People's Democratic Republic of Algeria
Ministère de l’Enseignement Supérieur et de la Recherche Scientifique
École Supérieure d 'Économie d 'Oran

Pedagogical material

Business law

Intended for 3rd year students core curriculum

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Academic year 2023/2024

Part I : Private Business Law

Chapter One : Tax Law

Chapter Two : Competition Law

Chapter Three : Consumer Protection and Fraud Enforcement

Chapter Four : Distribution Law

Chapter Five : Investment Law

1 Chapter One : Tax Law

In Algeria, the tax system is composed of 06 tax codes modified and supplemented if necessary by the finance law[1].

1.1 Direct taxes and similar taxes

1.1.1 Taxes collected for the benefit of the State

1.1.1.1 indiciary global tax

It is a progressive rate tax that essentially applies to individuals earning one or more of these types of income:

-Professional Profits (encompassing industrial and commercial profits as well as non-commercial profits;

- *Income from farming;*
- *Property income;*
- *Income from movable capital ;*
- *Salaries, wages, pensions and life annuities ;*
- *Capital gains on the sale of real estate for consideration.*

1.1.1.1.1 Global income tax rate:

The annual net income as determined by the provisions of Article 85 of the Code is subject to global income tax instead of tax domicile, according to the following progressive scale :

[1]To consult the latest versions of the codes (2022), access the website of the Directorate General of Taxes DGI https://www.mfdgi.gov.dz/com-smartslider3/2014-03-24-14-21-48/codes-fiscaux

Fraction of taxable income	Taxation Rate
Not exceeding 240,000 DA	0%
from DZD 240,001 to DZD 480,000	23%
from DA 480,001 to DA 960,000	27%
from DZD 960,001 to DZD 1,920,000	30%
from 1.920.001 DA to 3.840.000 DA	33%
Greater than 3,840,000 DA	35%

1.1.1.1.2 corporate income tax

It applies to legal persons (property companies in particular) making a profit, a single rate of 25% was applicable to it. The supplementary finance law for 2008 introduced for the first time a discrimination between, on the one hand, the profits derived from the activities of production of goods, construction, public works and tourist activities and other activities on the other hand:

- 19%, for goods production activities;
- 23%, for construction, public works and hydraulic activities as well as tourism and thermal activities excluding travel agencies;
- 26%, for other activities.
- Reinvested profits are subject to the IBS at the reduced rate of 10%. This rate applies to the results of the 2022 and following financial

years.

1.1.1.1.3 The Single IFU flat-rate tax:

Natural persons carrying out an industrial, commercial, non-commercial or craft activity, as well as art and traditional craft cooperatives, whose annual turnover does not exceed eight million dinars (DZD 8,000,000), with the exception of those who have opted for the tax regime based on the real profit or the simplified regime for non-commercial professions, are subject to the single flat-rate tax regime.

However, the following are excluded from this IFU tax regime:

1- real estate development and land subdivision activities;

2- activities of importing goods and merchandise intended for resale in the same state;

3- the purchase-resale activities in the state exercised under wholesale conditions, in accordance with the provisions provided for in Article 224 of the Code;

4- the activities carried out by the dealers;

5- the activities carried out by private health clinics and institutions, as well as medical analysis laboratories;

6- classified catering and hospitality activities;

7- refiners and recyclers of precious metals, manufacturers and dealers of gold and platinum works;

8- public, hydraulic and building works.

1.1.2 Direct taxes collected for the benefit of local authorities

Tax on professional activity, it is a tax that is based on the turnover achieved, its rate is 2% of the amount of the turnover.

1.1.2.1 Taxes collected for the exclusive benefit of municipalities

Competencies are identified in the position description of the Senior Officer for Values and Ethics.

- property tax on buildings ;
- Taxe foncière sur les propriétés non bâties ;
- sewerage tax Sanitation taxes originally included two taxes: the garbage collection tax and the sewage disposal tax.

1.2 The Indirect Tax Code

The indirect tax code provides for six taxes :

1.2.1 The right of movement of certain products *:*

It is payable when alcohol, beverages and liqueurs, wines, vinegars are released for consumption. The code sets a determined amount per hectoliter.

1.2.2 Taxes on sugars and glucoses :

Used for the preparation of aperitifs based on wines and similar products. This right is based on the quantities released for consumption (140 DA/ 100KG).

1.2.3 Tobacco.

1.2.4 Warranty and testing rights on precious metals.

1.2.4.1.1 Test rights*:*

Gold, silver and platinum works must comply with legal titles or contain the quantity of fin expressed in thousandths. The tax administration carries out tests on these metals and on this occasion, it collects a tax called the test fee, as follows:

1.2.4.1.2 – Finger testing:

- Platinum: 12.00 DA per decagram or fraction of a decagram.
- Gold: 6.00 DA per decagram or fraction of a decagram.

- Silver: up to 400 grams: 4.00 DA per hectogram;
- above 400 grams, 16.00 DA per 2 kg or fraction of kg.

1.2.4.1.3 – Cup tests :

- Platinum: 150.00 DA per operation.
- Gold: 100.00 DA per operation.

1.2.4.1.4 **– Wet test :**

20.00 DA per operation.

1.2.5 Guarantee rights :

These works are subject to a guarantee right set per hectogram at : 8,000 DA for gold works, 20,000 DA for platinum works and 150 Da for silver works. The guarantee of the title of these works is ensured by the punches applied to each part following a test. The works are marked by two punches : that of the manufacturer and that of the warranty office. The guarantee stamp is affixed after testing the works for which it guarantees the title, it also certifies the payment of the guarantee right.

1.2.6 Health tax on meat (e.g. slaughter tax)

It concerns the slaughter of equine, camel, bovine, ovine and caprine animals as well as imported meat. It is due by the owner of the meat and sitting on the net meat weight of the slaughtered animals. Its price is 10 DA per kg of meat.

1.50 DA of this tariff is allocated to the trust fund No. 302-070 "Health Zoo Protection Fund".

1.2.7 Tax for the use of radio and television receivers :

Progressive tax according to price and current consumption.

1.3 Sales taxes

It includes Value Added Tax, Domestic Consumption Tax and Petroleum Products Tax.

1.3.1 Value added tax (VAT)

VAT applies to sales transactions, real estate works and services of an industrial, commercial or artisanal nature carried out in Algeria, on a regular or occasional basis. As it applies to import operations. It has two rates: a standard rate of 19% and a reduced rate of 9% (an exhaustive list art 23) .

1.3.2 Domestic consumption tax (art. 25 to 28)

It concerns beers, locally manufactured or imported tobacco products and matches, as well as a number of imported products whose list is set by the TCA code (example: fresh salmon bananas, off-road vehicles, etc.). The tax rate varies between 10 and 60%.

