by the applicant have been verified; applications that are incomplete or incorrect are systematically rejected.

The official then gives each business (legal or natural person) a national registration number attesting to registration in the commercial register, using a series of chronological numbers attributed to each branch by the Directorate General and administered centrally by computer.

A receipt for the deposit of an application is given to applicants and this is equivalent to an entry in the commercial register, allowing the immediate commencement of the economic activity declared.

The extract from the commercial register is issued within a period not exceeding two months, which allows third parties or parties with an interest to lodge any opposition following publication of the registration in the BOAL. Disputes are brought before the judge responsible for supervising the commercial register.

Applications submitted by natural or legal persons, together with their attachments, are sent to the head office of the CNRC for verification, filing, placing in the archives, compilation and exploitation of the statistical data and issuance of copies of the contents of the file to any applicants.

The head office and the branches of the CNRC are equipped with a computerized system that allows them to build up a computerized database for the commercial register and, upon request, these data are made available to economic operators, professional organizations, public institutions and authorities.

Lastly, it should be noted that the commercial register is governed by a law (Law No. 90.22 of 18 August 1990 on the commercial register). This Law provides for the unique nature of commercial registration (a single registration throughout the life span of a company or the activities of a natural person) and is strictly in conformity with Article 37 of the Constitution, which states the following: "Freedom of trade and industry is guaranteed. It shall be exercised in accordance with the law."

Domiciliation of banks

Domiciliation of imports at a bank is a simple registration of the import or export transaction. It involves the deposit of the order or service request together with the bank *pro forma* invoice. Foreign firms established in Algeria are subject to the same requirement as local firms.

Banking domiciliation of an import transaction ensures that the importer has sufficient funds to pay for the orders given.

Domiciliation also allows the Bank of Algeria to update the financial statistics on commercial activities, which are essential data for the calculation of the global and bilateral balance of payments.

It is also justified by the need to control related financial flows; for the customs service, it allows the financial flow and the flow of goods for the same import transaction to be compared and thus limit the flight of capital.

(b) Characteristics of the national tariff

Algeria utilizes the 2002 version of the Harmonized System.

Order No. 01.02 of 20 August 2001 establishes a new customs tariff applicable as of 1 January 2002. A hard copy of this tariff, as well as an electronic copy, will be available from the WTO Secretariat.

The reform of the customs tariff has enabled the following principles to be reaffirmed:

- Harmonization and reduction of the number of rates;
- consistent structure;
- transparency;
- stability;
- impartiality.

The former tariff structure described on pages 47 and 48 of document WT/ACC/DZA/14/Add.1 of 24 August 2001 has been replaced by the following: 0 per cent, 5 per cent, 15 per cent, and 30 per cent.

The customs tariff only contains one column of duties applicable to countries that grant Algeria most-favoured-nation (MFN) treatment (Article 2 of Order No. 01.02 of 20 August 2001 establishing a new customs tariff).

Algeria has been a member of the WCO since 19 December 1966.

No preference is currently given for imports originating in the European Union. The association agreement signed on 19 December 2001 provides for the establishment of a free-trade zone following a transitional period of 12 years after the entry into force of the agreement.

(c) Tariff quotas, tariff exemptions

The exemptions allowed in the customs tariff are applied on an MFN basis.

(d) Other duties and charges, including any charges for services rendered

Before the end of 2003, Algeria will align itself with the provisions of Article VIII of the GATT 1994, with levies of 2 per cent and 4 per cent (four per mil).

The economic customs regimes under the Kyoto Convention allow the total or partial suspension of the payment of duties and taxes. Article 4 bis of the Customs Code provides that "the customs laws and regulations apply irrespective of the status of the persons". Consequently, goods imported by the State or on its behalf do not enjoy any privilege or immunity.

Question 21

It is stated that the fee is fixed at 2 per cent for every import declaration. Could Algeria explain on which basis the fee has been determined and how it corresponds to the cost of customs services? In principle, as the fee is expressed in *ad valorem* rate, it cannot be considered consistent with Article VIII of the GATT. The same holds true for the export fee.

Reply

Before the end of 2003, Algeria will align itself with the provisions of Article VIII of the GATT 1994, with levies of 2 per cent and four per mil.

Question 22

It is stated that a specific surcharge is applied since 1991 and should soon disappear as a result of its integration in the single applied customs tariff.

Reply

The specific surcharge has been abolished under the supplementary Finance Law of 2001, which came into effect on 19 July 2001.

(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems

Question 23

The replies that Algeria has provided on import licensing and import procedures do not provide complete information regarding import procedures and the licensing regime.

Is Annex 1 to document WT/ACC/DZA/13 (Annex 3 to WT/ACC/1) available?

If not, could Algeria prepare this Annex again, reflecting current legal norms and trade practices, including a list, by tariff line item number, of all imports subject to automatic and

non-automatic import licensing procedures? This should be issued in all three official languages of the WTO, not just French.

In addition to formal import licences, the information provided should cover border measures applied to imports into Algeria concerning product quality and sanitary and veterinary controls, as these operate as a form of non-automatic licensing.

The information should also cover the requirements for prior authorization or technical certificate by certain Ministries, e.g. medicinal products (Ministry of Health), hunting weapons (Ministry of the Interior), bookshop articles (Ministry of Information), and certain plants and animals (Ministry of Agriculture). These measures operate as a form of non-automatic licensing.

Reply

The updated Annex 3 to document WT/ACC/1 reflects the current legal regulations and trade practices, and a list by tariff heading, by product, and by HS number for all imports subject to automatic or non-automatic licensing procedures is being elaborated. It will be transmitted once it has been finalized.

Question 24

Could Algeria please specify, by HS number, the goods whose import is prohibited in the country and the GATT justification for such prohibition?

Reply

Goods whose import into Algeria is prohibited (by HS number):

- Used tyres (40 12 20 00);
- toys imitating handguns (95 03 90 00);
- these prohibitions have been established for reasons of security.

(f) Import licensing procedures

Question 25

What is the timetable foreseen for the implementation of the relevant WTO Agreement?

Reply

Under the provisional timetable for the enactment of domestic legislation and regulations designed to ensure compliance with the WTO Agreements (document WT/ACC/DZA/Add.2), Algeria intends to establish an import licensing regime during the first quarter of 2003.

Question 26

Please list all the goods that are subject to prior authorization or technical certification in order to be imported into the country.

Reply

The import of certain products (cosmetics and personal hygiene products; consumer products of a toxic or particularly hazardous nature (19 products); sweetened foodstuffs, bleach, worn clothing and worn textile articles, pharmaceutical products, hunting weapons, bookshop articles and animal and plant products) is subject to prior authorization by the competent services.

The following is the list of consumer products of a toxic or particularly hazardous nature:

- Bleaching agents (in liquid or powder form) containing chlorine;
- cleaning and/or disinfecting agents, including cleaning products for enamel surfaces, floors, windows, ovens and toilets, carpet shampoo and washing products (washing and dishwashing preparations);
- cleaning solvents (stain removers, etc.);
- wax polishes: wax preparations and turpentine or white spirit for polishing furniture and floors. (Wax polishes containing natural or synthetic waxes, solvents such as petroleum hydrocarbons, turpentine, alcohols, glycols and acetates and colourings);
- products used to polish, clean or plate metal;
- anti-fungal products;
- pesticides for domestic use, including weedkillers, insecticides, rat poison, fungicides, moth proofing;
- matches;
- products containing methyl alcohol;
- paint and varnish stripper;
- liquids, powders, foam and other fire extinguishing products;
- anti-freeze preparations;
- caustic products, including acids, mineral bases (sodium, potassium, ammonium, ammonia), organic bases, oxidants (hypochlorites, peroxides, permanganates, perborates), aldehydes (formaldehyde, acetaldehyde, epoxides and phenols);
- anti-rust products for linen (including hydrofluoric acid and oxalic acid);
- sprays (other than cosmetic and personal hygiene products);
- products for children's education and recreation such as chemistry sets or containing accessible chemicals, children's paints and modelling clay;
- protective coatings, including paints, varnishes, woodworm protection, polishes and waterproofing products;

- glues and adhesives;
- foodstuffs containing concentrated sweeteners.

Question 27

Please list all the agricultural products subject to measures at the border, describe the types of measure and indicate the Ministry responsible for issuing authorizations or permits.

Reply

The following animal products and products of animal origin are subject to sanitary inspection before import into or export from Algeria:

- Animals of the bovine, caprine, ovine, cameline and porcine species;
- pet animals, including dogs and cats;
- domestic fowl (chickens, turkeys, geese, ducks, guinea fowl, etc.), as well as rabbits and similar;
- exotic animals and birds such as canaries, parrots, pheasants, partridges, quails and zoo animals;
- bees, fish, crayfish, snails, tortoises, frogs, snakes;
- rodents;
- game;
- meat, milk and milk products, eggs, honey, wool, untreated skins, semen for artificial insemination, zygotes;
- intestines;
- treated or processed animal products irrespective of their destination;
- fodder and feeds for animal consumption.

With the exception of pet animals, treated or processed animal products, irrespective of their destination, and concentrates for animal feeding, all the foregoing products are subject to the sanitary waiver provided in Article 76 of Law No. 88.08 of 26 January 1988.

All plants, plant products and materials defined in Executive Decree No. 93.286 of 23 November 1993 are subject to mandatory phytosanitary inspection at Algeria's borders.

The list of agricultural products of plant origin subject to measures at the border in accordance with the phytosanitary regulations is attached.

The measures provided in the regulations currently in effect are applied by the competent services of the Ministry of Agriculture and, for imported products, they concern the following:

- Entry;
- import after disinfection;
- rejection;
- destruction.

Question 28

It is noted that the import of certain products is subject to prior authorization. Explain the reasons why this is not considered an import licence. Please provide a full list of all the products (eight-digit HS) subject to prior authorization and the reason for this requirement. Please explain, by stages, the procedure for granting prior authorizations, indicating the time needed and the criteria taken into account when deciding to grant or refuse an authorization.

Reply

The import of certain products (pharmaceutical products, medical equipment, hunting weapons, bookshop articles and animal and plant products) is subject to prior authorization by the competent services.

Such an authorization can, in fact, be assimilated to a non-automatic licence in the context of the WTO import licensing agreement.

Prior authorization by the competent authority is required before the import transaction.

Imported pharmaceutical products must be listed in the nomenclature of pharmaceutical products drawn up by the Ministry of Health and Population as products that may be imported (in accordance with Article XX of the GATT 1994).

In order to preserve the safety of persons and goods and to maintain public order in general, the public authorities have made the import of certain goods subject to prior authorization. This applies to the following in particular:

- Arms and ammunition (Order No. 97.06 of 21 January 1997 and Executive Decree No. 98.96 of 18 March 1998);
- sensitive equipment such as binoculars and certain telecommunications equipment (Interministerial Decree of 18 June 1996, amended and supplemented by the Interministerial Decree of 7 October 2000).

Certain chemicals, for example, nitrates (Interministerial Decrees of 2 March and 18 March 1996).

Armour plating (Interministerial Decree of 2 June 1996).

Regulations on explosives (Presidential Decree No. 90.98 of 30 June 1990).

The time required to obtain an import authorization varies according to the nature of the product (the criteria taken into account concern *inter alia* moral standards and specialization).

It should also be noted that in Algeria the possession of weapons is subject to certain prior conditions (authorization). The same procedure applies to the import of hunting weapons.

The import of bookshop articles (newspapers, magazines, literary and cinematographic works) is also subject to prior authorization by the Ministry responsible for information and culture, essentially for reasons relating to respect for moral precepts, especially moral standards (in accordance with Article X of the GATT 1994).

The import of animal and plant products is subject to prior authorization by the Ministry responsible for agriculture and fisheries.

Authorizations are granted upon request addressed to the authority responsible for issuing them, subject to proof of status as an importer and a description (or list) of the product (or products) to be imported.

Question 29

Import licences for agricultural products.

Reply

There are no import licences in the commercial sense of the term. The only conditions are sanitary and phytosanitary requirements. Under Law No. 88.08 of 26 January 1988 on veterinary medicine and the protection of animal health and Law No. 87.17 of 1 August 1987 on phytosanitary protection, importers of animals, animal products or products of animal origin, as well as importers of seeds and seedlings for planting, must possess a sanitary waiver for animal products or a prior technical authorization for seeds and seedlings issued by the competent national authorities (National Veterinary Authority – National Phytosanitary Authority of the Ministry of Agriculture) based on the sanitary or phytosanitary situation in the country of origin.

The import of phytosanitary products for agricultural use is subject to a prior technical authorization issued by the National Phytosanitary Authority upon request by the importer (Article 22 of Executive Decree No. 99.156 of 20 July 1999, amending and supplementing Executive Decree No. 95.405 of 2 December 1995 on the control of phytosanitary products for agricultural use). The purpose of this measure is to ensure that the commercial specialty is approved in Algeria and that the product possesses the characteristics that led to its approval.

A sanitary waiver is a document issued after the sanitary situation in the country of export has been ascertained and provided that no declarable disease has been reported in the place, area or country of origin of the products concerned.

A prior technical authorization is a document which, after examination of the phytosanitary situation in the country of export, certifies that the seeds and/or seedlings originate in regions officially declared free of harmful organisms subject to quarantine, as defined in the Algerian phytosanitary regulations, and have been produced in accordance with the certification and quarantine procedures permitted by the specialized regional and international organizations.

This sanitary and/or phytosanitary information can be obtained from the following:

- Official services in the exporting country;
- International Office of Epizootics (OIE);
- Regional Plant Protection Organizations (RPPO) and the European and Mediterranean Plant Protection Organization (EPPO).

Imports of animals and/or seeds and seedlings are only authorized from countries where the sanitary or phytosanitary situation is at least equivalent to that obtaining in Algeria.

Question 30

Please explain in detail the definition of “strategic foodstuffs”.

Reply

These are widely consumed products that constitute basic foods in Algeria (cereals, pulses, milk, potatoes).

(h) Customs valuation

Question 31

Could Algeria provide more information on the working of the import duty drawback scheme currently in place? What are the requirements to obtain the refund of the import duty or to avoid paying it?

Reply

There is no drawback scheme in the customs legislation. The economic regime of temporary admission for finishing allows the non-payment of import duties on products to be re-exported.

Question 32

Please specify which rules of the current system of customs valuation differ from the WTO requirements. What is the timetable foreseen for the implementation of the relevant WTO Agreement?

Reply

The replies given in document WT/ACC/DZA/12 of 22 July 1998 have become out of date since the entry into force of Law No. 98.10 of 22 August 1998, which amends and supplements Law No. 79.07 of 21 July 1979 on the Customs Code. Since then, the Customs Code has contained all the provisions found in the WTO Customs Valuation Agreement.

A hard copy of the Customs Code will be available from the WTO Secretariat.

Since the reform of the Customs Code (Law No. 79.07 of 21 July 1979, amended and supplemented by Law No. 98.10 of 22 August 1998), the WTO Customs Valuation Agreement has been integrally incorporated in Articles 16 *et seq* of the code.

The customs valuation applied since that date is thus in conformity with the WTO text. The administered value, which affected some 1,200 out of 5,996 tariff sub-headings previously included in the customs tariff, has been totally abolished since 19 July 2001.

Question 33

Algeria recently ended the administered value of products. How does Algeria intend to pursue its transparency policy in respect of prices?

Reply

The administered value, which affected some 1,200 out of 5,996 tariff sub-headings previously included in the customs tariff has been totally abolished since 19 July 2001

- (l) Rules of origin

Question 34

We seek a commitment from Algeria that upon accession its laws and regulations on rules of origin, for both MFN and preferential trade, would be applied in conformity with the provisions of the WTO Agreement on Rules of Origin.

We also seek confirmation that Algeria's laws will be amended to incorporate the requirements of Article 2(h) and Annex II, paragraph 3(d), i.e., that for non-preferential and preferential rules of origin, respectively, the customs authority will provide upon the request of an exporter, importer or any person with a justifiable cause an assessment of the origin of the import and outline the terms under which it will be provided, and that any request for such an assessment would be accepted even before trade in the goods concerned began.

Reply

Article 14 of the Customs Code provides that the country of origin of a good is the country where it was extracted from the subsoil, harvested or manufactured.

The customs tariff is determined on an MFN basis so the customs may require importers to produce certificates of origin, although in practice this is rare.

The WTO Committee on Rules of Origin has not yet decided how to follow up the work carried out by the WCO's Technical Committee on Rules of Origin in respect of non-preferential rules of origin. The Doha Ministerial Declaration simply called for the work to continue and be terminated during 2001, but it has not yet been completed and Algeria states that, when the WTO instrument on rules of origin has been finalized, the Customs Code will be amended and the relevant provisions of the Agreement on Rules of Origin will be fully integrated into the law.

- (m) Anti-dumping, countervailing duty, and safeguard regimes
(n) Anti-dumping, countervailing duty, and safeguard regimes
(o) Anti-dumping, countervailing duty, and safeguard regimes

Question 35

Does Algeria intend to develop specific WTO consistent rules to cover these regimes, or would it rather undertake not to apply these duties, lacking such a regime?

Reply

The timetable for the enactment of domestic legislation or regulations designed to ensure conformity with the WTO Agreements (document WT/ACC/DZA/14/Add.2) includes the establishment of anti-dumping, anti-subsidy and safeguard regimes compatible with the relevant WTO Agreements.

Question 36

In point (m) (page 51), Algeria indicates that no anti-dumping regime has been applied to date. Does Algeria intend to introduce such a regime in the future?

Reply

The timetable for the enactment of domestic legislation or regulations designed to ensure conformity with the WTO Agreements (document WT/ACC/DZA/14/Add.2) includes the establishment of an anti-dumping regime compatible with the relevant WTO Agreement.

2. Export regulation

(c) Quantitative export restrictions, including prohibitions, quotas and licensing systems

Question 37

Please give a more detailed explanation of the rules governing the export restriction of palm tree seedlings and breeding sheep from Algeria. What permits are needed? Which agencies are involved?

Reply

The following are the eight-digit tariff headings in the Harmonized System for which export restrictions are in effect:

- 01 02 10 00: live breeding animals of the bovine species;
- 01 04 10 10: live breeding animals of the ovine species;
- 05 08 00 00: unworked or partly worked coral;
- 06 02 99 90: palm tree seedlings;
- 97 01 10 00, 97 01 90 00, 97 02 00 00, 97 03 00 00, 97 05 00 00, 97 06 00 00: objects of national interest from the historical, artistic or architectural perspective.

At present, all these headings are subject to export restrictions. The purpose of this measure is to preserve the national heritage.

These export restrictions are in conformity with Article XX of the GATT 1994, including paragraphs (b) on the conservation of animal or plant life and (f) on the protection of national treasures.

(e) Other measures

Question 38

Why are minimum export prices established for the export of dates and raw hides or skins (page 52)?

Reply

Minimum export prices for dates and raw hides and skins are determined by comparison with international prices in order to prevent the flight of capital as a result of under-invoicing by exporters or tax fraud. Exporters do not declare the true export value of these products in order to keep some of the export revenue abroad.

Question 39

Please explain the procedures for fixing a minimum price for dates and ferrous waste.

Reply

Floor prices are fixed as follows:

- Dates: the global market rate for Algerian dates;
- ferrous and non-ferrous waste: the rate on the exchange (London Metal Exchange), less a discount of 16 to 18 per cent; and
- raw hides and skins: the global market rate.

Question 40

It is explained that minimum prices are imposed on exports of dates, raw hides and skins, and ferrous waste. The reason given by Algeria is to prevent “capital flight”.

Could Algeria provide an exhaustive list of the products concerned, including the amount of the minimum prices imposed? Could Algeria explain what is meant by “prevent capital flight”? If the measure is imposed in order to prevent tax evasion or fraud, we consider that there are ways other than imposing minimum prices, which is a restrictive trade measure.

Does Algeria intend to deal with this particular question in another way?

Reply

The minimum prices have been established in order to prevent capital flight and protect the balance of payments. Capital flight is a result of under-invoicing. It has been noted that the exporters of these products declare export values that are well below the international price in order not to repatriate part of the revenue derived from their exports and keep it abroad. This under-invoicing also has another effect, namely, tax fraud. We consider that fixing minimum prices for the export of these products in comparison with international prices is the only way of preventing this capital flight and tax fraud.

The following are the minimum prices imposed:

Minimum Reference Price for Exports of Dates

| Variety | Price per kg/f.o.b. Algerian port | |
|---|-----------------------------------|------|
| | FF | € |
| Deglet Nour dates on branches | | |
| In boxes | 14.50 | 2.21 |
| 500 g. branches | 14.00 | 2.13 |
| 1 kg. branches | 13.50 | 2.06 |
| 2 kg. branches | 13.00 | 1.98 |
| 3 kg. and 5 kg. branches | 12.50 | 1.91 |
| Deglet Nour dates covered by two branches (1 kg.) | 10.50 | 1.60 |
| Deglet Nour dates not on branches | | |
| Commercial dates 1kg. | 9.50 | 1.45 |
| Commercial dates 1-5 kg. | 9.00 | 1.37 |
| Commercial dates 6-12 kg. | 9.00 | 1.37 |
| Pitted dates not exceeding 10 kg. | Free | Free |
| Packaged Deglet Nour dates | | |
| 250 gr. trays | 8.00 | 1.22 |
| 500 gr. trays | 7.50 | 1.14 |
| 1 kg. container | 7.25 | 1.11 |
| 10 kg. pack | 7.00 | 1.07 |
| Deglet Frezza and Noire | | |
| 10-15 kg. Pack | 6.00 | 0.91 |
| Deglet Nour Standard | | |
| 1-12 kg. pack | 7.00 | 1.07 |
| Regular dates | | |
| Natural tafezouine (1-5 kg.) | 6.00 | 0.91 |
| Packaged tafezouine (6-15 kg.) | 5.00 | 0.76 |
| Processed tafezouine (250 and 500 gr.) | Free | Free |
| Degla beida (10-25 kg.) | 5.50 | 0.84 |
| Date paste | 4.00 | 0.61 |

Minimum Reference Price for Exports of Raw Hides and Skins

| Category of hides and skins | Minimum reference price (f.o.b. ex Algeria) |
|-----------------------------|---|
| Sheep | 35 FF/each |
| Cattle | US\$ 2.20/kg. |
| Wool | US\$ 1.60/kg. |

Minimum Reference Price for Exports of Ferrous and Non-Ferrous Scrap

| Product | Reference price |
|----------------------------------|--|
| <u>Ferrous scrap</u> | <u>US\$/tonne (f.o.b. Algerian port)</u> |
| Solid iron | 66 |
| Compacted scrap | 70 |
| Unsorted scrap | 68 |
| Broken cast iron | 60 |
| Tin scrap | 40 |
| <u>Non-ferrous waste</u> | <u>FF/tonne (f.o.b. Algerian port)</u> |
| Unsorted and compacted aluminium | 6 |
| Aluminium filings | 7 |
| Aluminium ingots 2nd smelting | 7 |
| Aluminum casing | 9.5 |
| Copper filings | 8.20 |
| Unsorted and compacted copper | 8.20 |
| Resmelted copper | 11 |
| Brass | 6 |
| Bronze | 6 |
| Radiators | 4 |
| Non-ferrous stainless steel | 3 |
| Zinc matte | 4.50 |
| Zinc powder | 2 |
| Lead | 2 |

(f) Export financing, subsidy and promotion policies

Question 41

Please describe any incentives offered by Algeria to firms or individuals under the Export Promotion Fund.

Reply

The following are the incentives granted under the Special Export Promotion Fund:

- Expenditure entailed by surveys of external markets, information for exporters and studies on improving the quality of goods and services intended for export;
- State aid to promote exports through participation in foreign fairs and exhibitions;
- part of the cost of prospecting foreign markets, borne by exporters;
- cost of international transport and handling of export goods in Algerian ports;
- financing of costs incurred by adapting products to foreign markets.

Any firm producing goods and/or services or any trader duly registered in the commercial register and working in the export field may benefit from this support.

Question 42

Are there any export subsidies?

We seek a commitment by Algeria that such subsidies will no longer be granted after its accession to the WTO.

Reply

At present, there is a mechanism for subsidizing exports other than hydrocarbons.

This mechanism is part of the national policy aimed at diversifying exports.

In this connection, we should point out that Algeria is essentially an exporter of hydrocarbons and the share of agricultural exports is insignificant, not exceeding 1 per cent of total export revenue.

The details of the subsidies for agricultural exports using the ACC/4 model will be transmitted as soon as they are finalized.

Question 43

Please clarify whether Algeria maintains any subsidies that are prohibited, as defined by Article 3 of the WTO Agreement on Subsidies and Countervailing Measures, for example.

Reply

In the export support mechanism described *inter alia* in the replies to questions 95 in document WT/ACC/DZA/4 and 64 in document WT/ACC/DZA/13, there are no import substitution subsidies or export substitution policies incompatible with Article 3 of the WTO Agreement on Subsidies and Countervailing Measures.

Question 44

On page 52 (WT/ACC/DZA/14/Add.1) under point (f) Algeria says that resources are being mobilized to cover amongst other items “specific requirements with regard to export financing”. Could these requirements please be described?

Reply

The following are the requirements covered by the Special Export Promotion Fund:

- Expenditure incurred by surveys of external markets, information for exporters and studies on improving the quality of goods and services intended for export;
- State aid to promote exports through participation in foreign fairs and exhibitions;
- part of the cost of prospecting foreign markets, borne by exporters;
- cost of international transport and handling of export goods in Algerian ports;
- financing of costs incurred by adapting products to foreign markets.

3. Internal policies affecting foreign trade in goods

(b) Technical regulations and standards

Question 45

Does a single enquiry point exist that is operational and accessible to domestic and foreign companies?

Reply

For sanitary and phytosanitary measures, Algeria currently has two separate enquiry points:

Food safety:

Centre Algérien du Contrôle de la Qualité et de l'Emballage (Algerian Quality and Packaging Control Centre)

RN No.5 Bab Ezzouar Dar El Beida

Algiers

Algeria

Tel.: 213 21 24 30 35

Fax: 213 21 24 30 11

E-mail: cacqe@mail.wissal.dz

Animals, plants and fisheries:

Sous Direction du Contrôle Sanitaire/Direction des Services Vétérinaires (Sub-Directorate of Sanitary Inspection/Veterinary Services Directorate)

12 Bd. Colonel Amirouche

Algiers

Algeria

Tel: 213 21 71 17 12

Fax: 213 21 74 34 34

213 21 74 63 33

E-mail: dsval@wissal.dz.

Question 46

What specific control measures does Algeria envisage (control of imports of agri-food products)?

Reply

In the context of liberalizing foreign trade, "control of imports of agri-food products" should be seen in the light of modernization of the Customs Administration and of the services dealing with sanitary and phytosanitary inspection and quality control, in conformity with the relevant WTO rules and with the principle of transparency.

At the domestic level, the organization of the local market and the development of participatory mechanisms for consultation and regulation of intertrade forums will allow proper regulation of markets and consequently of imports.

If domestic production is threatened, domestic legislation (Customs Code) permits the application of safeguard measures (anti-dumping, countervailing duties ...) and bans, in conformity with the relevant WTO Agreements.

Question 47

Is there a clear distinction between compulsory technical regulations and voluntary standards?

Reply

There is a clear distinction between compulsory technical regulations and voluntary standards.

Article 3 of Law No. 89.02 on consumer protection provides that any product to be consumed must meet the approved standards and the legal and regulatory specifications applicable to it.

Law No. 89.23 on standardization provides (Article 6) that Algerian standards include approved standards and registered standards.

Approved standards (Article 7) are compulsory whereas registered standards (Article 8) are voluntary.

Question 48

Are there any compulsory elements in the voluntary standards?

Reply

The voluntary standards do not contain any mandatory provisions.

Question 49

Are compulsory technical regulations and standards aligned with international standards, if there are exceptions, what is their justification?

Reply

Algeria's technical regulations and standards are aligned with international standards. Where exceptions occur, they concern misrepresentation, consumer health and/or safety.

Question 50

Does Algeria participate in international standardization bodies?

Reply

Algeria is a member of the various international standardization bodies, including the *Codex Alimentarius*, ISO, OIE, IPPC, ITU, IEC, etc.

Question 51

Can Algeria assure openness and transparency in the drafting of technical regulations, standards, etc.?

Reply

The draft standardization law, which is one of the legislative modifications communicated to the WTO Secretariat by Algeria, will include rules on transparency.

An administrative procedure will be drawn up prior to adoption of the draft law in order to put in place the mechanisms required to implement these rules.

For this purpose, Algeria will request technical assistance from the members of the WTO.

Question 52

Does Algeria apply a modular approach to conformity assessment, including the possibility of acceptance of the manufacturer's declaration?

Reply

Conformity with the technical regulations can be assessed in two ways:

- Through the operator

Any product to be consumed must first of all undergo a conformity inspection to ensure that it meets the approved standards and technical regulations applicable to it (Article 5 of Law No. 89.02).

This self-regulation obligation is governed by Decree No. 93.47 on conformity control of locally-manufactured or imported products.

The submission of a conformity certificate attesting that the product meets the approved standards and legal specifications suffices to meet this obligation.