1.3.3 Petroleum Products Tax (28-2 to 28-8 CTCA)

A tax on petroleum products or similar, imported or obtained in Algeria, in particular in factories, is instituted for the benefit of the State budget. This tax is applied to the products listed below and according to the rates below:

Customs Tariff No	Products Description	AMOUNT (DZD)
27. 10.	Petrol super	16.00
27. 10.	Normal gasoline	1700
27. 10.	Unleaded petrol	1700
27. 10.	Gas oils:	900.00 1
- 27. 11.	LPG/C	1.00%

1.4 Registration code

It provides for two types of taxation : registration fees and land registration tax.

1.4.1 Registration fees *:*

They apply to leases and rentals, exchange of buildings, division, annuities, companies, transfer for consideration or free of charge, transfer by death, rented safes/envelopes and cassettes deposited.

1.4.2 Land registration tax :

It is collected on the occasion of the completion of the formality of publicity in the land conservation.

1.5 Stamp code :

The acts subject to the stamp are :

- negotiable and non-negotiable instruments ;
- receipts ;
- Posters ;
- Transport contracts ;
- Passports ;
- Hunting Permit ;
- contruction permits;
- identity and residence cards ;
- consular acts ;
- driving motor vehicles and wheeled vehicles ;
- the annual tax for the possession of pleasure boats and graduated stamp duty on motor insurance certificates ;

- Company registry ;
- the sticker on motor vehicles ;

The amount of the stamp is fixed by the Finance Law.

1.6 Tax procedure codes :

Concerns the time limits and places of acquittal.

2 Chapter Two: Competition Law

Introduction:

The purpose of Ordinance 03-03 on competition[2], as amended and supplemented by Law 08-12, is to set the conditions for the exercise of competition in the market, to prevent any restrictive practice of competition and to control economic concentrations in order to stimulate economic efficiency and improve the well-being of consumers.[3]

Law No. 04-02[4] laying down the rules applicable to commercial practices thus intervenes in order to specify unfair commercial practices.

2.1 The principles of competition *:*

The prices of goods and services are freely determined by competition. However, the State may restrict the general principle of freedom of prices as the case of goods and services considered strategic by the State may be subject to price regulation by decree, after consulting the Competition Council.

Exceptional measures may also be taken to limit price increases or to fix prices in the event of excessive price increases caused by a serious disturbance in the market.

2.2 Fields of application

Article 02 of Ordinance 03-03 provides that it applies to production, distribution and service activities, including those carried out by public bodies, insofar as they do not intervene in the exercise of public authority or in the performance of public service missions.

[2]Of 24 June 2004, J.O.R.D.P.A, No. 41 of 27 June 2004.

[3]Of 19 July 2003, Official Journal of the Democratic and Popular Republic of Algeria (J.O.R.D.P.A) No. 43 of 20 July 2003.

[4]Of 25 June 2008, J.O.R.D.P.A, No. 36 of 2 July 2008.

2.2.1 The content of Ordinance 03-03

2.2.1.1 Practices that restrict competition

Concerted practices and actions, express or tacit agreements and understandings are prohibited when they tend to :

- Obstruct market-based pricing by encouraging monopoly price increases or dumping price decreases ;
- Discriminatory practices, including applying unequal conditions for the same services to business partners ;
- Acts restricting competition, including restricting access to the market or engaging in commercial activities ;
- Control and prohibit economic groupings in the event that they result in a narrowing to competition.

2.2.1.2 Concerted practices, actions and agreements

Article 6 of ordinance No. 95-06 of 25 January 1995 prohibits concerted practices and actions, agreements and understandings, express or tacit, when they have the purpose or may have the effect of preventing, restricting or distorting free competition in a given market, and in particular when they are liable to:

- Limit access to the market or the exercise of commercial activities;
- Limit or control production, outlets, investment or technical advances;
- Divide up markets or sources of supply;
- Hamper the setting of prices through the free play of the market by artificially encouraging their rise or fall.

c) Applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

d) Making the conclusion of contracts subject to the acceptance by the partners of additional services which, by their nature or according to commercial usage, are not related to the subject of those contracts".

2.3 The Competition Council

In addition to the task of intervening to regulate the actions of economic operators, Ordinance 03-03 on competition contains structural provisions of the competition regulations, establishing the Competition Council as an administrative authority empowered to ensure the proper conduct of competition and to encourage it.

2.3.1 Composition

- The Competition Board is composed of twelve (12) members falling in the following categories:

1 — two (2) members practising or having practised at the Council of State, the Supreme Court or the Court of Auditors in the capacity of magistrate or adviser;

2 — seven (7) members chosen from among personalities known for their legal, economic or competition, distribution and consumer skills, including one chosen on the proposal of the Minister of the Interior. They shall perform their duties on a full-time basis, for a renewable period of five (5) years.

2.3.2 Authorities :

The Competition Council has certain authorities, including :

- Decisions, proposals and opinions that it exercises on its own initiative or on request, on any question or any action or measure likely to ensure the proper functioning of competition;

- Foster competition in geographical areas or business sectors where competition does not exist or is insufficiently developed;
- Carry out investigations on the conditions of application of laws and regulations related to competition.

2.4 Unfair commercial practices within the meaning of Law 04-02 :

Any unfair commercial practices contrary to honest and fair practices and by which an economic agent harms the interests of one or more other economic agents are prohibited.

Unfair commercial practices include practices by which an economic agent:

1) denigrates a competing economic agent by spreading malicious information about him or about his products or services;

2) imitates the distinctive signs of a competing economic agent, its products or services and its advertising in order to win over its customers by creating a risk of confusion in the mind of the consumer;

3) exploits technical or commercial know-how without the authorization of its holder;

4) debauchery, in violation of labour legislation, of personnel hired by a competing economic agent;

5) takes advantage of professional secrets as a former employee or partner to act unfairly against his former employer or partner;

6) disorganizes a competing economic agent and diverts its customers by using unfair processes such as the destruction or degradation of advertising means, the misappropriation of files or orders, unfair canvassing and the disruption of its sales network;

7) disrupts or disrupts the market by circumventing legal regulations and/or prohibitions and more specifically the obligations and formalities required for the creation, exercise and establishment of an activity;

8) is located in the immediate vicinity of the competitor's commercial premises in order to take advantage of its reputation, outside of the customs and competitive practices in this area.

3 Chapter Three : Consumer Protection and Fraud Enforcement

The protection of consumers and the repression of fraud is governed by Law 09-03[5] as amended and supplemented by Law 18-09[6].

3.1 Difinitions

Law 09-03 provides for twenty (20) definitions relating to consumer protection and the repression of fraud, the provisions of the law apply to a good or service offered for consumption free of charge, and for each participant and at all stages of the process of displaying consumption.

The most important definitions are :

3.1.1 The consumer :

Law 09-03 in its second article considers as consumer any natural or legal person who acquires in exchange or free of charge a good or service intended for an end use in order to meet his personal needs or to meet the needs of another person or an animal in charge.

3.1.2 The intervention:

Any natural or legal person who interferes in the process of offering products for consumption.

3.1.3 Release process:

The sum of the stages of production, import, storage, transport and wholesale and retail distribution.

[5]Of 25 February 2009, J.O.R.D.P.A, No. 15 of 8 March 2009.

[6]From 10 June 2018, J.O.R.D.P.A, No. 35 of 13 June 2018.

It should be noted that the concept of consumer here is different from that mentioned in Law 04-02. As for intervention, the legislator has adopted a broad concept that includes all public or private natural and legal persons involved at all stages of the product intended for consumption.

3.2 The consumer protection mechanisms provided for by Law 09-03:

3.2.1 The obligation of hygiene, safety and security of foodstuffs:

Any person placing foodstuffs for consumption must respect the mandatory safety of these materials and not harm the health of the consumer, in terms of matching microbiological characteristics, respect the quantities of polluting and toxic additives[7].

The commitment to hygiene also includes worker hygiene, workplace hygiene, and storage and transportation conditions[8].

3.2.2 The obligation of product safety:

Products intended for consumption must be guaranteed and secured, taking into account the legitimate use expected of them. In other words, if a product is delivered and causes damage, the respondent must remove it immediately. Similarly, if a scientific study proves that the product causes damage, it must be removed, otherwise liability shifts from civil to criminal liability[9].

3.2.3 The obligation of conformity of the products:

Any product released for consumption must meet the legitimate expectations of the consumer with regard to its nature, its species, its origin, its substantial qualities, its

[7]Executive Decree No. 15-172 of 25 June 2015 laying down the conditions and procedures applicable to the microbiological specifications of foodstuffs. (Published in OJ No.37 of 08/07/2015).

[8]Executive Decree No. 17-140 of 11 April 2017 setting the hygiene and health conditions during the process of release of food for human consumption. (Published in OJ n°24 of 16/04/2017)

[9]Executive Decree No. 12-203 of 6 May 2012 OJ No. 28 of 9 May 2012, on the rules applicable to product safety.

composition, its content of useful principles, its identity, its quantities, its suitability for use and the risks inherent in its use.

3.2.4 warranty and after-sales service obligation:

The consumer benefits from the guarantee by the force of law for any product, whether it is an appliance, appliance, machine, material, vehicle or any processing material, and it is considered null and void[10]. The operator also guarantees the after-sales service of maintenance and repair after the end of the warranty period.

3.2.5 The obligation to inform the consumer:

The labelling, instructions for use, user manual, product warranty conditions and any other information provided for by the regulations in force must be written essentially in Arabic and, incidentally, in one or more other languages accessible to consumers, in a visible, legible and indelible manner[11].

3.2.6 Material and moral care of consumer :

In order that the service rendered to the consumer does not harm his material advantage and does not cause him moral prejudice[12], the legislator has specified in this regard that consumer credit offers must meet the legitimate wishes of the consumer regarding the transparency of the prior offer and the nature and content of the commitment period as well as the payment deadlines, and this is established in a contract[13].

[10]Executive Decree No. 13-327 of 26 September 2013 setting the terms and conditions for the implementation of the guarantee of goods and services. (Published in OJ n°49 of 02/10/2013)

[11]Executive Decree No. 13-378 of 9 November 2013 laying down the terms and conditions relating to consumer information. (page 8) Implementing text(s) (Published in OJ No.58 of 18/11/2013)

[12]Interministerial Order No.09 of 14 June 2016; laying down the conditions and procedures for affixing the word "Halal" for the foodstuffs concerned. (Published in OJ n°70 of 08/12/2016)

[13]Executive Decree No. 15-114 of 12 May 2015 on the terms and conditions of consumer credit offers. (Published in OJ n°24 of 13/05/2015)

3.3 The Control

Consumer protection monitoring is carried out at two levels, the first level through the bodies (associations - of the National Council for Consumer Protection) (01), and at the second level through the examination of fraud prevention agents (02).

3.3.1 Consumer protection organizations :

3.3.1.1 Consumer protection associations

Created by all consumers, consumer protection association is any legally constituted association whose purpose is to ensure consumer protection through its information, awareness, guidance and representation.

3.3.1.2 National Consumer Protection Council

A National Council for Consumer Protection shall be established which shall give its opinion and propose measures which contribute to the development and promotion of consumer protection policies.

The composition and powers of this board are determined by regulation[14].

3.3.2 The search for and observation of offences:

3.3.2.1 Consumer Affairs and Fraud Control

In addition to judicial police officers and other officers authorized by specific texts, are authorized to search for and record violations of the provisions of this law, fraud enforcement officers under the Ministry in charge of consumer protection.

Fraud enforcement officers are protected against any form of pressure or threat likely to hinder the performance of their duties in accordance with the legislative provisions in force. They may, if necessary, request the assistance of law enforcement officers who are required, at the first request, to assist them in the performance of their duties.

[14]Executive Decree No.12-355 of 2 October 2012 establishing the composition and powers of the National Council for Consumer Protection. (Published in OJ No.56 of 11/10/2012).

3.3.2.2 Fraud control laboratories:

Laboratories under the Ministry of Consumer Protection and Fraud Prevention, are authorised to carry out analyses, tests and trials under the heading of consumer protection and fraud prevention[15].

3.4 Penalties

Any violation of consumer protection provisions, the legislator provides for sanctions in Law 09-03 and the Penal Code.

3.4.1 Under Law 09-03

Anyone who deceives or attempts to deceive the consumer, by any means or process whatsoever, is punishable by the penalties provided for in Article 429 of the Criminal Code.

- Imprisonment between 02 months and 10 years;
- Imprisonment for up to 20 years in the event of an incurable disease, i.e. the loss of the use of an organ;
- Perpetuity in case of cause of death;
- Fine between DZD 2,000,000,000 and DZD 2,000,000,000 depending on the case.

3.4.2 Under Criminal Code

Chapter 04 of the Criminal Code (articles 429 to 435 bis) is devoted to the punishment of fraud in the sale of goods and falsification of food and medicinal substances.

[15] Executive Decree No. 13-328 of 26 September 2013 laying down the conditions and procedures for the approval of laboratories for the purposes of consumer protection and the repression of fraud. (Published in OJ No.49 of 02/10/2013).

4 Chapter Four: Distribution Law

Distribution law brings together all the rules applicable to the distribution operation. The choice of the mode of organization of the distribution operation is largely influenced by these rules.

Distribution is known as buying for resale, and it is an activity that has developed in a short time by providing a huge volume of goods and services through agents or representatives in large geographical areas.

The Algerian legislator has not regulated distribution, however, economic operators have agreed to adopt distribution methods appropriate to their interests. The importance of distribution law only emerged in the 1990s, among the most important distribution contracts we find:

Commercial Agency Agreement, Commercial Franchise Agreement, Brand License Agreement, Commercial License Agreement.