The conformity certificate is drawn up under the responsibility of the economic operator at the production unit level, upon shipment, in the port or on unloading, using the operator's own inspection resources, the services of a testing laboratory or any other national or foreign testing body.

- Through the administrative authority

In accordance with Article 14 of Law No. 89.02, as part of its prevention role, the administrative authority may undertake conformity inspection at various stages when a product is put up for consumption.

Conformity assessment in relation to voluntary standards:

There is a mark called the TEDJ, which shows conformity with national standards, and use of this mark is voluntary.

The method for assessing conformity in order to obtain this mark corresponds to ISO system No. 5.

Question 53

Does a clear definition of the products subject to mandatory certification, aimed at avoiding the inclusion of low-risk products and repetitive certification procedures applied to similar products, exist?

Reply

The purpose of inspection at the border is to verify that the imported products comply with the technical regulations and it is governed by Decree No. 96.354, amended and supplemented by Decree No. 2000.306.

The technical regulations applicable to imported products are the same as those applicable to local products.

The list of products subject to systematic inspection is determined in regulatory provisions. Priority is given to food, cosmetic and personal hygiene products in view of their risks for consumer health and safety.

Question 54

Does Algeria have a market surveillance system coupled with appropriate horizontal product liability legislation?

Reply

Law No. 89.02 on the general rules for consumer protection grants the right to protection against any risks or other misrepresentation resulting from placing products or services on the market.

In order to guarantee such protection, the Law provides for the following:

- The establishment of specialized bodies; and
- the definition of a regulatory framework assuring the quality and safety of products and services.

The specialized institutions include officials trained in quality control and the suppression of fraud, as well as official laboratories responsible for testing samples taken by the aforementioned officials.

The legislative and regulatory provisions contained in Law No. 89.02 govern these institutions' activities. The regulatory framework is composed of horizontal rules (labeling, materials in contact, hygiene, additives, etc.) and vertical rules by product group or by product (milk, sugar, other products).

Question 55

Does a TBT single enquiry point exist that is operational and accessible to domestic and foreign companies?

Reply

At present, Algeria has the following special enquiry points:

For voluntary standards:

Institut algérien de normalisation (Algerian Standardization Institute)
5 rue Abou Hamou Moussa
16000 Algiers
Algeria
Tel: 213 21 64 20 75
Fax: 213 21 64 17 61
<http://www.ianor.org>
E-mail: ianor@wissal.dz

For technical regulations:

Centre Algérien du Contrôle de la Qualité et de l'Emballage (Algerian Quality and Packaging Control Centre)
RN No.5 Bab Ezzouar Dar El Beida
Algiers
Algeria
Tel.: 213 21 24 30 35
Fax: 213 21 24 30 11
E-mail: cacqe@mail.wissal.dz

These newly-designated enquiry points will be given working procedures that define the ways in which this obligation is assumed.

Domestic operators will be informed, by various means, of the establishment of these enquiry points and of their importance in facilitating the exchange of information on target markets.

Question 56

On page 58 (WT/ACC/DZA/14/Add.1) under the title “implementing regulations” Decree No. 93.47 (control of the quality and conformity of imported or exported products) and Decree No. 96.354 (control of the conformity and quality of imported products) are mentioned. What is the relationship between these two Decrees? Does Decree No. 96.354, which only applies to imported products, establish rules on imports that could be prejudicial to imported products?

Reply

Decree No. 93.47 concerns control of the conformity of products manufactured locally or imported. Its purpose is to implement the obligation imposed by Article 5 of Law No. 89.02 on the general rules of consumer protection. This obligation applies to local manufacturers and importers and concerns the need to ensure the conformity of products put up for consumption.

Decree No. 96.354 of 19 October 1996 on procedures for controlling the conformity and quality of imported goods, amended and supplemented by Decree No. 2000.306 of 12 October 2000, lays down the procedures for determining the list of products subject to systematic inspection prior to entry into Algeria, together with the inspection procedures.

The Interministerial Decree of 3 January 1998 establishes the list of imported products subject to the aforementioned inspection.

Question 57

Please clarify if the term “quality” involves technical regulations applied for health and safety purposes or if it is a standard regulating a range of possible “qualities” of imported goods.

Reply

According to Article 3 of Law No. 89.02 on consumer protection, a product or service put up for consumption must meet the applicable approved standards and legal and regulatory specifications.

Consequently, the concept of quality means the conformity of the product with the technical regulations.

Question 58

Are these quality requirements mandatory? If so, how are they enforced for both imports and domestic products, e.g., by requirement for prior authorization, registration, certificate, testing, etc.?

Reply

The regulatory requirements are mandatory.

They are enforced in accordance with the provisions in Law No. 89.02, in particular Articles 5, 10 and 16, which provide the following:

A self-regulation requirement for all those involved in putting products up for consumption. Its cost is met by the seller (Decree No. 93.47 of 6 February 1993, amending Decree No. 92.65 on control of the conformity of locally-manufactured or imported products (Article 5)).

The mandatory control of imported products to ensure that they meet the legal and regulatory requirements. This provision is enforced pursuant to Decree No. 2000.306 of 12 October 2000, amending and supplementing Decree No. 96.354 of 19 October 1996 on procedures for controlling the conformity and quality of imported products (Article 10).

Toxic or particularly hazardous products must be authorized before they can first be produced and/or put on sale on the domestic market (Article 16).

Prior authorization for the manufacture and import of toxic or particularly hazardous products. The list of such products is established by the legal regulations.

Prior declaration before manufacturing or importing cosmetic and personal hygiene products.

Question 59

Please give specific examples and a comprehensive list, by HS tariff line, of the products subject to this regime. Does Algeria intend to go beyond the current three product categories?

Reply

The Order of 3 January 1998, supplementing that of 3 March 1997, establishes the list of imported products subject to systematic inspection at the border.

Products listed in the Decree of 3 March 1997

| No. of customs tariff | Product |
|-----------------------|---|
| 04.01 | Milk and cream, not concentrated nor containing added sugar or other sweetening matter |
| 04.02 | Milk and cream, concentrated or containing added sugar or other sweetening matter |
| 04.03 | Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit or cocoa |
| 04.04 | Whey, whether or not concentrated or containing added sugar or other sweetening matter, products consisting of natural milk constituents, whether or not concentrated or containing added sugar or other sweetening matter, not elsewhere specified or included |
| 04.05 | Butter and other fats and oils derived from milk |
| 04.06 | Cheese and curd |
| 04.09 | Natural honey |
| 04.10 | Edible products of animal origin, not elsewhere specified or included |
| 07.01 | Potatoes, fresh or chilled |
| 07.02 | Tomatoes, fresh or chilled |
| 07.03 | Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled |
| 07.13 | Dried leguminous vegetables, shelled, whether or not skinned or split |
| 09.01 | Coffee, whether or not roasted, coffee husks and skins, coffee substitutes containing coffee, in any proportion |
| 09.02 | Green tea, whether or not flavoured |
| 09.04 | Pepper (of the genus <i>Piper</i>); dried or crushed or ground fruits of the genus <i>Capsicum</i> , or of the genus <i>Pimenta</i> |
| 10.06 | Rice |
| 11.05 | Flour of cereals other than wheat flour, semolina, powder, flakes, granules and pellets, of potatoes |
| 12.02 | Groundnuts, not roasted or otherwise cooked, whether or not shelled or broken |
| 12.07 | Other oilseeds, whether or not broken |
| 15.07 | Soyabean oil and its fractions, whether or not refined, but not chemically modified |
| 15.08 | Groundnut oil and its fractions, whether or not refined, but not chemically modified |
| 15.09 | Olive oil and its fractions, whether or not refined, but not chemically modified |
| 15.10 | Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions of heading No. 15.09 |
| 15.11 | Palm oil and its fractions, whether or not refined, but not chemically modified |
| 15.12 | Sunflower-seed, safflower or cotton-seed oils and fractions thereof, whether or not refined, but not chemically modified |
| 15.17 | Margarine, mixtures or preparations of animal or vegetable fats or oils or fractions of different fats or oils of this Chapter other than edible fats or oils or their fractions of heading No. 15.16 |

| No. of customs tariff | | Product |
|-----------------------|----------------------------------|---|
| 16.02 | 10-00 20-00 31-00 39-00 | Other prepared or preserved meat, meat offal or blood – Homogenized preparations. Liver of any animal – of turkeys – other |
| 16.04 | | Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs |
| 17.01 | | Cane or beet sugar and, chemically pure saccharose, in solid form |
| 17.02 | | Other sugars, including chemically pure lactose, maltose, glucose and fructose (levulose), in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel |
| 17.03 | | Molasses resulting from the extraction or refining of sugar |
| 17.04 | | Sugar confectionery (including white chocolate), not containing cocoa |
| 18.01 | | Cocoa beans, whole or broken, raw or roasted |
| 18.02 | | Cocoa shells, husks (skins) and other cocoa waste |
| 18.03 | | Cocoa paste, whether or not defatted |
| 18.04 | | Cocoa butter, fats and oil |
| 18.05 | | Cocoa powder, not containing added sugar or other sweetening matter |
| 18.06 | | Chocolate and other food preparations containing cocoa |
| 19.01 | | Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 40 per cent calculated on an entirely defatted basis, not elsewhere specified or included; food preparation of goods of headings Nos. 04.01 to 04.04 not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 5 per cent calculated on an entirely defatted basis, not elsewhere specified or included |
| 19.02 | | Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared |
| 19.03 | | Tapioca and tapioca substitutes prepared from starch, in flakes, grains, pearls, siftings or in similar forms |
| 19.04 | | Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared |
| 19.05 | | Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa, communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products. |
| 20.01 | | Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid |
| 20.02 | | Tomatoes, prepared or preserved otherwise than by vinegar or acetic acid |
| 20.03 | | Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid |
| 20.04 | | Other vegetables, prepared or preserved otherwise than by vinegar or acetic acid |
| 20.05 | | Other vegetables, prepared or preserved otherwise than by vinegar or acetic acid, not frozen |
| 20.06 | | Vegetables, fruit, nuts, fruit peel and parts of plants, preserved by sugar (drained, glacé or crystallized) |
| 20.07 | | Jams, fruit jellies, marmalades, fruit or nut puree and fruit or nut pastes, |

| No. of customs tariff | Product |
|-----------------------|---|
| | being cooked preparations whether or not containing added sugar or other sweetening matter |
| 20.08 | Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included |
| 20.09 | Fruit and vegetable juices (including grape must), unfermented and not, containing added spirit, whether or not containing added sugar or other sweetening matter |
| 21.01 | Extracts, essences and concentrates of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or mate; roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof |
| 21.02 | Yeasts (active or inactive); other single-cell microorganisms, dead (but not including vaccines of heading No. 30.02); prepared baking powders. |
| 21.03 | Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard |
| 21.04 | Soups and broths and preparations therefor; homogenized composite food preparations |
| 21.05 | Ice cream and other edible ices, whether or not containing cocoa |
| 21.06 | Food preparations not elsewhere specified or included |
| 22.01 | Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar, or other sweetening matter, not flavoured; ice and snow |
| 22.02 | Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter, not flavoured and other non-alcoholic beverages, not including fruit or vegetable juices of heading No. 20.09 |
| 22.03 | Beer made from malt |
| 25.01 | Salt (including table salt and denatured salt) and pure sodium chloride, whether or not in aqueous solution or containing added anti-caking or free-flowing agents; sea water |

Products listed in the Decree of 3 January 1998

| No. of customs tariff | Product |
|-----------------------|--|
| 10.01 | Wheat and meslin |
| 10.02 | Rye |
| 10.03 | Barley |
| 10.04 | Oats |
| 10.05 | Maize (corn) |
| 10.07 | Grain sorghum |
| 11.01 | Wheat or meslin flour |
| 11.02 | Cereal flours other than of wheat or meslin |
| 11.06 | Flour, and meal of the dried leguminous vegetables of heading No. 07-13, of sago of roots or tubers of heading No. 07-14 and products of Chapter 8 |
| 22.09 | Vinegar |
| 33.03 | Perfumes and toilet waters |
| 33.04 | Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun-tan preparations; |

| No. of customs tariff | Product |
|--------------------------------|---|
| | manicure or pedicure preparations. |
| 33.05 | Preparations for use on the hair |
| 33.06 10.00 V 33.06 90.00 R | Dentifrices Other |
| 33.07 | Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations not elsewhere specified or included, prepared room deodorizers; whether or not perfumed or having disinfectant properties |
| 34.01 11.90 K | Other |

The list of categories of product subject to this regime cannot be exhaustive; it may be enlarged or reduced according to control requirements and the existing verification potential.

Question 60

Please provide specific information on what the requirements are for these three product categories, and whether the requirements are limited to health and safety considerations.

Reply

The requirements are those on the need to comply with technical regulations (labeling, composition and the absence of harmful effects).

Yes, these requirements are limited to health and safety considerations.

Question 61

Can foreign laboratories be approved for quality control?

Reply

Algerian legislation does not at present contain any provisions allowing foreign laboratories to be approved.

Question 62

Please provide information on how the quality promotion programme launched by IANOR in 1992 will affect foreign products in commercial transactions.

Reply

The purpose of this programme is to establish a national accreditation and certification mechanism in accordance with international standards and guidelines (ISO).

The aim is to enhance the management of national enterprises and the competitiveness of locally-manufactured products.

Following Decree No. 2000.111 of 10 May 2000, this mechanism led to the creation of the Algerian National Council for the Accreditation of Conformity Assessment Bodies (*Conseil algérien d'accréditation des organismes d'évaluation de la conformité*). The text lays down the

responsibilities, organization and operating rules of the Council and sets out the procedure for accrediting conformity assessment bodies. It is not in any way intended to have a negative impact on commercial transactions in foreign products.

(c) Sanitary and phytosanitary measures

- Animal health measures

Question 63

Could Algeria please inform about the programmes for the eradication of animal diseases currently being implemented? Could Algeria also please inform of its sanitary status for various species?

Reply

Pursuant to Law No. 88.08 of 26 January 1988 and Decree No. 95.66 of 22 February 1995 establishing the list of animal diseases subject to compulsory declaration and the general measures applicable to them, Algeria has listed 47 diseases that must be declared and are the subject of special measures.

In addition, sheep and goat pox (disease on list A of the International Organization of Epizootics) is the subject of medical treatment (vaccination) annually.

Lastly, there are programmes for detecting, diagnosing and eradicating the following diseases:

- Animal brucellosis;
- animal tuberculosis; and
- animal rabies.

Foot-and-mouth disease may be the subject of vaccination of bovine animals if the sanitary situation deteriorates in neighbouring countries and the Mediterranean region.

At present, Algeria is free of this disease. The health of ovine animals is regularly monitored.