4.1 Commercial agency contract:

The legislator defined the commercial agency contract in Article 34 of the Commercial Code, which provides:

"*A commercial agency agreement is an agreement by which a person is generally required to prepare or conclude sales or purchases and, in general, all commercial operations in the name and on behalf of a merchant, and to conduct, if necessary, commercial operations on his own behalf, but without being associated with a service rental agreement*. >>

It is clear from the definition that the agent carries out the distribution process on behalf of the customer and not on his own behalf, so that the legal effects of the distribution process accrue to the customer and the agent bears the burden only within the limits of the business operations he carries out on his behalf, it is clear that the element of independence between the agent and the customer is not available.

4.2 Concession contract

This is a contract by which the Licensor dealer undertakes to grant a trading dealer (distributor) to resell its products in a specific regional region, including the assignment of the right to market the product without other related rights such as intellectual property rights.

Algerian law adopts the concession contract within the framework of Executive Decree No. 07-390 of 12 December 2007, setting the terms and conditions for the exercise of the activity of marketing new cars, without regulating the terms of the conclusion of such a contract.

4.3 Brand licence agreement

A trademark license, known as a commercial license, is a contract between the licensor and the beneficiary that aims to distribute goods and services by creating a commercial network with limited costs. It allows its owner to enter a new market, national or international, so as to guarantee him control of the distribution process for an agreed fee.

The beneficiary of the license is not required to market exclusively the product that is the subject of the license, however it may be the holder of several licenses (if the licensor does not stipulate the exclusivity of the resale of its product).

4.4 Commercial License Agreement – Franchise:

The franchise agreement is characterized by the fact that the beneficiary of the agreement invoices the investment expenses in exchange for maintaining the independence and benefit of the brand and trade name of the franchisor.

The beneficiary also benefits from training, transfer of experience and technical assistance, whether in management, manufacturing or distribution. Therefore, both parties benefit, as the grantor avoids opening a new branch with their money, and the beneficiary can also make a safe and secure investment given the donor's reputation in the market.

However, despite the independence of each party from the other in the franchise agreement, we remain in front of the status of economic dependence provided for by Law 03-03 on competition, where Article 10 states that:

"It is considered an impediment to the freedom to compete, limit or violate, and it prohibits any action and / or contract of any kind and purpose that allows an institution to engage exclusively in an activity that falls within the scope of this matter."

Whereas, if the franchise agreement is one of the anti-competitive practices, as it falls under agreements restricting competition, it is in the interest of the beneficiary and any breach thereof that results in the cancellation of the agreement.

5 Chapter Five: Investment Law

Introduction :

Law No. 22-18[16] on investment for the purpose of setting the rules governing investment, defining the rights and obligations of investors and the incentive regimes applicable to investments in the economic activities of production of goods and services, carried out by natural or legal persons, national or foreign, resident or non-resident.

5.1 Purpose of law 22-18

Law 22-18 aims to encourage investment with the aim of:

- to develop priority sectors of activity with high added value;
- to ensure sustainable and balanced territorial development;
- to develop local natural resources and raw materials;
- fostering technology transfer and developing innovation and the knowledge economy;
- to generalize the use of new technologies;
- to boost the creation of sustainable jobs and promote the competence of human resources;
- to strengthen and improve the competitiveness of the national economy and its export capacity.

In order to achieve the above objectives, the law is based on the principles of:

[16] Law No. 22-18 of 24 July 2022 on investment.

- the freedom to invest: any natural or legal person, national or foreign, resident or non-resident, wishing to invest, is free to decide on his investment, in compliance with the laws and regulations in force;
- transparency and equality in the treatment of investments.

5.2 Warranties and Obligations

5.2.1 Collateral:

Investment projects can benefit from:

- Land belonging to the private domain of the State;
- External contributions in kind coming exclusively within the framework of operations to relocate activities from abroad are exempt from the formalities of foreign trade and bank domiciliation.
- the guarantee of transfer of the invested capital and the income resulting therefrom.
- The State guarantees the protection of intellectual property rights, in accordance with the legislation in force.

5.2.2 Bonds

The investor should :

- Ensure compliance with the legislation in force and standards relating, in particular, to the protection of the environment and public health, competition, labour and the transparency of accounting, tax and financial information;
- Provide all the information requested by the administration, necessary for the monitoring and evaluation of the implementation of the provisions of this law.

5.3 Incentive Plans and Benefits

5.3.1 Tax Incentive regimes

5.3.1.1 The incentive regime for priority sectors, "sector regime";

Investments made in the following areas of activity are eligible for this scheme:

- mining and quarrying;
- energy;
- manufacturing industries;
- Agriculture and Fisheries;
- industry, agri-food industry,
- pharmaceutical and petrochemical industry;
- services and tourism;
- knowledge economy and information and communication technologies.

5.3.1.2 the incentive regime for areas to which the State attaches particular interest, "area regime";

Investments made in:

— localities in the Hauts-Plateaux, the South and the Deep South;

— localities whose development requires special support from the State;

— localities with potential in terms of natural resources to be developed.

5.3.1.3 the investment incentive regime having a structuring nature, "structuring investment regime".

Eligible for the "structuring investments" scheme are investments with high potential to create wealth and jobs, likely to increase the attractiveness of the territory and create a ripple effect on economic activity for sustainable development. The criteria for qualifying investments eligible for the "structuring investments" regime are set by regulation.

5.3.2 Tax exemption

5.3.2.1 Sector regime:

- VAT exemption for goods and services imported or acquired locally, directly involved in the realization of the investment;

- Exemption from transfer tax, for consideration, and land registration tax, for all real estate acquisitions made as part of the investment concerned;

- Exemption from registration fees payable for company deeds and capital increases;

- Exemption from registration fees, land registration tax and state remuneration on concessions of built and unbuilt real estate, intended for the realization of investment projects.

- Exemption from property tax on real estate properties, falling within the scope of the investment, for a period of ten (10) years, from the date of acquisition.

- Exemption from corporate income tax (IBS); from professional activity tax (tap) for a period ranging from three (3) to five (5) years, from the date of entry into operation.

5.3.2.2 free zone procedure

- VAT exemption for goods and services imported or acquired locally, directly involved in the realization of the investment;
- Exemption from transfer tax, for consideration, and land registration tax, for all real estate acquisitions made as part of the investment concerned;
- Exemption from registration fees payable for company deeds and capital increases;
- Exemption from registration fees, land registration tax and state remuneration on concessions of built and unbuilt real estate, intended for the realization of investment projects.
- Exemption from property tax on real estate properties, falling within the scope of the investment, for a period of ten (10) years, from the date of acquisition.
- Exemption from corporate income tax (IBS); from professional activity tax (tap) for a period ranging from five (5) to ten (10) years, from the date of entry into operation.

5.3.2.3 Structural investment regime:

- VAT exemption for goods and services imported or acquired locally, directly involved in the realization of the investment;
- Exemption from transfer tax, for consideration, and land registration tax, for all real estate acquisitions made as part of the investment concerned;
- Exemption from registration fees payable for company deeds and capital increases;
- Exemption from registration fees, land registration tax and state remuneration on concessions of built and unbuilt real estate, intended for the realization of investment projects.

- Exemption from property tax on real estate properties, falling within the scope of the investment, for a period of ten (10) years, from the date of acquisition.

- Exemption from corporate income tax (IBS); from professional activity tax (tap) for a period ranging from five (5) to ten (10) years, from the date of entry into operation.

5.4 Accompanying bodies

The bodies responsible for investment are:

- the National Investment Council.

- The Algerian Investment Promotion Agency.

- A "High National Investment Appeals Commission" is hereby established at the Presidency of the Republic, responsible for ruling on appeals lodged by investors.

Part II : Public Business Law

Chapter Six : Economic Public Enterprises

Chapter Seven : Privatization of Public Enterprises

Chapter Eight : Public Procurement

Chapter Nine : Delegation of Public Services

Chapter Ten : Public Private Partnership (PPP)

Preface:

Public business law regulates the conditions of state intervention in the market and therefore covers very diverse situations including in particular the rules relating to public economic law.

Public procurement refers to all contracts entered into by a public entity to satisfy its needs. This is a very broad area of public business law, encompassing several forms of contracts such as public contracts, public service delegations, public/private partnership contracts.

In Algeria the article 800 of the Code of Civil and Administrative Procedure[17] provides that "The administrative courts are the ordinary courts in administrative disputes. They hear, in the first instance and on appeal, all cases to which the State, the wilaya, the municipality or a public institution of an administrative nature is a party. »

As a result, persons of a public nature are: the State, the wilaya, the municipality or a public institution of an administrative nature

[17]Law 08-09 of 25 February 2028, on the Code of Civil and Administrative Procedure, JORA No.21 of 23 April 2008.

6 Chapter Six : Economic Public Enterprises

6.1 Section 01: The Basic Concepts of Economic Public Enterprises:

Public economic enterprises, are conceded as sources of wealth and instruments of State intervention on the political, economic and social levels, are commercial, industrial and service enterprises in which the State or any other legal person under public law directly or indirectly holds the majority of the capital and governed by common law.

Given the importance of the public company, a historical overview of the latter as well as its evolution through the political and economic changes since independence.

6.1.1 Definition of public economic enterprise

Law No. 88-01 of 12 January 1988[18] on the orientation law on public economic enterprises, it appears that the public economic enterprise is a particular form of joint-stock company. The particularity lies in the fact that the State holds in the said company all the shares that are transferable securities.

The public economic enterprise is a legal person distinct from the State, with a share capital and financially autonomous. Defined as a joint stock company, the capital of which is subscribed by holding funds, holding companies, currently management company groups or by other public companies. It may also, together with other companies, take stakes in other existing companies. The formation of a commercial company is done by a contribution subscribed and paid by the shareholders. This then becomes a real transfer of ownership of this capital to the company, which will constitute the initial assets of the latter.

[18]Law No.88-01 of 12-01-1988 on the orientation law for ECEs. JORA n°02 of 13/01/1988.

6.1.2 Characteristics of the economic public enterprise

EPE is based on the characteristics of public administration, on the one hand, by submitting to political authorities, and, on the other hand, on the economic rationality of private companies, optimizing the allocation of resources according to specific objectives.

The State is always called upon to take charge of activities that seem vital to the well-being of populations, and to meet the needs of populations ignored by the private sector[19].

State-owned enterprises face a constraint on their strategic decision-making capabilities, as their actions are part of a broader system of public policies at the national level. This feature limits their options and is closely related to their operational setting.

The public nature of their operations generally forces them to borders that escape private enterprise. Public enterprises are only one facet of this complex system and their activities are usually governed by a framework established at a higher level.

Also, nationalizing companies evokes notions of bureaucracy, inefficiency, waste and decline in the quality of public service, despite the annual financial support they receive. While some may find SOEs effective, others argue that their productivity is often diverted to private interests through various transfers.

The Algerian economy has been grappling with these problems for years, with the public company remaining at the forefront of these struggles.

Basically, public enterprises present a major difference from all other enterprises. They are separate companies, because they must not only be competitive, but they must also satisfy the general interest.

6.1.3 The missions of public economic enterprises

When they are created, these public companies generally have the mission of satisfying the national market in the products that are administratively devolved to them. To

[19]Nordine Grim, "Entreprise publiques économiques, le myth de l 'autonomie de gestion", article, Algiers eco on 17.09.2016

do this, they must ensure the direct marketing of these products, whether they come from their own production or from the import for which they are responsible for exercising the monopoly[20].

Later, starting with the so-called "Business Autonomy" reforms of 1988, with the abolition of monopolies and the liberalization of domestic and foreign trade, all these companies took over the marketing function and the possibility of intervening in the entire national market, but now competing with private sector companies and foreign import products.

Throughout the 80s and 90s and under the effect of new "restructuring" or "subsidiary" operations[21], the number of companies will multiply from the same basic entities. New companies are seeing a reduction in the number of their units and products. We can mention the case of the public textile industry, which is managed successively by a national company (at its creation in 1965), then by 7 national companies in 1982 (with the organic restructuring) and today by 28 autonomous companies subsidiaries of the TEXMACO Group, now TEXALG SPA[22].

Finally, it should be noted that not all first generation SOEs have ever been able to give their export function a meaningful dimension. Mobilized by their mission of satisfying the national market, they had only punctual export deliveries of their products to countries in Africa and Eastern Europe within the framework of intergovernmental political agreements. The opening of the national economy in the early 1990s will therefore find the management of these companies unsuited to the requirements of export and even competitiveness on the national market.

[20] MOHAND AREZKI ISLI, La création d'entreprises en Algérie, Cahiers du CREAD, 2005, pages 3-4

[21] EPE subsidiaries often take the form of EPIC (Public Industrial and Commercial Enterprise).

[22] https://texalg.dz/

6.2 The legal nature of public economic enterprises:

The status of the public companies thus created is uniform even if the names vary from National Company to National Company or National Office. This status is based on the basic provisions, in addition to those mentioned above relating to the mission, such as:

- State ownership of the company's property;

- The appointment of the Director General by the public authorities;

- A Board of Directors made up of representatives of state services;

- Fully public funding.

6.2.1 Public enterprise restructuring

The restructuring of Algerian state-owned enterprises is an essential process for the economic development and modernization of the country and aims to reorganize, reform and improve the performance of state-owned or controlled enterprises. This process is usually triggered in response to various factors such as financial deficits, operational inefficiency, economic changes, or pressures to privatize or rationalize the public sector.

6.2.1.1 From the Owner State to the Shareholder State[23]:

The concept of Public Enterprise has undergone major adjustments since independence to date: changes in form, changes in the legal framework and organization in general from one period to another.