Question 64

What disease controls and eradication plans are really carried out in Algeria?

Reply

Monitoring and combating regulated organisms that are not subject to quarantine are governed by Executive Decree No. 95.387 of 28 November 1995. The implementation of the operations is covered by Phytosanitary Directive No.338 of 27 May 1996 on monitoring and combating agricultural diseases.

The implementation of operational plans specific to categories of crop pests is regularly the subject of ministerial orders, the latest of which concerns locusts.

To date, the ongoing programmes to monitor and combat disease concern desert locusts (*Schistocerca gregaria*), Moroccan locusts (*Dociostaurus maroccanus*), grasshoppers (*Calliptamus*

barbarus and *Oedaleus decorus*), cereal beetles (*Aelea germana*), and Shaw's jird (*Meriones shawi* spp-*M. crassus*-*M. libycus*).

As regards harmful organisms subject to quarantine, operations to detect and eradicate the following are regularly carried out: Bayoud disease (*Fusarium oxysporum f.sp. Albedinis*), the carob moth (*Ectomyelois ceratoniae*), citrus leaf miner (*Phyllocnistis citrella*), and potato tuber worm (*Phthorimaea operculella*).

Question 65

Could Algeria please provide a list of plant pests and the monitoring and control measures applicable to them?

Could Algeria please provide a copy of Decree No. 93.286 of 23 November 1993?

Reply

The list of plant pests and the applicable monitoring and control measures are governed by the regulatory texts. Algeria will provide the WTO Secretariat with a copy of these texts in French, namely:

- Executive Decree No. 95.387 of 28 November 1995, establishing a list of plant pests and the surveillance and control measures applicable to them; and
- Phytosanitary Directive No. 388 of 27 May 1996 on monitoring and combating agricultural diseases.

It should be noted that this list comprises two categories:

- List A of 19 harmful organisms that must be combated (13 nematodes, 1 cryptogram and 2 parasitic plants); and
- List B of agricultural diseases (harmful organisms not subject to quarantine) comprising 19 organisms (11 insects, 4 birds and 4 mammals).

Question 66

Sanitary and phytosanitary measures, including import-related measures.

Reply

All sanitary and phytosanitary measures taken during controls at the border are in compliance with the provisions of Article 2 (paragraphs 1, 2, 3 and 4) of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

They are established on the basis of the OIE's International Animal Health Code and the International Plant Protection Convention, as well as on the international rules on phytosanitary measures of the Convention's Commission.

For food products, the sanitary measures regarding the innocuity of products are incorporated in the technical regulations drawn up on the basis of the specific rules in the *Codex Alimentarius*. All these provisions are in compliance with the SPS Agreement.

Question 67

Algeria's commitment to the SPS Agreement.

Reply

Algeria's animal health and phytosanitary regulations are based on the provisions and recommendations in the International Animal Health Code of the International Office of Epizootics, the revised International Plant Protection Convention and the specific rules in the *Codex Alimentarius*.

All these provisions are in compliance with those in the SPS Agreement.

Algeria bases itself on the risk assessment covered by Article 5 of the Agreement when taking the appropriate sanitary and phytosanitary measures.

Enquiry points have been set up in accordance with the SPS Agreement and, as required by Article 7 on transparency, all changes to sanitary or phytosanitary measures will be notified to members.

In addition, Algeria's trade with the member countries of the WTO in animals and animal and plant products is important and Algeria already applies the principle of equivalence of sanitary and phytosanitary measures, as required by Article 4. Moreover, it already has a number of bilateral sanitary agreements.

Question 68

Representation and responsibilities of the Government.

Reply

The Ministry responsible for Agriculture represents the Government for animal health and phytosanitary matters pursuant to Law No. 88.08 of 26 January 1988 on veterinary medicine and the protection of animal health and Law No. 87.17 of 1 August 1987 on phytosanitary protection.

It is represented at the central level through two central Directorates (the Veterinary Services Directorate and the Directorate of Plant Protection and Technical Control), as well as at the local level through veterinary and phytosanitary inspections in the *wilayas* (departments) and its components (*dairas* and communes).

Question 69

Relationship between the SPS Agreement and quality control.

Reply

Quality control in the context of the SPS Agreement means the sanitary quality of a product. The relationship between quality control and the SPS Agreement is thus seen from the point of view of the sanitary safety of the food product. This task is undertaken by the quality control services belonging to the Ministry of Trade.

Question 70

Relationship with international organizations

Reply

Algeria is a member of the International Office of Epizootics. It also belongs to the administrative commission of the OIE's international committee and the commission on the International Animal Health Code.

As regards plants, Algeria is a member of the European and Mediterranean Plant Protection Organization and is an elected member of its executive committee.

Algeria is also a member of the *Codex Alimentarius* and regularly takes part in the work of its specialized committees.

Question 71

Relationship with the IPPC.

Reply

Algeria regularly takes part in the activities (sessions and technical meetings) of the Interim Commission on Phytosanitary Measures (ICPM) set up under the revised International Convention on Plant Protection. It has also recently deposited the instruments of acceptance of the revised text, as approved by Resolution 12/97 of the Conference of the United Nations Food and Agriculture Organization at its twenty-ninth session.

Algeria has officially become a candidate for election to the subsidiary dispute settlement body of the ICPM for FAO's Africa Region.

Question 72

Quality control of foods.

Reply

See the reply to question 55.

Question 73

Concept of food health safety.

Reply

Algeria attaches great importance to food health safety, particularly through risk assessment and management, supported by the creation of the National Toxicology Centre two years ago, whose responsibilities concern the effects of pesticide residues, heavy metals and other contaminants. The microbiological and isotopic aspects have traditionally been the responsibility of existing testing laboratories.

The health safety of food concerns both locally-produced and imported foods.

Question 74

Reference basis for risk assessment.

Reply

Risk assessment references are essentially based on international references and standards (*Codex Alimentarius*, the International Animal Health Code of the International Office of Epizootics, the International Plant Protection Convention).

Question 75

Acceptance of international regulations.

Reply

Algeria's animal health and phytosanitary regulations are mainly based on standardized scientific principles founded on the rules adopted by various committees of experts in the International Animal Health Code of the International Office of Epizootics, the International Plant Protection Convention, the commission of the *Codex Alimentarius*.

In its trade relations, Algeria already applies international regulations such as those mentioned in Article 4 of the SPS Agreement.

- (e) State trading practices

Question 76

Explain the business and role of the Algerian Inter-Trade Cereals Board (OAIC)

Reply

Trade in cereals has been fully liberalized since 1997 so the Algerian Inter-Trade Cereals Board (OAIC) no longer has a monopoly or any special privileges.

Since that date, the Board has been restructured and given the status of a public institution of an industrial and commercial nature (Executive Decree No. 97.94 of 23 March 1997) whose role is to ensure regulation of the market.

The role of the OAIC is to organize, supply, stabilize and regulate the domestic market for cereals and cereal products for the common benefit of producers and consumers.

The Board plays a public service role and is responsible *inter alia* for the following:

- Through the cereals and dried vegetables cooperatives, collecting and storing domestic production and continuing to ensure payment in cash for their crops;
- financing and executing special action programmes for the development of cereal farmers;
- on behalf of the State, implementing and managing the various price equalization, stabilization and harmonization mechanisms for cereals (and their by-products);
- ensuring the constitution and management of stocks;
- through its intertrade bodies, defining and proposing the mechanisms for fixing the price of cereals and cereal products.

- (f) Free zones

Question 77

Algeria has stated in W/T/ACC/DZA/13 that “Investment in free zones is in export-oriented activities”. How is it determined that the firms are engaging in export-oriented activities?

If the zones, and their benefits, are not available to firms that are not export-oriented, then the benefits are prohibited subsidies. Please explain whether Algeria intends to offer export-related incentives to companies operating in the free zones pursuant to Legislative Decree No. 93.12. If so, explain precisely what types of incentives will be offered, and whether they will be contingent upon being an “export-oriented” firm.

Reply

Legislative Decree No. 93.12 has been repealed (Investment Code).

In this connection, Algeria is presently finalizing special regulations on free zones and these will be transmitted when they have been finalized.

- (i) Mixing regulations

Question 78

Please confirm whether the mixing regulations enforced by Executive Decree No. 92.42 of 4 February 1992 on prior authorizations for the manufacture of toxic or particularly hazardous products require the use of domestic inputs if imports are used.

Reply

Decree No. 92.42 of 4 February 1992 was repealed in 1997 by Executive Decree No. 97.254 of 8 July 1997 on prior authorization for the manufacture and import of toxic or particularly hazardous products. This Executive Decree lays down the conditions and procedures for the issue or withdrawal of prior authorization for the manufacture and/or import of consumer products that are toxic or particularly hazardous for consumers. It concerns the final product to be used personally by the consumer. Products used in a professional activity are not considered consumer products within the meaning of the Executive Decree.

It should be noted that Algeria does not have any regulations containing measures relating to mixtures.

- (j) Government-mandated counter-trade and barter

Question 79

Please confirm that barter imports are subject to the same taxes, tariffs and other border measures applied to other imported goods.

Reply

Algeria confirms that the same customs duties and taxes apply to border barter transactions.

- (l) Government procurement practices

Question 80

Please list all the central Government bodies (Ministries, departments, agencies, etc.) which procure goods, services or construction services.

Reply

According to Algeria's government procurement legislation, buyers in the public sector who procure goods or services or undertake construction projects are all public authorities, autonomous national institutions, *wilayas*, communes, public establishments of an administrative nature under Ministries, *wilayas* or communes, and public establishments of an industrial or commercial nature if they are responsible for carrying out public investment projects with the support of the State budget.

Question 81

Please list all the "institutions and establishments of an administrative nature" (or the categories of institution and establishment).

Reply

See the reply to question 80.

Question 82

What entities of the sub-central level of the Government (*wilaya*, *daira*, commune) procure goods, services or construction services?

Reply

See the reply to question 80.

Question 83

Are there any general exceptions to the scope of Decree No. 91.434 of 9 November 1991? Please provide details.

Reply

The provisions of Executive Decree No. 91.434 of 9 November 1991 regulating government procurement apply to procurement by the aforementioned bodies, irrespective of the nature or type of expenditure involved.

The exceptions to the scope of the above-mentioned Decree concerning contracts for insurance, transport, supplies, and water, electricity or gas supply, will be repealed when the Government Procurement Code is revised following the abolition of these sectors' monopolies.

Question 84

Please provide statistics on government procurement by administrative bodies, decentralized bodies and other public bodies over the past two years including, where possible, the share for each entity and by category of product, service or works.

Reply

The statistics available concern procurement that went directly through the National Procurement Commission (which has competence for overseeing procurement of national importance in view of the amount involved). The Commission reviewed 129 instances of procurement in 2001, for a total of DA 119 billion, concerning all markets and broken down as follows:

- DA 41 billion with Algerian suppliers;
- DA 78 billion with foreign suppliers;
- public works accounted for 54 per cent of the total;
- supplies for 27 per cent; and
- services for 19 per cent.

Question 85

Are there any provisions in the domestic legislation giving domestic products and suppliers more favourable treatment than that given to foreign products or suppliers from any country? If this is the case, please give details.

Reply

Algeria's current government procurement legislation obliges public operators to give priority to available domestic production.

In addition, any co-contractor selected must be able to meet demand on market terms and undertake to give priority to domestic production.

This provision will be revised when the reform of the Government Procurement Code currently being examined by the Government is finalized by giving Algerian firms a right of preference for all types of procurement, at an equivalent level of quality.

This preference will be extended to joint enterprises.

The right of preference must be clearly stated in the instructions given to bidders and must be applied when the financial terms of the bids are assessed.

The preferential percentage fixed will be reduced over time.

Furthermore, preference will be given to foreign enterprises which sub-contract shares or products to the domestic market.

Question 86

Do some sectors of the economy, regions or specific categories of suppliers or products receive more favourable treatment? If this is the case, please give details.

Reply

No special (favourable) treatment is given to any particular sector or region.

Question 87

Are there any provisions requiring or allowing the use of compensation mechanisms or measures having a similar effect, for example, content of domestic origin, transfer of technology, investment, counter-trade or similar requirements for the qualification or the selection of suppliers, products or services when assessing tenders and awarding contracts?

Reply

Algeria's government procurement legislation does not contain any provision authorizing the use of compensation or measures having a similar effect.

Question 88

Please provide a general description of your existing procurement procedures and the extent to which each one is used for each level of government.

Reply

Government procurement is regulated according to various methods of awarding contracts:

- The general rule is an invitation to tender, which may take different forms:
 - open invitation to tender;
 - selective invitation to tender;
 - selective consultation;
 - adjudication;
 - competition.

Open invitation to tender is a procedure by which any candidate can bid.

Selective invitation to tender is the procedure whereby only candidates that meet certain special conditions defined in advance by the contracting service may bid.

Selective consultation is the procedure whereby candidates authorized to bid are specifically invited to do so after being pre-selected.

For complex engineering works or works of special importance and/or the purchase of special supplies on a regular basis, firms or entities that are qualified and included in a short list drawn up by the contracting service on the basis of pre-selection renewable every three years may be consulted directly.

Adjudication is the procedure whereby a contract is awarded to the bidder submitting the best bid. This is done for straightforward every-day operations and only concerns national or foreign candidates established in Algeria.

Competition is the procedure whereby persons skilled in the art compete with each other with a view to carrying out an operation that has special technical, economic, aesthetic or artistic aspects.

Simple mutual agreement or agreement after consultation is an exceptional procedure that can only be followed in special cases.

Simple mutual agreement is the procedure whereby the contracting service awards a contract to a supplier with whom it has chosen to enter directly into negotiation without prior competition.

Simple mutual agreement is restricted to the following cases:

- When the contract can only be undertaken by a single co-contractor that either has a monopoly of or exclusive title to a technological process decided upon by the contracting service;
- where open competition has not been successful;
- in cases of urgent necessity due to an imminent threat to a good or investment that means the time limit for invitations to tender cannot apply;
- where the supplies are urgently needed to safeguard the functioning of the economy or the population's essential needs.

Mutual agreement after consultation is the procedure whereby the contracting service awards the contract to a supplier or entrepreneur chosen as a result of a prior competition.

The contracting service places several partners in competition, selected from a drawn up list on the basis of criteria, in particular, their qualifications.

The invitation to compete must be in writing (fax, telex, letter) addressed to the competitor without any prior publicity.

Question 89

Are there permanent lists of qualified suppliers? If so, what are the provisions ensuring non-discriminatory access of new suppliers to existing lists?

Reply

There is no permanent list of qualified suppliers; there are sectoral lists.

Question 90

Are procuring entities allowed to proceed to negotiation? If so, what are the conditions imposed?

Reply

Negotiations are not authorized.