Until the late eighties the Public Enterprise in Algeria was the property of the State evolving within the framework of centralized planning and directed away from any economy or private competition, local foreign, it was only concerned with meeting the needs of society and guaranteeing the public interest. Prices were administered and often did not reflect the cost of production.

The number of Public Enterprises arrived in Algeria at the end of the 1980s, with more than 2,000 Enterprises, 130 of which were local or regional in nature.

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[23]Chouaidia Munia, Faculty of Law and Political Science University of 8 May 1945 Gulma - Algeria, the restructuring of public companies in Algeria (solution for companies in difficulty)

Faced with the weight of the burden on the public company and therefore on the State, the latter redistributed roles, gradually withdrawing from the economic scene, which resulted in a series of laws and amendments.

The Algerian legislator abandoned the Socialist Enterprise in 1988 to create the Public Economic Enterprise which he organized into commercial companies so that it would be subject to the rules of private law[24].

6.2.1.2 The organization of the Public Economic Enterprise in the form of Commercial Companies:

The Algerian legislator through Law No. 88-01 of 12 January 1988 organized the Public Economic Enterprise into two forms of commercial companies, Article 5 stipulates: *"Public economic enterprises are joint stock companies or limited liability companies of which the State and / or local authorities directly or indirectly hold all the shares and / or shares. "*

The text of Article 2 of Law 88-04, dated 01/12/1988 also[25] underlined the fact that public economic enterprises are legal persons subject to commercial law and organized in the form of joint stock companies and in the form of a limited liability company.

With regard to the reorganization of the public company, Article 25 of Law 94-08 of 26 May 1994, on the Supplementary Finance Law of 1994, defines the public economic company in legal terms:"Public Economic Companies are capital companies in which the State or other legal persons under public law hold an absolute majority of the shares or shares... ".

It follows that the public economic undertaking is a company with capital, wholly or partly public, in the latter case, the public economic undertaking would hold at least 51% of the shares, represented by the State or legal persons governed by public law and 49% would be domestic or foreign private shareholders.

[24]Fadila SAHRI," L 'application du droit des sociétés aux entreprises socialistes à caractère économique en Algérie", Thèse de doctorat en droit, Université Paris , Nanterre, France, 1987.

[25]Considering Law No. 88-04 of 12 January 1988 amending and supplementing Ordinance No. 75-59 of 26 September 1975 Commercial Code and laying down special governed on economic public companies; JORA n°2 of 13/01/1988.

With this law, the Algerian legislator underlined its desire to renounce at least in part the ownership of EPEs; modest aspiration towards the application of a market economy in Algeria through the possibility of privatization of these companies.

Eight holding funds, with a national vocation, were created according to the criterion of the branch of activity. Tamara’s House Services for Sexual Abuse Survivors Inc.

- F.1: participation fund for the agri-food and fisheries industries;

- F.2: participation fund for mines, hydrocarbons and hydraulics;

- F.3: equity fund for capital goods;

- F.4: construction holding fund;

- F.5: chemical, petrochemical and pharmaceutical holding fund;

- F.6: electronic participation fund, telecommunications and IT

- F.7: participation fund for textiles, leather, footwear and furniture

- F.8: service participation fund.

3.The missions of the holding funds:

Holding funds have missions, the specificity of which can be located at several levels:

- The holding fund is a securities manager: in its capacity as fiduciary agent of the State, the holding fund is responsible for the financial management of a portfolio of securities on behalf of the State. This assignment implies that the holding fund is entitled to sell, buy or exchange the capital shares of the FIEs. In practice, this mission has limitations since the legal framework governing EPRs does not allow other terms, these transactions can only be carried out in the public sphere, between holding funds and/or other EPRs.

6.3 The Investment Management Companies:

GSPs are Public Economic Enterprises whose mission is to hold and manage on behalf of the State a patrimony composed mainly of the share capital of the EEPs subscribed directly by the State and the debts it holds on them. They act within the framework of the management mandate of the participations entrusted to them by the CPE. Their task is to prepare, in liaison with the Minister in charge of Privatization, the technical transfer files.

The holding management companies (SGPs) replaced the holding companies by promulgating Ordinance 01-04 of 20 August 2001 on the organisation, management and privatisation of public economic enterprises.

The year 2001 saw the creation of the State Participation Management Companies (SGP), which numbered 28 companies, grouped into 11 companies and 04 regional companies. Thus PMSs become the new (and current) method that the State has adopted for the management of its Public Economic Enterprises.

And they take the form of companies governed by commercial law such as the Joint Stock Company.

Therefore, these companies are subject to private law, in particular commercial law in terms of formation, and governance as well as the method of disposal of its shares, on the one hand.

On the other hand, the capital of these companies belongs to the State, they are also subject to public law, in particular Law 90-30 of 01/12/1990 on the State Law.

State shareholding management companies remain as the means chosen by the legislator for the management of state capital, not very different from previous methods.

They also play a technical role in the implementation of the privatization process, as fundamental mechanisms in the implementation of this program.

6.3.1 Amendment of the year 2015: The creation of new public groups to replace GSPs:

In August 2015, a decision by the State crowned the long process of reforms initiated since 1983 by merging and absorbing the "Shareholding Management Companies" and replacing them with the creation of new public groups that would boost the companies under their supervision and relaunch the industrial sector.

Indeed, the reconfiguration of the public industrial sector provides for the creation of 12 groups from fourteen State Participation Management Companies (SGPs) under the Ministry of Industry and Mines. These industrial groups were installed on 22 February 2015 by the Minister of Industry and Mines as part of the new configuration of the public industrial merchant sector.

According to its initiators, this new mode of public sector management is compatible with current requirements, especially as the world is experiencing great progress. "In addition, this reconfiguration in the industrial sector will give autonomy to the public company, more freedom of initiative, a delimitation of the activity in order to create an import substitution that is a current requirement". As for the five (05) already existing groups, they are the national company of industrial vehicles (S.N.V.I), the industrial group of cements of Algeria (G.I.C.A.), the pharmaceutical group SAIDAL, the national company of tobacco and matches (S.N.T.A.) and Manadjim Aldjazair (M.A.N.A.L.). The new SPMI scheme also includes companies already existing in the ministry's portfolio: the company of studies and advice in financing for industry (ECOFIE), responsible for the consolidation of economic aggregates of the public market sector on behalf of the government, as well as four SGPs of industrial zones that manage on behalf of the State the securities of 32 companies.

As for the role assigned to these groups, it consists of making financial profit from public funds, and multiplying activities at the national level.

6.3.2 The Data Sheets of the 12 new public industrial groups installed

Here are the data sheets of the 12 new industrial groups installed on Monday as part of the reorganization of the public industrial merchant sector:

Groups that have undergone changes:

Agro-industries group:
- Capital: 10.261 billion DA
-Activities: design, production, distribution and marketing, including import/export operations, of any product resulting from the processing of raw materials from agriculture, livestock or fisheries and any service related to these activities

Chemical industry:
- Capital: 40.295 billion DA
- Activities: design, production, distribution and marketing, including import/export operations, of any chemical and any service related to these activities

Electrical, Household and Electronic Equipment Group:
- Capital: 39.75 billion DA
- Activities: design, production, distribution and marketing, including import/export, of any product in the fields of electrical, household appliances, telecommunications and electronic equipment and any service related to these activities

Local industries
- Capital: 14.947 billion DA.
- Activities: design, production, distribution and marketing of all industrial and craft products and services intended for industry, institutions and the general public as well as any provision of studies, advice and training

Groupe GAD Mécanique
- Capital: 35.776 billion DA
Activities: design, production, distribution and marketing, including import/export of any products resulting from the working of metals and alloys and any service related to these activities

Metallurgical and Iron and Steel Industries Group:
- Capital: 65.368 billion DA
- Activities: design, production, distribution and marketing, including import and export, of any metalworking product, any metalworking product and any service related to these activities

Textiles and leather:
- Capital: 10.179 billion DA
- Activities: design, production, distribution and marketing, including import and export, of any textile, textile product, clothing product, leather product and any service related to these activities

Société Nationale des Véhicules Industriels (SNVI): It absorbed EPE FERROVIAL and its subsidiaries and shareholdings.

The groups that have not undergone any changes are:

- *The Algerian Cement Industry Group (GICA) ;*
- *The National Society of Tobacco and Matches (SNTA) ;*
- *The Manadjim El-Djazair Group (MANAL).*

Before this reconfiguration, the public industrial merchant sector (SPMI) consisted of:

- *15 Industrial State Ownership Management Companies (SGPs) managing a portfolio of 305 companies.*
- *6 Unaffiliated economic public enterprises (EPAs) that control 53 subsidiaries*
- *4 SGP Zones industriels, grouping 32 companies.*

The SPMI achieved a turnover of 391 billion DA in 2014 with an added value of 160 billion DA.

7 Chapter Seven : Privatization of Economic State Enterprises

In Algeria, privatization is a structural reform that obeys economic, legal, institutional, political and theoretical determinations, which must be identified.

The reforms launched in Algeria are aimed at restructuring large companies and opening their capital to private shareholders[26].

7.1 Definition of Privatization:

Privatization consists of a transfer of ownership from public actors to private investors. It aims to meet various political, economic and even ideological objectives[27]. At the national level, it is considered by governments as a strategy for financing their deficits and disengaging from the state of certain activities that have become less profitable. At the organizational level, it presents a reform that aims to improve the financial and operational efficiency of companies. Thus, it is based on the idea that the ownership of the company by private actors is perceived as beneficial for the performance of companies compared to that of public actors.

This transfer may be total or partial[28]:

Total Privatization: privatization is complete when all state property rights are transferred to the private sector;

Partial Privatization: Privatization is partial if the State engages in the privatization of the public sector gradually and as mentalities open up and the inevitable multifaceted constraints to any privatization process are lifted.

[26]Y. S. Hachimi, "Des limites de l 'état aux virtues du marché: effets de la privatisation sur la performance des entreprises publics une étude de cas multiples au Bénin", *Perspective africaine*, n° 15, mars 2005, pp. 59-80.

[27]Amel CHADLIA, Ecole Supérieure de Commerce ESC – Algiers, theme: Performance of public companies – Algerian, 06/مجلة اداء المؤسسات الجزائرية العدد2014.

[28]Ordinance 01-04 of August 20, 2001, relating to the organization, management and privatization of public economic enterprises. JORA n°47 of August 22, 2001.

7.2 The aims of the "Folkeskole "

Traditionally, privatization policy is expected to reform the economy, economic, social and political objectives, especially reducing unemployment, reducing the budget deficit, reducing political interference, improving governance, opening up to the market and competition etc.

In Algeria, they vary according to the activity and not the ideological purpose to be achieved. They adapt to the privatizable company as a structuring instrument of economic and social development. The policy of the public authorities tries rather to promote virtuous privatizations which aim at the improvement of management, the acquisition of new technologies through foreign partnership and reduce, by mobilizing foreign savings, the indebtedness of the Treasury vis-à-vis the Bank of Algeria[29].

7.3 The privatisation process

In Algeria, privatizations are carried out either through the use of financial market mechanisms; the call for tenders; the use of the over-the-counter procedure; the encouragement of popular shareholding, defined by certain provisions of the 2001 Ordinance, relating to the acquisition free of charge of up to 10% of the company's capital; the exercise of a pre-emptive right; the reduction of up to 15% on the transfer price.

In all these cases, the principle of instalment transfer 23 is retained by the legislator who registers it as an asset of the government. Its financial assembly is not carried out through the banking system, but through the Treasury. The possibility to apply for bank credit differs depending on whether it is a resident investor or not.

7.4 Privatization Institution:

The State Participation Council (CPE) is composed of ten ministers with the involvement of the minister(s) concerned by the agenda.

[29]Tahar, Hamamda Mohamed. "Privatisation des entreprises publics en Algérie", *Géoéconomie*, vol. 56, No. 1, 2011, pp. 133-157.

Boukhdouni Ouahiba; "La privatisation des entreprises publics industriels en Algérie: Bilan et perspectives", University of Blida 02 – Algeria. Al-Bashaer Economic Journal Number: 02 (December 2015) pp 206-219.

It is chaired by the Head of Government. The Council undertakes to:

- set the overall strategy for the management of state holdings and privatization;
- define and implement policies and programmes concerning State participation;
- define and approve policies and programs for the privatization of public economic enterprises;
- review and approve privatization files.

With regard to the terms and conditions of transfer, these are:

- ensure the compliance of the choices of public companies with the program;
- authorize the privatization of companies according to specific terms;
- grant the over-the-counter procedure on the report of the Ministry of Participation and Coordination of Reforms;
- mandate representatives of the State at the general meetings of EPEs whose capital is directly held by the State.

7.5 Provisions specific to procedures:

Employees of economic public enterprises eligible for full privatization benefit free of charge from 10% of the capital of the company concerned.

Employees interested in taking over their company also benefit from the right of pre-emption, which must be exercised within one month from the date of notification of the sale offer to employees.

In addition, employees benefit from a maximum 15% reduction on the transfer price.

8 Chapter Eight : Public Procurement

Introduction :

Governed by Law 23-12, public contracts are written contracts concluded, for consideration, by the public purchaser called "***contracting service***", with one or more economic operators called "***co-contracting partners***", to meet the needs of the contracting service in terms of works, supplies, services and studies, under the conditions provided for by this Law and by the legislation and regulations in[30]

The economic operator may be one or more natural or legal person(s) entering into the contract either individually or as part of a temporary group of companies.

8.1 General concepts

For the purposes of Law 23-12, it is understood as follows:

8.1.1 Public procurement :

Public contracts awarded by a public entity to satisfy its needs.