Question 91

What are the conditions and circumstances foreseen in your legislation allowing the use of the limited tendering method under Article XV of the Agreement on Government Procurement? What measures exist in order to ensure that this method is not used with a view to avoiding maximum possible competition or in a manner which would constitute a means of discriminating among foreign supplies/suppliers or in favour of domestic supplies/suppliers?

Reply

According to Algeria's government procurement legislation, selective tendering is the procedure whereby only candidates that meet certain special conditions defined in advance by the contracting service may bid.

This procedure is mainly used for infrastructure works or complex studies or the purchase of special supplies that require technical expertise not available locally and often involves the choice of an international enterprise that can rely on local sub-contractors for part of the contract.

Question 92

Article XI of the Agreement on Government Procurement sets out the minimum time-periods for tendering and delivery. What are the rules and practices regarding the time-periods in your legislation?

Reply

Algeria's procurement legislation does not set any minimum time limit for submitting bids and this is left up to each public service, which determines it in the light of the nature and complexity of the contract and the time usually required for sending in bids. This time limit should be sufficient to allow all the bidders to study the conditions of the tender and submit a suitable bid.

Question 93

Please describe the procedures for the submission, receipt and opening of tenders and awarding of contracts, in particular the procedures and conditions guaranteeing regularity of the opening and consistency with the non-discrimination provisions of the Agreement on Government Procurement

Reply

The documentation on tenders made available to bidders contains all the information needed to allow them to submit acceptable bids (Article 44 of Executive Decree No. 91.434).

The time limit and the place for submitting of the bids must be mentioned in the invitation to tender; the envelopes must be anonymous and the bids submitted in two sealed envelopes with the indication "Do not open" and the references of the invitation to tender.

The commission that opens the bids meets in public on the last day of the period allowed for submitting bids.

The procedure for evaluating bids is that, during the first phase, the bids are classified in technical order; bids that are not awarded a minimum mark, as provided in the instructions to bidders, are eliminated.

At the conclusion of an overall technical and financial evaluation, the most economically advantageous bid is selected according to the selection criteria and their respective weighting, which were made known to the bidders in the conditions of the invitation to tender.

Question 94

The Agreement on Government Procurement foresees the publication of laws, regulations, judicial decisions, administrative rulings of general application. Please give the name of the publication(s) to be used for this purpose. Please also provide, where available, the address of an Internet site where the procurement legislation can be found.

Reply

The laws and regulations are published in the Official Journal of the Algerian Republic.

Question 95

The Agreement on Government Procurement foresees the publication of invitations to participate for all cases of intended procurement by entities. Please give the name of the relevant publication(s). Please also provide, where available, the address of an Internet site where such invitations are published.

Reply

Invitations to tender must be published in the Official Procurement Bulletin of Public Entities (*Bulletin Officiel des Marchés de l'Opérateur Public* (BOMOP)), which can be read on the Internet, and in at least two widely disseminated newspapers authorized to publish legal announcements. At present, there is no mechanism for the electronic submission of bids for government procurement.

Question 96

What are the types of information that your legislation requires to be included in notices of invitation to tender?

Reply

Notices of invitations to tender must indicate the following:

- Official name and address of the public entity;
- form of tendering (open or limited, national and/or international), adjudication and competition;
- purpose of the contract;
- documents to be supplied by bidders;
- time limit and place for the submission of bids;
- obligations concerning security, if any;
- submission in two sealed envelopes;
- cost of the documentation.

Question 97

Are there provisions in your legislation enabling the provision of information to unsuccessful tenderers regarding the reasons why a tender was not selected?

Reply

It is intended to include a provision in the new text of the Government Procurement Code stating that the results of the invitation to tender and the notice awarding the contract will be published in the BOMOP, with an indication of the principal elements that prevailed when selecting the successful bidder.

Question 98

Are there challenge procedures? If so, what are they?

Reply

The new government procurement legislation (currently being considered by the Government) provides for pre-contract dispute in order to take account of disputes arising out of the award of a contract. If a bidder challenges the choice made by the public operator, he may appeal to the National Procurement Commission within 10 days of the publication of the notice awarding the contract, and a decision must be taken within 15 days of lodging the complaint. This right of appeal is optional and does not prevent the bidder from bringing the dispute before the competent courts.

Disputes arising out of the execution of the contract are governed by Articles 99, 100 and 101 of Executive Decree No. 91.434 of 9 November 1991 regulating government procurement, which provide that:

The public entity must seek an amicable solution to disputes arising out of the execution of a contract whenever such a solution allows the following:

- Restoration of the balance of responsibilities accruing to each party;
- more rapid completion of the purpose of the contract;
- swifter and less onerous definitive settlement.

If both parties concur, the agreement will be the subject of an enforceable decision by the Minister, the *wali* or president of the Communal People's Assembly (*Assemblée Populaire Communale* (APC)) depending on the type of expenditure involved in the contract.

Before any judicial proceedings, the co-contractor may appeal to a higher level and, within 65 days of the lodging of the appeal, an enforceable decision has to be taken by the Minister, the *wali* or the president of the APC, depending on the type of expenditure involved in the contract.

In addition, in disputes relating to government procurement, the Minister, the *wali* or the president of the APC can turn to a consultative committee whose task it is to seek equitable elements that could be adopted with a view to an amicable solution.

This committee must give a ruling within a maximum period of three months as of the date of notification to the person awarded the contract that the Minister, *wali* or president of the APC has decided to put the matter before the committee.

The two parties to the dispute must declare in writing whether they accept or reject the ruling within a period of one month.

If both parties agree, the ruling becomes the subject of a contractual document and enforceable.

Question 99

Please explain to us the nature of orders in relation to the legislation and agreements on State financing applicable to ministries, autonomous national institutions, *wilayas*, communes and public institutions of an administrative nature (Executive Decree No. 91.434 of 9 November 1991).

Bearing in mind that 60 per cent of the value added in Algeria's economy is taken up by the expenditure of these structures, it is important to understand whether these orders involve discrimination against imported goods.

Reply

In accordance with Algerian government procurement legislation, government procurement means contracts awarded by the aforementioned entities under the conditions set out in Executive Decree No. 91.434 of 9 November 1991 on government procurement, with a view to undertaking works and purchasing supplies and services.

The current legislation obliges public operators to give priority to available domestic production.

In addition, any co-contractor selected must be able to meet demand on market terms and must undertake to give priority to domestic production.

This provision will be revised when the reform of the Government Procurement Code currently being examined by the Government is finalized by giving Algerian firms a right of preference for all types of procurement, at an equivalent level of quality.

This preference will be extended to joint enterprises.

The right of preference must be clearly stated in the instructions given to bidders and must be applied when the financial terms of the bids are assessed.

The preferential percentage fixed will be reduced over time.

Furthermore, preference will be given to foreign enterprises which sub-contract shares or products to the domestic market.

Question 100

If Algeria has an English translation of Executive Decree No. 91.434 of 9 November 1991 on the regulation of government procurement, we would appreciate having a copy.

Reply

The English text of Decree No. 91.434 of 9 November 1991 on government procurement is not available, but it will be communicated to you after it has been translated.

Question 101

Is Algeria's review of its public procurement regulations proceeding as described in the memorandum on Algeria's foreign trade regime: updated version (WT/ACC/DZA/14/Add.1, of 24 August 2001)? What changes have been enacted thus far?

Reply

A draft Executive Decree amending and supplementing the aforementioned Decree No. 91.434 has been prepared and is currently being examined by the Government. It proposes a series of measures based *inter alia* on the UNCITRAL (United Nations Commission on International Trade Law) model law on procurement of goods, works and services. These measures are designed to assure the basic principles of good governance in the administration of government procurement and recommend the following:

- Non-discrimination;
- competition;
- equity and integrity;
- transparency;
- efficient use of public funds.

Question 102

Please provide additional information about the National Procurement Commission, describing in greater detail the responsibilities, legislative or regulatory functions, management structure and organization of the Commission. Is the threshold for Commission involvement in procurement still set at DA 3 million?

Reply

Each contracting service (public operator) has a procurement commission responsible for initial control of government procurement within the limits of its competence, which are defined in the aforementioned Executive Decree No. 91.434.

The commission is established by its chairperson immediately the members have been appointed.

The procurement commission provides assistance in preparing and formalizing government procurement.

External controls are the responsibility of the monitoring bodies whose composition and competence are defined below.

The procurement commission in ministries deals with procurement by its central administration within the limits fixed below and is composed of the following:

- The minister concerned or his representative, chairperson;
- a representative of the contracting service;

- a representative of the Minister responsible for trade; and
- two representatives of the Minister responsible for finance (Minister in charge of the budget, Minister in charge of the treasury).

By decision of the minister the commission's competence may be extended to proposed procurement by one or more public establishments of an administrative nature under the Minister's suspension.

The procurement commission in public establishments of an administrative nature, competent within the limits fixed below, is composed of the following:

- The director or his representative, chairperson;
- a representative of the supervisory authority;
- a representative of the contracting service;
- a representative of the Minister for Public Works and Land Use Planning;
- a representative of the Minister responsible for trade;
- two representatives of the Minister responsible for Finance (Minister in charge of the budget, Minister in charge of the treasury).

The procurement commission in *wilayas* is composed of the following:

- The *wali* or his representative, chairperson;
- three representatives of the Wilaya People's Assembly;
- the director of public works in the Wilaya;
- the director of hydraulic works;
- the director of construction;
- the director in the Wilaya of the technical service concerned by the work;
- the director of competition and prices in the Wilaya;
- the Wilaya's treasurer;
- the financial comptroller.

The Wilaya procurement commission has responsibility for examining the following:

- Procurement by the Wilaya and its public establishments of an administrative nature for an amount not exceeding the ceilings fixed below;
- procurement by the commune and its public establishments of an administrative nature for an amount of 50,000,000 Algerian dinars (DA 50,000,000) or more.

By decision of the *wali*, the commission's competence may be extended to proposed procurement by one or more establishments of an administrative nature under its supervision.

The procurement commission in local public establishments of an administrative nature, competent to consider proposed procurement within the limits fixed above, is composed of the following:

- The director or his representative, chairperson;
- a representative of the contracting service;
- an elected representative of the assembly of the local community concerned;
- a representative of the local financial administration.

The procurement commission in communes competent to consider proposed procurement within the limits fixed above, is composed of the following:

- The president of the Communal People's Assembly or his representative, chairperson;
- a representative of the contracting service;
- two representatives of the Communal People's Assembly or its tax collector;
- a representative of the technical service concerned by the work.

By decision of the President of the Communal People's Assembly, the commission's competence may be extended to proposed procurement by one or more public establishments of an administrative nature under its supervision.

With the exception of those appointed *ex officio*, the members of the procurement commission of the contracting service and their alternates are appointed *ad personam* by their administration for a renewable period of three years.

The members representing the contracting service and the service for which the work is being carried out attend when necessary according the agenda. The representative of the contracting service is responsible for providing the procurement commission with all the information needed concerning the procurement with which it is dealing.

The control responsibility of the procurement commission of the contracting service consists of granting or refusing approval within 20 days of the date of submission of the full dossier with the commission's secretariat.

Verification of the regularity of procurement of national importance is the responsibility of the National Procurement Commission, chaired by the Minister responsible for finance and composed of a representative from each ministry. Procurement of national importance is assessed in relation to the amount of the procurement:

- DA 2 hundred million for procurement relating to works;
- DA 3 hundred million for procurement relating to supplies;
- DA 60 million for procurement relating to surveys and services.

The National Procurement Commission and the procurement commission of the contracting service, hereinafter referred to as the Commission, meet at the instigation of their chairperson.

The Commission may call on any expert capable of assisting their work for advice.

The Commission's sessions are only valid if an absolute majority of the members are present.

If the quorum is not reached, it meets again within the following eight days and its deliberations are valid irrespective of the number of members present. Decisions are always taken by a majority of the members present.

If there is equality of votes, the chairperson has a casting vote.

The chairperson appoints a member of the Commission to prepare a report summarizing the dossier for submission to the Commission. For this purpose, all the documents are sent to the member at least eight days before the date of the meeting at which the dossier is to be examined.

In the case of procurement considered by the National Procurement Commission, the report summarizing the dossier is submitted by an official of the Ministry responsible for finance, or, if necessary, by an expert. The Chairperson of the National Procurement Commission appoints an official for each dossier.

The Commission is the decision-making body as far as control of procurement within its competence is concerned. As such, it gives approval for the procurement to go ahead.

The Commission may decide to grant or refuse approval.

If it refuses approval, it must give the grounds; in any event, any failure to comply with the legislation and/or regulations in effect constitutes grounds for refusal of approval by the Commission.

Reservations, whether or not suspending execution of the procurement, may be attached to the approval.

Reservations are suspensive if they concern the substance of the procurement. They are not suspensive when they relate to the form of the procurement.

The competent authority approves the procurement after having dealt with any reservations attached to the approval by the external control body that initially had competence and the procurement is then transmitted to the financial entities for the purpose of committing the expenditure before the procurement is given effect.

The procurement may be postponed while awaiting further information; in such cases, the time-limits are suspended and resumed when the further information requested has been provided.

In any event, at the latest within eight days after the session, the decisions mentioned in this article must be notified to the contracting service concerned and to its supervisory body.

The procurement or the clauses approved by the competent commission must be put into effect within six months at the latest after the date of approval. Following this period, the procurement or clause is resubmitted to the competent commission for consideration.

The contracting service must request approval. This is the responsibility of the contracting service and all the bodies represented. If the contracting service decides not to award a contract that has been approved, it must inform the Commission.

An analytical record of each procurement containing the elements needed to allow the members of the Commission to fulfill their responsibilities is transmitted to them. This record is drawn up by the contracting service in accordance with a model determined in the rules of procedure and is sent out within a period not exceeding eight days before the convening of the Commission's meeting.

If approval is not given within the period prescribed, the contracting service informs the Chairperson, who convenes the National Procurement Commission within eight days. The Commission must take a decision immediately by a simple majority of the members present.

The Commission's permanent secretariat, under the authority of its chairperson, carries out all the material tasks inherent in its function, including the following:

- Verifying that the dossier submitted is complete in accordance with the provisions of this Decree and the requirements of the rules of procedure;
- registering procurement files and clauses, as well as any additional documents, for which a receipt is issued;
- preparing the agenda;
- convening the members of the Commission, the representatives of the contracting service and any consultants;
- transmitting the documents to the rapporteurs;
- transmitting the analytical record of the procurement to members of the Commission;
- preparing approvals, notes and minutes of meetings;
- drawing up quarterly reports on activities;
- giving members of the Commission access to information and documents;
- monitoring observance of non-suspensive reservations mentioned in Article 144 of this Decree.

The threshold for involvement by the procurement commission is currently is currently DA4 million.

Question 103

What is the process for a supplier to protest a tender award? Is this process the same for domestic and international suppliers? What are the usual time periods involved for the steps of this process?

Reply

The new government procurement legislation, (currently being considered by the Government) provides for pre-contract dispute in order to take account of disputes arising out of the award of a contract. If a bidder (whether Algerian or foreign) challenges the choice made by the public operator, he may appeal to the National Procurement Commission within 10 days of the publication of the notice awarding the contract, and a decision must be taken within 15 days of

lodging the complaint. This right of appeal is optional and does not prevent the bidder from bringing the dispute before the competent courts.

4. Policies affecting trade in agricultural products

(e) Internal agricultural policies

Question 104

Is the privatization of land also a privileged instrument for boosting agricultural policy?

Reply

The reforms undertaken in recent years have led to the privatization of agricultural land and have thus promoted initiatives and freedom of action by farmers.

Not only land of private status but also land belonging to the State's private domain have been put under private management. They are the subject of a draft law on awarding long-term concessions for these farms.

This type of concession gives farmers total freedom of initiative and the latitude to undertake any action to promote the best possible use of resources by seeking various forms of financing or by undertaking activities in partnership with national or foreign private investors.

Question 105

Request for information on calculation of domestic support in conformity with the outline in the memorandum WT/ACC/4 on domestic support.

Reply

The calculation of domestic support has been finalized. The reference period used for its calculation is the average of the past three years (1999-2001).

Its presentation, using WT/ACC/4 "domestic support" format, has been prepared and will be transmitted to the WTO's Secretariat as soon as it has been finalized.

Question 106

What price support systems exist currently? What are Algeria's plans for the future with the support systems for wheat and dairy products?

Reply

For wheat, the support consists of a harvest premium calculated on the basis of the difference between the international market price and the local administered price.

The amount of the premium is fixed in a decision by the Minister for Agriculture at the beginning of each season on the basis of recommendations by the Inter-Trade Cereals Board.

For milk, there is a fixed premium for the production and collection of unprocessed milk given to farms and the collection organizations. The objective is to encourage the pasteurization of dairy products so as to minimize the health risks of consuming unprocessed milk.

As regards the subsidies schemes for wheat and dairy products, in future they will be directed first and foremost to supporting specific investment in these products on farms.

Other production prices for agricultural products are fully liberalized.

Question 107

What is the actual status of the amendment to Decree No. 32 to 13 January 2002?

Reply

The amendment concerns an extension of the measure on prior technical authorization before importing seeds of cereals and leguminous vegetables for food and animal feed (approved), while at the same time lifting the restrictions on imports of all plant material. The amendment underlines the importance of testing and assessing the phytosanitary risk before there can be any trade in plant material and this has become the sole criterion for a decision. The measures provided in this text also underline the principles of no arbitrary discrimination and transparency.

This text, which is related to the provisions in the SPS Agreement, repeals the provisions in Decree No. 32 of 13 January 1993.

Question 108

Could Algeria provide Decree No. 93.283 of 23 November 1993 fixing entry points?

Reply

The document requested will be transmitted to the WTO Secretariat.

Question 109

Please explain in detail the definition of "strategic foodstuffs"?

Reply

These are widely consumed products that constitute the basic food in Algeria (cereals, dried vegetables, milk and potatoes).

Question 110

Request information on calculation of the domestic support in accordance with the outline in the Memorandum ACC/4 on domestic support.

Reply

The calculation of domestic support has been finalized. The reference period taken into account for its calculation is the average of the past three years (1999-2001).

Its presentation, using the model in ACC/4 "domestic support" has been prepared and will be transmitted to the WTO Secretariat as soon as it is finalized.

Question 111

Please provide more details about Algeria's programme under the National Agricultural Development Plan to develop production of widely consumed products.

Reply

This programme concerns two products in particular, wheat and milk, and involves intensifying production in order to enhance Algeria's level of food security.

In the case of wheat, State support is currently given for technical applications (certified seeds, fertilizers, phytosanitary products for agricultural use) and the granting of a harvest premium.

For milk, the support concerns investment in farms (equipment for milking, collecting and preserving milk), equipment for upgrading and the granting of a collection premium.

Question 112

What steps are being taken to develop pasture land and protect grassy plains?

Reply

Pasture land is estimated to be 32 millions hectares and is characterized by an arid climate and an extremely fragile ecosystem.

The cause of overgrazing in steppe land is the reduction in grazing areas due to the establishment of farms following privatization of agricultural land in the State's private domain.

This overgrazing has been exacerbated by the drought in recent years and has made the environment even more fragile, leading to desertification that in turn is aggravated by inappropriate growing methods.

A programme to adapt production systems is under way as part of the sustainable development effort. It aims to restore the original utilization of the steppe and promote the organization of livestock breeders to ensure the steppe's rational use and conservation.

The action undertaken includes restoring the plant cover by planting grazing species, dispersing the seeds by air, and a ban on cropping.

Other action consists of mobilizing water resources to provide drinking water for herds and also their sanitary protection.

The protection of grazing species is ensured by placing a ban on cropping and by surveying and collecting indigenous species, as well as by introducing foreign species, in order to build up an appropriate germplasm.

Question 113

Please supply more details about the types of agricultural investments that are occurring under the National Agricultural Development Plan (PNDA) (grants offered, number of programmes under way).

Reply

A detailed document showing the content and implementation of the programmes will be communicated. This could be the subject of a presentation straightaway for interested delegations of member countries of the WTO.

Question 114

For what products does Algeria plan to use tariff rate quotas?

In addition, tariff rate quotas are not automatically available to acceding countries and we therefore urge a different solution such as customs tariffs only.

Reply

At present, in the context of liberalizing of foreign trade in agricultural products, if the domestic production of a product or group of products is threatened by imports, Algeria provides for the application of safeguard measures, anti-dumping and countervailing duties, bans, ...) and tariff rate quotas, in accordance with the relevant WTO rules.

Products subject to the tariff rate quota will be notified in the tariff schedule.

Question 115

Please describe in detail the system of price supports for wheat and dairy products, including information on how it is implemented.

For wheat, the support consists of a harvest premium calculated on the basis of the difference between the international market price and the local administered price.

The amount of the premium is fixed in a decision by the Minister for Agriculture at the beginning of each season on the basis of recommendations by the Inter-Trade Cereals Board.

For milk, there is a fixed premium for the production and collection of unprocessed milk given to farms and the collection organizations. The objective is to encourage the pasteurization of dairy products so as to minimize the health risks of consuming unprocessed milk.

The details of the calculations according to the WT/ACC/4 model will be communicated to the WTO Secretariat as soon as they have been finalized.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

(d) Application of national and most-favoured-nation (MFN) treatment to foreign nationals

Question 116

As Algeria has now become a member of the Berne Convention, it states that it has extended national treatment to foreign nationals in respect of copyright (page 79 (d)).

This is an important first step. However, it would also have to extend MFN treatment to such nationals (Article 3 of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS)).

Furthermore, it appears that Algeria does not yet apply either national treatment and MFN treatment to holders of related rights contained in the TRIPS Agreement.

Accession to the TRIPS Agreement would make this necessary (Article 4 of the TRIPS Agreement).

Reply

When Algeria accedes to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961) in the near future, national treatment will be applied to foreign nationals.

As regards MFN treatment, in intellectual property matters, no particularly favourable treatment is given to nationals of any country whatsoever.

2. Substantive standards of protection, including procedures for the acquisition, maintenance and exercise of intellectual property rights.

(a) Copyright and related rights

Question 117

With regard to copyright and related rights, during the past years, Algeria has put in place a comprehensive regulatory framework with the aim of complying with the TRIPS Agreement. This has notably been done via the adoption of Order No. 97.10 of 6 March 1997 on copyright and related rights. This is to be welcomed, but should be completed.

Membership in international conventions and regional and bilateral agreements.

Algeria is a member of a limited number of international conventions ensuring intellectual property protection (copyright and related rights).

Since the TRIPS Agreement refers to other international conventions, it would be appropriate for Algeria to join the most important international conventions in the area of intellectual property.

Algeria has already done so with the recent accession to the Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971). However, it should also adhere in particular to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations of 1961.

Reply

Algeria has already initiated the procedure for acceding to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention of 1961).

Question 118

As regards exploitation of rights granted under copyright protection (pages 81 and 82), it cannot be judged whether the rights granted under Algerian law would be in line with the requirements set out in Article 9 of the TRIPS Agreement/Berne Convention.

The Memorandum just states that the law "is in line with the requirements".

We would therefore welcome a more detailed explanation of the current regime.

Reply

According to Article 9 of the TRIPS Agreement, Algeria's legislation should must comply with Articles 1-21 of the Berne Convention (with the exception of Article 6 *bis*) and the Appendix thereto.

The current copyright regime is governed by Order No. 97.10 on copyright and related rights, which is based on the fundamental rules in the Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971), of which Algeria has been a member since 19 April 1978.

The principle of national treatment applies by virtue of Algeria's accession to international conventions, including the Berne Convention, consequently foreign authors from member countries of the Berne Union benefit from the Order's protection in the same way as Algerian authors and its main features are described below.

Protection is granted from the date of creation of the work and no formality such as the fixing of the work or its recording is required for recognition of the rights conferred (Articles 4 and 136 of Order No. 97.10).

Protection under copyright applies, subject to the originality of the work, to any literary or artistic creation regardless of its nature, form or mode of expression, merit or use (Article 3 of Order No. 97.10).

All areas of intellectual creation are covered, including written or oral literary works, software and computer programmes, dramatic and dramatico-musical works, choreographies, musical works, with or without words, audiovisual works, three-dimensional works, photographic works (Article 4).

Protection is also granted to derived works such as translations, musical arrangements, editorial revisions and other original transformations of works, as well as collections and anthologies of works and collections of data, which, by reason of their selection, coordination or arrangement, are original (Article 5).

Ideas, concepts, principles, systems, processes, procedures and modes of operation are excluded from protection (Article 7).

Works by the State for non-profit making purposes, laws and regulations, decisions and administrative acts by State bodies and local authorities, judicial decisions and the official translation of such texts are also excluded from protection (Articles 9 and 11 of Order No. 97.10).

The Order upholds the principle that recognition of authorship of a work belongs to the natural person who created the work, but opens the possibility of giving legal persons ownership of rights, under certain conditions, for example, for joint works and works created under an employment contract (Article 12 et seq. of Order No. 97-10).

According to Article 13 of the Order, in the absence of proof to the contrary, the owner of copyright is deemed to be the natural or legal person under whose name the work has been disclosed or made lawfully available to the public or who has disclosed it in his own name to the National Office of Copyright and Related Rights.

Where a work is published without mentioning the name of the author, in the absence of proof to the contrary, the person who made the work available to the public is deemed to represent the owner of the right.

Where an anonymous work is published without mentioning the identity of the person who made it available to the public, the National Office of Copyright and Related Rights exercises the rights until the owner of the rights has been identified.

Order No. 97.10 grants the author moral and economic rights (Article 21).

As regards economic rights, the author has the exclusive right to authorize or prohibit public exploitation of his work under any form and the right to derive revenue therefrom (Article 27 of Order No. 97.10), as well as a *droit de suite* (Article 28).

The following is an indicative list of the acts of exploitation of works concerned by the above:

- Reproduction of the work by any process;
- rental of audiovisual works and professional leasing of software and databases;
- public performance;
- sound and audiovisual broadcasting;
- communication of the broadcast work to the public by wire, optical fibre cable, or by any other signal carrying sounds or images and sounds, or by wireless broadcasting by an organization other than the original one, or by means of a loudspeaker, a radio or television receiver in a public place;
- communication of the work to the public by any computerized process;
- translation, adaptation and other transformations of the work giving rise to derivative works.

Under the *droit de suite* recognized in Order No. 97.10, the author of a three-dimensional work of art shares in the amounts earned from resale of the original of the work in the amount of 5 per cent of the transaction.

The limits and exceptions to exclusive rights respect the moral and economic rights of authors and concern certain special cases defined in Order No. 97.10.

Within the limits specified in Articles 41-54 of the Order, works may be freely used in the following cases:

- Reproduction or translation of the work in a single copy, as well as its adaptation for personal or family use, with the exception of works of architecture and databases;
- reprographic reproduction of a work in a single copy or extracts from works by libraries and archives under certain conditions;
- reproduction of a single copy or adaptation of a computer program by the lawful owner if such acts are necessary in order to use the computer program or replace it if it is lost or destroyed;
- use of a work in order to create new works such as pastiches, parodies, caricatures, quotations, extracts, illustrations;

- performance of a work in a family environment or in a teaching or training establishment exclusively for teaching purposes;
- use of news items, current events, lectures or speeches, articles on current events disseminated in the press;
- use of a work for the purposes of providing evidence in judicial proceedings;
- reproduction or communication to the public of a work of architecture or fine arts, a work of applied art or a photograph on permanent display in a public place, with the exception of art galleries, museums and classified cultural and natural sites;
- the conservation of ephemeral recordings by a broadcasting organization to the extent that the recording is of exceptional documentary interest.

Among the exceptions, works can be used, under certain conditions, without authorization by the authors but subject to equitable remuneration under the legal licences and compulsory licences regime.

Legal licences cover the reproduction of a musical work lawfully fixed on a sound medium, as well as the broadcasting and cable distribution of a work already made available to the public with the authorization of the author and the distribution by cable of a broadcast work simultaneously with the broadcast and without any modification to the broadcast programme (Articles 29-31 of Order No. 97.10).

Compulsory licences for translation and reproduction are based on the provisions in the Appendix to the Berne Convention (Paris Act, 1971) and Articles *ter* and *quarter* of the Universal Copyright Convention revised at Paris in July 1971 (Articles 33-54 of Order No. 97.10).

In application of this regime, any work to be used for teaching in schools or universities may give rise to the following, subject to equitable remuneration to the owner of the rights:

- A compulsory licence for translation for the purposes of a graphic publication or broadcasting if the work has not been translated into a national language and put on sale or communicated to the public in Algeria one year after its first publication;
- A compulsory licence for reproduction the work has not been published within three years after its first publication in the case of scientific works, or seven years in the case of works of fiction, and five years for other works.

The granting of licences is subject to the formalities to be carried out by the National Office for Copyright and Related Rights, lawfully empowered to grant such licences.

Compulsory licences may not be assigned and are not exclusive and they may only be granted for the exploitation of the work in Algeria.

They cease to have effect if the owner of the rights publishes the work concerned in Algeria.

The term of protection of the author's economic rights for his successors in title is 50 years as of the beginning of the calendar year following his death (Articles 55-61 of Order No. 97.10).

For works of collaboration, the term of protection is 50 years, which expire at the end of the calendar year following the death of the last surviving collaborator.

As regards joint, pseudonymous or anonymous works, photographic works and works of applied art, the term of protection is 50 years as of the beginning of the calendar year following their publication.

The term of protection for posthumous works is 50 years as of the beginning of the calendar year following the reproduction or communication of the work to the public.

In the case of audiovisual works, the 50-year term of protection is calculated from the date when the work was made available to the public; if the work has not been made available to the public, the term of protection expires 50 years after the date the work was created.

The provisions of Order No. 97.10 come into effect as of its enactment for works published for the first time after its entry into force.

Nevertheless, works protected under the previous regime enjoy protection if they have not fallen into the public domain upon the date of its entry into force.

Question 119

With regard to the limitations and exceptions to copyright (page 82), it is stated that "Exclusive copyright is mitigated in some cases by limited degrees of authorization for the free utilization of protected works and by exceptions enabling works to be used without authorization subject to equitable remuneration".

Are these cases specifically set out in the law?

Further clarification is needed on this point to verify its compatibility with Article 13 of the TRIPS Agreement.

Reply

See the reply to question 118.

Question 120

On page 85, point 3, concerning the term of protection, the Memorandum states that the author's rights are protected "for 25 years after his death".

Clarification is sought that this is a typographical mistake and that the text should read "50 years" as stated earlier in the Memorandum and as required by the TRIPS Agreement.

Reply

This is indeed a typographical error and it should be read in conjunction with pages 77 and 82 of the English text of the updated Memorandum.

The current term of protection for works is 50 years after the death of the author.

Question 121

On enforcement, the Memorandum states (page 86, point 4 (a)) that the parties bear the burden of proof without any qualification. Confirmation should be sought that this clause is in line with Article 43 of the TRIPS Agreement, which stresses that the requirements should not be excessive.

Reply

In civil proceedings, the burden of proof lies with the parties but the judge may, either ex officio or at the request of the parties, order where appropriate the production of evidence held by one of the parties, in conformity with the provisions of Articles 43 of Order No. 66.154 of 6 June 1966, amended and supplemented on the Code of Civil Procedure.

Question 122

On page 87, it is stated that rights are "unreasonably exercised" and can therefore not be enforced if "the exercise tends to the satisfaction of an interest of negligible importance in relation to the resulting injury to other parties". Clarification of this general clause would be appreciated to exclude any excessive scope of such a clause.

Reply

This overall provision contained in Article 41 of the Civil Code defines in general the concept of abuse of rights.

This definition allows judges at their decision to assess whether or not there has been an abuse of rights.

As regards copyright and related rights, Order No. 97.10 of 6 March 1997 on copyright and related rights contains special provisions dealing with the case of abuse of rights in the context of exercising either individual or collective rights.

This is the intent underlying the provisions making the assignee of an author's right or the holder of an exclusive or non-exclusive licence responsible for permanent exploitation of the work. Failure to exploit the work or exploitation that is suspended may lead to cancellation of the contract or the licence and the exclusive clause then no longer has effect (Articles 69-70, 98 and 102).

In addition, as far as the collective exercise of copyright and related rights is concerned, the National Office must make the works it administers available to users on reasonable terms and against equitable remuneration.

It may not exercise any discrimination among users by granting an exclusive authorization to exploit the work without the agreement of the owners of rights in the work (Article 137 of Order No. 97.10).

(b) Trademarks, including service marks

Question 123

With regard to trademarks (page 83, point (b)), it is stated that "To remain valid, the registered mark must be used within a year following registration". This provision seems to be more restrictive than Article 19.1 of the TRIPS Agreement, which sets out that "the registration may be cancelled only after an uninterrupted period of at least three years of non-use...". Further clarification is needed on this point.

Reply

The current legislation on trademarks requires that a mark be used during the year which follows its registration in order to remain valid.

As this provision is not in conformity with the TRIPS Agreement, a draft law is being prepared, in conformity with the updated timetable of revision of legislative and regulatory texts, which will extend this time-limit for use to three years in order to ensure its conformity with the TRIPS Agreement.

(c) Geographical indications

Your legislation on geographical indications states that registration confers ownership of the appellation of origin for a renewable 10-year term. Please explain how a renewable term of protection complies with part II, section 3, of the TRIPS Agreement.

Reply

An appellation of origin is protected indefinitely provided that the reasons which led to its protection continue to exist and that the registration is renewed every ten years. This renewal procedure makes it possible to check on a regular basis that the reasons for granting the protection are still valid as Article 17, paragraph 2, of Order No. 76.65 of 16 July 1976 on appellations of origin provides that renewal is conditional upon the applicant continuing to meet the requirements that led to its granting. Such a provision is not contrary to part II, section 3, of the TRIPS Agreement, which does not lay down any requirement concerning the term of protection and in particular the regular renewal of protection.

(e) Patents

Question 125

Your legislation on patents states that an invention may relate to a product or a process, but does not protect foodstuffs, pharmaceuticals, cosmetics and chemicals. Please explain in detail how these exceptions to the patenting of products comply with Article 27 of the TRIPS Agreement (discrimination as to the field of technology).

Reply

The current legislation in this area excludes foodstuffs, chemicals, pharmaceuticals and cosmetics from patentability. This provision is not in conformity with the TRIPS Agreement and it will be remedied in a draft law on the protection of inventions, which provides that these products should be protected in the same way as the process for obtaining them.

Question 126

Does your legislation, in accordance with Article 27.1 in combination with Article 31 of the TRIPS Agreement, consider importation as "working" a patent (and therefore preclude compulsory licensing if a product is being imported)?

Reply

According to the current patent legislation, import is not considered to be working the invention.

This provision is not in conformity with the TRIPS Agreement it will be remedied in a draft law on inventions currently being drawn up in order to bring it into line with the TRIPS Agreement, in accordance with the updated timetable for the revision of legislative and regulatory texts.

Question 127

Does your legislation make the granting of a compulsory licence subject to all the conditions enumerated in Article 31 of the TRIPS Agreement? Please cite the relevant provisions of law.

Reply

The granting of a compulsory licence is governed by Article 5A of the Paris Convention and Article 25 of Legislative Decree No. 93.17 of 7 December 1993 on the protection of inventions. The procedures for granting such licences, including the notification, remuneration and its limits, are not covered. They will be dealt with in the draft law being drawn up.

Question 128

Does your legislation provide for the reversal of the burden of proof in a process patent litigation? Please cite the relevant provisions of law.

Reply

The current legislation does not contain such a provision. Nevertheless, this matter will be taken into account in the draft law on inventions being drawn up in order to bring it into conformity with the TRIPS Agreement, in accordance with the updated timetable for the revision of legislative and regulatory texts.

Question 129

Regarding patents (page 84, point (e)), the provision which excludes certain elements from patent protection (e.g. strains of micro-organisms, foodstuffs, pharmaceuticals, cosmetics, chemicals) is clearly in contradiction with the obligations resulting from Article 27 of the TRIPS Agreement. These obligations also have to be read in line with Article 70 of the TRIPS Agreement.

Therefore, it should be recalled that:

- Patents should be available for products and processes and patent rights enjoyable without discrimination as to the field of technology (Article 27.1 of the TRIPS Agreement);
- plant varieties should be protected by patents or any effective *sui generis* system (Article 27.3 (b)) of the TRIPS Agreement);
- micro-organisms and non-biological and micro-biological processes for the production of plants and animals should be patentable (Article 27.3(b) of the TRIPS Agreement).

Reply

The current legislation excludes micro-organisms and foodstuffs, chemicals, pharmaceuticals and cosmetics from patentability. This provision is not in conformity with the TRIPS Agreement and it will be remedied in a draft law on the protection of inventions, which provides that these products should be protected in the same way as the process for obtaining them.

In addition, the protection of plant varieties is not covered by the current patent legislation and it will be covered by a special text on the protection of new plant varieties. This is currently being drawn up, and it will be adopted in accordance with the updated calendar for the revision of legislative and regulatory texts in order to ensure conformity with the TRIPS Agreement.

Question 130

Please provide the information requested in the check-list in document WT/ACC/9, for the current intellectual property rights regime, indicating when improvements are expected in new legislation.

We request that Algeria provide draft legislation for review by the working party at some point prior to final enactment to allow the working party to understand the steps being taken and to assess in a preliminary fashion if Algeria's approach to consistency with the TRIPS Agreement is comprehensive. We hope this is convenient.

The table in document WT/ACC/DZA/14/Add.2 indicates that Algeria plans to update/develop legislation to address the patent (and related) requirements of the TRIPS Agreement. In particular:

Patent legislation will be aligned with the TRIPS Agreement in the last quarter of 2002;

Legislation for layout-designs of integrated circuits will be adopted by the second quarter of 2003;

Legislation to protect undisclosed information will be adopted by the third quarter of 2003;

Measures to protect plant varieties will be adopted by the last quarter of 2003; and measures to protect micro-organisms will be put in place by the last quarter of 2003.

Are the above dates still viable? Are drafts of the various laws available for review? We would be pleased to provide comments on current drafts, if these are available.

Why are measures to protect micro-organisms being adopted well after the date for alignment of current patent legislation with the TRIPS Agreement?

We seek assurances from Algeria that it intends to adopt and implement laws for each of these categories that fully comply with all of the relevant requirements of the TRIPS Agreement.

It is noted that industrial designs are protected by current law in Algeria. For the most part, the protection appears consistent with the requirements of Articles 25 and 26 of the TRIPS Agreement. However, the nature of the right is not entirely clear.

Does the owner of a protected industrial design in Algeria have the right to prevent third parties not having the owner's consent from making, selling, or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design when such acts are undertaken for commercial purposes, as required by Article 26.1 of the TRIPS Agreement?

Reply

Regarding submission of the draft legislation for review, it should be noted that these texts are still preliminary drafts and may yet be amended or modified taking into account comments and observations thereon.

Concerning the enactment of the legislative provisions to ensure conformity with the TRIPS Agreement, this will take place in accordance with the updated timetable for the revision of legislative and regulatory texts.

Micro-organisms will be protected by patents under the draft law on inventions currently being drawn up in order to bring it into conformity with the TRIPS Agreement, in accordance with the updated timetable for the revision of legislative and regulatory texts.

As regards industrial designs, Order No. 66.86 of 28 April 1966, in particular Articles 23-28, provide for a series of civil and criminal proceedings for any infringement of the rights of the owner of a design.

(h) Requirements concerning undisclosed information, including trade secrets and test data

Question 131

Please explain in detail if your legislation ensures that undisclosed test or other data submitted by an applicant to the responsible State agency in the procedure for market authorization of a pharmaceutical or of an agricultural chemical product is protected against disclosure and against unfair commercial use by a competitor, for example, by prohibiting a second applicant from relying on or from referring to the original data of the first applicant when applying subsequently for market authorization for his own product.

Does your legislation provide for exceptions to this? If yes, under what conditions would such exceptions apply? Does your legislation set a specific term of protection for undisclosed test or other data of the first applicant?

Reply

Algeria's Criminal Code punishes the disclosure of information without exception and without making confidentiality subject to any time-limit. In addition, special texts govern respect for confidentiality, in particular for veterinary and phytosanitary products (Law No. 87.17 of 1 August 1987 on phytosanitary protection and Law No. 88.08 of 26 January 1988 on veterinary medicine and the protection of animal health), and in the area of public health (Law No. 85.05 of 16 February 1985 on the protection of health, Executive Decree No. 92.276 of 6 July 1992 on the medical code of ethics and Executive Decree No. 92.284 of 6 July 1992 on the registration of pharmaceuticals for human medicine).

4. Enforcement

(d) Any special border measures

Question 132

The criminal procedures which are mentioned in the Memorandum (page 88, point (e)) only refer to infringements of copyright and neighbouring rights. There are plans to adopt further measures with a view to ensuring consistency with the WTO Agreements. This will include, amongst others, measures on border enforcement of intellectual property rights. Further details on Algeria's plans in this respect would be welcomed.

Confirmation is sought that similar provisions are provided for in the Algerian law as regards infringements of trademarks, in accordance with Article 61 of the TRIPS Agreement.

Reply

Border measures

Law No. 98.10 of 22 August 1998, amending and supplementing Law No. 79.07 of 21 July 1979 on the Customs Code, provides for a ban on the import of counterfeit foreign goods as an element of intellectual property protection, on penalty on confiscation (Article 22). This provision is currently being harmonized with the TRIPS Agreement.

Algeria also takes an active part in the work going on within the World Customs Organization (WCO) designed to improve the model legislation on intellectual property rights.

These efforts are aimed at giving greater protection than that required under the TRIPS Agreement; Algeria plans to introduce the recommended measures into its Customs Code.

Infringement of industrial property rights

As regards industrial property, the specific texts for each of the relevant activities contain provisions regarding both civil and criminal action to punish any infringement of rights.

These provisions are contained in the following:

- Articles 31 to 36 of Legislative Decree No. 93.17 of 7 December 1993 on the protection of inventions;
- Articles 28-39 of Order No. 66.57 of 19 March 1966 on trademarks;
- Articles 23-28 of Order No. 66.86 of 28 April 1966 on industrial designs;
- Articles 28-30 of Order No. 76.65 of 16 July 1976 on appellations of origin.

VI. TRADE-RELATED SERVICES REGIME

1. General

- (b) Posts and telecommunications

Question 133

The regulatory situation in force in sub-sectors of postal and courier services. The handling of written communications of all kinds (hybrid and direct mail services), the handling of parcels and packages, the handling of press products, the handling of mail (registered or insured), express delivery services, non-addressed items, other services.

Reply

The legislative and regulatory provisions on postal services are contained in Articles 61-66 of Law No. 2000-03 of 5 August 2000, supplemented by Executive Decree No. 01.418 of 20 December 2001 on the exploitation regime applicable to postal services, which determine the three regimes.

Exclusive regime, including the following:

The establishment, exploitation and supply of:

- Postal services for letters not exceeding 2 kg. by weight;
- postal orders;
- postal cheques;
- the issue of postage stamps and any other franking marks.

Authorization regime

The establishment, exploitation and/or supply of international express delivery services.

Simple declaration regime

The establishment and/or supply of postal services other than those covered by the preceding regimes.

Question 134

What obligations are linked to the granting of authorizations? Who grants the authorizations and in what way? What are the exact criteria on the basis of which authorizations are granted?

Reply

Authorizations are issued to any natural or legal person who undertakes to respect the terms under which services can be established, exploited and/or supplied.

These criteria are defined by the Regulatory Authority for Posts and Telecommunications (ARPT) and concern the following in particular:

- Respect for confidentiality, inviolability and impartiality of the service with regard to the messages transmitted;
- principle of respect for equal treatment of users and rules on respecting fair competition (Article 64 of the Law);
- the establishment of a company under Algerian law.

Authorizations issued by the Regulatory Authority must be notified within a maximum period of two (2) months of the date when the application was received, confirmed by a receipt. The grounds for any refusal must be given and notified to the applicant (Article 65 of the Law).

Authorization is subject to the payment of a fee of DA 20 million (Decree No. 02.44 of 14 January 2002 fixing the amount of the annual fee applicable to operators possessing authorizations to exploit postal services).

Question 135

When and how does the general declaration system apply?

Reply

Any operator wishing to exploit a service that comes under the simple declaration regime must deposit with the Regulatory Authority for Posts and Telecommunications a declaration stating their intention to exploit such a service on a commercial basis.

The declaration must contain the following information *inter alia*:

- Detailed description of the service to be exploited;
- geographical coverage;
- the charges to be paid by users.

The Regulatory Authority for Posts and Telecommunications has a period of two (2) months from the date when the declaration was received, confirmed by a receipt, in which to verify that the simple declaration regime applies to the service concerned.

The grounds for any refusal to register the service must be given.

If the service is approved, the Regulatory Authority for Posts and Telecommunications issues a registration certificate against payment of the fees due (Article 66 of Law No. 2000.03 of 5 August 2000).

Question 136

Is there any appeal procedure available? If yes, please specify.

Reply

An appeal may be lodged with the Council of State (Article 17 of the Law) against decisions taken by the Regulatory Authority for Posts and Telecommunications.

Question 137

Can you confirm that the implementing texts specifying the regimes applicable to postal and courier services have been circulated?

Reply

The regimes were defined in Executive Decree No. 01.418 of 20 December 2001, supplemented by Executive Decree No. 02.44 of 14 January 2002 fixing the amount of the annual fee applicable to operators possessing authorizations to exploit postal services.

Question 138

Explanation of the national treatment applied to foreign operators.

Reply

The objective of the Law is in particular to develop and supply postal services of quality under objective, transparent and non-discriminatory conditions (Article 1 of Law No. 2000.03).

Question 139

Do foreign operators have to comply with the universal service obligations?

Reply

An Executive Decree defining the content, charges and financing modalities both for operators and the State is currently being drawn up in accordance with Article 7 of the Law.

Question 140

Are express services controlled by the Regulatory Authority for Posts and Telecommunications?

Reply

Yes, pursuant to Articles 13 and 64 of the law, the Regulatory Authority for Posts and Telecommunications is responsible for regulating the postal services.

Question 141

Will foreign operators be able to establish their own networks?

Law No. 2000.03 of 5 August 2000 allows the establishment, exploitation and/or supply of postal services other than those covered by the exclusive regime.

Question 142

What will be the exact role of the Regulatory Authority for Posts and Telecommunications mentioned on page 94?

Reply

The responsibilities of the Regulatory Authority for Posts and Telecommunications are set out in Article 13 of the Law and include the following:

- Ensuring that there is fair and objective competition in postal services;
- arbitrating disputes among operators or with users.

Question 143

Will it supervise the supply of all postal and courier services?

Reply

It will be involved in setting the criteria for granting authorizations.

It will monitor the existence of fair and effective competition in the market and take all necessary measures to promote or restore competition in postal services.

Question 144

Which specific measures and provisions will guarantee this regulatory authority's independence?

Reply

The members of the Council of the Regulatory Authority for Posts and Telecommunications and the Director-General are appointed by the President of the Republic (Article 15 of the Law).

At the financial level, the Regulatory Authority for Posts and Telecommunications has its own resources derived from the following:

- Payment for services;
- fees;
- a percentage of the revenue from the financial counterpart received from the sale of licences;
- contributions by operators to the financing of the universal service.

Furthermore, if needed, the Regulatory Authority for Posts and Telecommunications may call on credit under the State budget (Article 22 of the Law).

Question 145

During the multilateral negotiations on Algeria's accession to the World Trade Organization, held on 7 February 2002 at the WTO headquarters in Geneva (Switzerland), a delegate of Australia asked three oral questions concerning the telecommunications sector. They can be summarized as follows:

Algeria's telecommunications legislation provides that the State has the exclusive right to the spectrum of radio frequencies. How are the frequencies managed and allocated to telecommunications operators?

Does Algeria's telecommunications legislation take into account the principles and rules set out in the Reference Paper adopted by Member countries?

What is the status of the reform process in the telecommunications sector, in particular the implementation of the new regulatory framework?

Reply

Law No. 2000.03 of 5 August 2000 defines the general conditions for postal services and telecommunications and Article 6 states the following:

"Under its prerogatives of control of telecommunications the State enjoys:

exclusive use of the radio-frequency spectrum and administers its use by operators, suppliers of services and direct users, ensures application of the conventions, regulations and arrangements of the International Telecommunication Union;

etc ...".

Article 13 of the this Law nevertheless gives the Regulatory Authority for Posts and Telecommunications (an independent administrative authority) responsibility *inter alia* for planning, managing, assigning and controlling the use of frequencies.

This responsibility is exercised by the Regulatory Authority for Posts and Telecommunications in an objective, transparent and non-discriminatory manner.

The management of the frequency spectrum in general is entrusted to an institution called the National Frequency Agency, for which the Executive Decree determining its organization and functioning is currently being finalized. For this purpose, Article 24 of Law No. 2000.03 of 5 August 2000 provides the following:

"The radio-frequency spectrum is part of the public domain of the State.

The division of the spectrum into frequency bands and their assignment to various users is the prerogative of the State.

The assignment of radio frequencies is subject to payment of a fee determined in the regulations."

The Regulatory Authority for Posts and Telecommunications is assigned frequency bands, on the same basis as other assignees (Ministry of Foreign Affairs, Ministry of Transport, Ministry of the Interior) which it then assigns to various telecommunications operators and other radiocommunication users.

Algeria's telecommunications legislation and regulations contain all the principles and rules set out in the Reference Paper adopted by the Member countries of the World Trade Organization concerning the independence of regulatory bodies, safeguarding competition, interconnection of telecommunications networks, the application of transparent practices for the granting of licences, universal service obligations and the distribution of scarce resources.

Establishment of an independent regulatory authority

Article 10 of the aforementioned Law No. 2000.03 of 5 August 2000 establishes an independent and autonomous regulatory authority. The Article reads as follows: "An independent regulatory authority with legal status and financial autonomy is hereby established. The headquarters of the regulatory authority shall be in Algiers."

The Regulatory Authority comprises two bodies:

- The Board, composed of seven members, including the chairperson appointed by the President of the Republic;
- the Director General also appointed by the President of the Republic.

The resources of the Regulatory Authority include the following (Article 22 of Law No. 2000.03 of 5 August 2000):

- Remuneration for services rendered;
- fees;

- a percentage of the revenue from the financial counterpart received from the sale of licences;
- contributions by operators to the financing of the universal service;
- where necessary, budgetary allocations from the State.

Measures to protect competition (in particular cross-subsidy practices):

The Law establishes the general rules concerning posts and telecommunications and prohibits cross subsidies. Article 27 of the Law states the following:

"Operators and suppliers of services may not use activities in which they enjoy a dominant position within the meaning of Order No. 95.06 of 25 January 1995 on competition in order to subsidize other activities."

The Regulatory Authority ensures that operators apply the provisions of this Article and that there is effective and fair competition in the telecommunications market (Article 13 of the aforementioned Law).

Measures to ensure the interconnection of telecommunications networks

Interconnection between the telecommunications networks of new operators and that of the traditional (public) operator is assured. Pending the establishment of a list of interconnections by the dominant operator(s), new operators can interconnect their networks through a freely negotiated interconnection agreement. After it has been finalized and signed by both parties, the agreement must be approved by the Regulatory Authority, which ensures that the terms of the agreement are applied properly and rules on any disputes related to the interconnection (Article 13 of Law No. 2000.03 of 5 August 2000).

In addition, Article 25 of Law No. 2000.03 of 5 August 2000 obliges operators of public telecommunications networks to accede to interconnection requests by other operators in an objective, transparent and non-discriminatory manner.

Transparency and non-discrimination in the sale of licences

The granting of telecommunications licences must be objective, transparent and non-discriminatory.

For this purpose, the Algerian Government has issued an Executive Decree defining the procedure applicable to competitions for the award of licences in the telecommunications sector (Executive Decree No. 01.124 of 9 May 2001).

Obligation to provide a universal service

Article 4 of Law No. 2000.03 of 5 August 2000 provides for the principle of supply of a universal service. Article 7 of this Law states the following: "the universal postal and telecommunications service, the tariffs applicable and its eventual mode of financing both by the State and by operators' contributions are defined in the regulations".

The Executive Decree defining what is contained in the universal service is being drafted.

It should be noted that the universal service is managed by the Regulatory Authority. Assignments to operators in the area covered by the universal service will be made transparently through invitations to tender administered by the Regulatory Authority.

Distribution of scarce resources

In the area of telecommunications, resources deemed to be scarce are radio frequencies, blocks of numbers and rights of way.

Concerning radio frequencies and blocks of numbers, Article 13 of Law No. 2000.03 entrusts the Regulatory Authority with administering these resources and it must do so in an objective, transparent and non-discriminatory manner. This Article provides the following:

"The Regulatory Authority is responsible for:

...;

planning, administering, assigning and controlling the use of frequencies in the bands allocated to it, while observing the principle of non-discrimination;

drawing up a national plan for numbering, examining requests for numbers and allocating them to operators;

..."

Regarding rights of way, Articles 43-56 of the aforementioned Law No. 2000.03 allow telecommunications operators to benefit from rights of way.

The Executive Decree defining the rights of way relating to installation and/or operation of telecommunications equipment is currently being finalized.

Prior to the enactment of Law No. 2000.03 of 5 August 2000, the telecommunications sector was governed by the provisions of Order No. 75.89 of 30 December 1975 on the Posts and Telecommunications Code. This Order gave the State monopoly over posts and telecommunications to the Ministry of Posts and Telecommunications.

Thus, the Ministry of Posts and Telecommunications acted, *inter alia*, as posts and telecommunications operator and regulator.

The new legislation (Law No. 2000.03 of 5 August 2000) separated the functions of the Ministry of Posts and Telecommunications. This has resulted in the creation of a Regulatory Authority, a public establishment of an industrial and commercial nature "*Algérie Poste*" and an operator "*Algérie Télécom*" in the form of a joint stock company.

This new Law also provides that the sector should open up to competition; during 2001, this resulted in the sale of a second GSM mobile telephone licence.

The opening of the telecommunications sector to competition is based on three exploitation regimes:

- Licences (awarded by Executive Decree after adjudication following an open invitation to tender);
- authorizations (issued by the Regulatory Authority);

- simple declarations (issued by the Regulatory Authority).

With regard to the reform of the regulatory framework for posts and telecommunications, the following texts have been adopted and published in the Official Journal of the Republic of Algeria:

- Law No. 2000.03 of 5 August 2000 defining the general rules on postal and telecommunications services;
- Executive Decree No. 01.123 of 9 May 2001 on the operating regime applicable to each type of network, including radio networks and various telecommunications services.
- Executive Decree No. 01.124 of 9 May 2001 defining the procedure applicable to adjudication following an open invitation to tender for the grant of telecommunications licences;
- Decree of 12 May 2001 of the Minister for Posts and Telecommunications setting the date for the opening of the competition to establish and exploit the public GSM mobile telephone network;
- Presidential Decree No. 01.94 of 15 April 2001, defining high points and specifying the arrangements for their management and protection;
- Executive Decree No. 01.129 of 31 July 2001 approving the licences for the establishment and operation of a public GSM mobile telephone network and the supply of telecommunications services to the public;
- Executive Decree No. 01.416 of 20 December 2001 approving the investment agreement signed between the Agency for the Promotion, Support and Monitoring of Investment (APSI) and Orascom Télécom Algérie;
- Executive Decree No. 01.417 of 20 December 2001 authorizing the establishment and/or operation of public telecommunications networks, including radio networks, other than GSM, and the supply of telecommunications services by Algérie Télécom SPA;
- Executive Decree No. 01.418 of 20 December 2001 on the operating regime applicable to each postal service;
- Executive Decree No. 02.04 of 6 January 2002 defining the composition and functioning of the national commission responsible for allocating the personnel and assets of the postal and telecommunications administration;
- Executive Decree No. 02.43 of 14 January 2002 creating "Algérie Poste";
- Executive Decree No. 2.44 of 14 January 2002 setting the amount of the annual fee payable by operators holding postal service operating licences;
- Presidential Decree No. 02.48 of 16 January 2002 on the creation, organization and functioning of the Algerian Space Agency;
- and Presidential Decree No. 02.49 of 19 January 2002 defining the composition, responsibilities and functioning of the National High Points Commission.

(d) Advertising

Question 146

It is stated that, in practice, competition remains limited, even though the former monopoly of the public advertising agency (ANEP) has been abolished and private agencies have since entered the market. In this regard, please explain in detail what is meant by the term "limited" and what is the prospect for abolishing any such limitation?

Reply

This situation no longer applies.

ANEP's network, experience, know-how and clientele mean that it holds an important position in the advertising market. Nevertheless, over the past two years, its share of the market has fallen from 54 per cent to only 17 per cent in favour of private advertising agencies.

(f) Financial services

(ii) *Insurance*

Question 147

Is the system of branches allowed in Algeria?

Reply

Article 215 of Order No. 95.07 of 25 January 1995 provides that insurance and/or reinsurance companies must be established under Algerian law and be in one of the following two forms:

- Joint stock company;
- mutual insurance company.

A branch is a commercial establishment set up by an enterprise or company, which is autonomous in relation to the original enterprise or company without being legally distinct.

The act of establishing a branch therefore results in a company under Algerian law in one of the above forms and duly authorized.

Creation of a subsidiary is, however, allowed.

Question 148

What measures are the Algerian authorities taking to break up the monopoly of Algerian insurance companies?

Reply

Since 1995, a new Order (No. 95.07 of 25 January 1995) on insurance has been enacted in order to install mechanisms capable of establishing competition among insurance companies while at the same time allowing them to carry on their profession in a harmonious competitive environment.

Order No. 95.07 has led to the following changes:

- Liberalization of the insurance market because it allows the establishment of insurance companies using national and/or foreign private capital;
- abolition of the reinsurance monopoly;
- introduction of a commercial impetus through the entry of private intermediaries (general agents and brokers).

VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

1. Economic integration, customs union and free-trade area agreements

- (a) Agreement with the Arab Maghreb Union (AMU)

Question 149

Please explain in detail the work schedule set out for notifying this Agreement to the WTO.

Reply

The trade and tariff agreement ratified by Algeria on 21 April 1992 has not been implemented because the ratification process by member States has not yet been completed.