8.1.2 Public institutions governed by the rules of public law :

Institutions with legal personality and financial autonomy created by the State or local authorities. These establishments are of an administrative nature or for scientific, cultural, professional, health or other purposes. Accounting is kept according to the rules of public accounting.

8.1.3 Public institutions subject to the rules of commercial law :

Institutions with legal personality and financial autonomy created by the State or local authorities. These establishments may be specifically managed or for scientific, technological or other purposes, the accounts of which are kept in accordance with the

[30] Art 02 of Law No. 23-12 of 5 August 2023 laying down the general rules relating to public procurement.

financial accounting system provided for by Law No. 07-11[31]

8.1.4 Public economic enterprises :

Commercial companies in which the State or any other legal person under public law holds, directly or indirectly, the majority of the share capital.

In order to ensure the efficiency of public procurement and the proper use of public funds, public procurement is based on the following principles :

- Freedom of access to public order;
- Principle of equal treatment of candidates ;
- Transparency of procedures.

8.2 Types of public contracts

In order to satisfy a specific need, the contracting department may award one or more public contracts. Public contracts relate to one or more of the following operations:

- for carrying out ;
- Providing supplies ;
- Possibility to mediate :
- Service delivery.

In the case that the public contract relates to several of the aforementioned operations, the contracting department shall award a global contract.

8.3 Description of the specifications

The specifications are drawn up before any tender procedure is launched. The specifications must specify the conditions under which public contracts are awarded and

[31] Law No. 07-11 of 25 November 2007, as amended, on the financial accounting system.

executed[16], they include, in particular :

- the general administrative clauses applicable to public works, supplies, studies and services contracts, approved by executive decree;
- the common technical specifications, which set out the technical provisions applicable to all public contracts relating to the same type of work, supplies, studies or services, approved by decision of the head of the public institution or by order of the Minister concerned;
- the special specifications that set out the clauses specific to each public contract.

8.4 Procurement procedures

8.4.1 Consultation :

Any order, the estimated amount of which, including all taxes, is equal to or less than the thresholds for the award of public contracts, is subject to the consultation procedure.

In the case of transport, hotel and catering services and legal and financial services, regardless of their amount, the contracting service may use the consultation procedure.

In the event of imperative urgency, the head of the public institution, the minister, the wali or the president of the communal people's assembly concerned may, by reasoned decision, authorize the commencement of performance of the services before the conclusion of the public contract.

8.4.2 Call for tenders

The choice of the method of procurement is the exclusive competence and responsibility of the contracting service, which is based on the search for the conditions best suited to the objectives assigned to it.

The call for tenders is the procedure aimed at obtaining the tenders of several tenderers entering into competition and awarding the public contract, **without negotiation**, to the tenderer presenting the tender deemed economically most advantageous on the basis of objective selection criteria, established prior to the launch of the procedure.

The call for tenders may be national and/or international. It can be done in one of the following forms:

- Open call for bids ;
- Open call for tenders with minimum capacity requirements;
- National and international ;
- Competitive process.

8.4.3 Negotiated procedure with publication of a contract notice52

The negotiated procedure is the procedure for awarding a contract with an economic operator without a formal call for competition.

The negotiated procedure may take the form of direct negotiation or negotiation after consultation. This consultation shall be organised by any appropriate written means. The negotiated procedure allows the contracting service to negotiate the prices and conditions of execution of the public contract.

8.4.3.1 Direct negotiated procedure

The contracting department shall use the direct negotiated procedure exclusively in the following cases:

- When the operations can only be carried out by a single economic operator, either because it holds a monopolistic situation, or to protect an exclusive right, or for technical or cultural and artistic considerations. A joint order of the Minister

concerned and the Minister of Finance will specify the operations that fall under cultural and artistic considerations;

- When it comes to promoting labelled start-ups, as defined by the legislation and regulations in force, service providers in the digital and innovation field, provided that the solutions presented are unique and innovative;

— In the event of an emergency motivated by a peril.

8.4.3.2 Negotiated procedure after consultation:

- When the tender is declared unsuccessful for the second time.

- The specificity of these contracts is determined by their purpose, the low degree of competition or the secrecy of the services;

- for works contracts relating to the exercise of the sovereignty of State institutions;

- for contracts already awarded, which are subject to termination, and whose nature does not adapt to the deadlines of a new call for tenders;

- for operations carried out within the framework of the Government's cooperation strategy.

8.5 Procurement process

8.5.1 Qualification of candidates and tenderers

■ must verify the technical, professional and financial capacities of candidates and tenderers, before proceeding to the evaluation of technical tenders;

The evaluation of applications must be based on non-discriminatory criteria, in relation to the subject of the contract and proportional to its scope.

■ enquire, if necessary, with a view to better rationalising the choice of tenderers, when evaluating applications, of their capacities by any legal means, from other contracting services, administrations and bodies entrusted with a public service mission, banks and Algerian representations abroad.

Any candidate or tenderer, alone or in a consortium, may avail themselves of the capacities of other companies. A candidate or tenderer, alone or in a group, may not submit more than one tender per public procurement procedure.

The same person cannot represent more than one tenderer for the same contract.

A national file, sectoral files and a file at the level of each contracting service of economic operators, are maintained and regularly updated. The content of these files as well as the conditions for their updating are determined by order of the Minister of Finance.

8.5.2 Transparency of procedures

The use of advertising is mandatory. It is carried out in the official procurement bulletin of the public operator (BOMOP) and by means of approved written press and electronic press, for the forms of the method of public procurement referred to in Articles 39 and 42 of Law 23-12, if applicable.

The use of advertising must also be carried out at the level of the electronic public procurement portal[32], under the conditions defined by order of the Minister of Finance, for the aforementioned procurement methods, including for the consultation procedure.

8.6 Government policy on the promotion of national production

8.6.1 Partnership commitment :

The specifications for international calls for competition must provide, for foreign tenderers, the commitment to invest in partnership, in the case of projects whose list is set by decision of the head of the public institution or the minister concerned, for their projects and those of the public institutions under their jurisdiction.

8.6.2 Promoting small businesses :

When certain needs of the contracting services can be met by small or very small companies or labelled start-ups, or by companies that employ a minimum proportion, set by the regulation of workers with physical disabilities, the contracting services must, except for duly justified exceptions, **reserve contracts exclusively for them for the satisfaction**

[32] www.https://marches-publics.gov.dz/

of these needs, in compliance with the provisions of this law.

The aforementioned needs may be the subject, up to a maximum of twenty percent (20%) of the public order, as the case may be, of a separate specification or a lot in an allotted specification.

8.6.3 Promotion of employment and professional integration

The specifications of national calls for tenders, in all their forms, must provide for minimum conditions of participation related to the promotion of employment and professional integration, in particular in areas related to administrative, legal, financial, technical and environmental aspects, in addition to the conditions of eligibility related to the subject of the contract.

The specifications for international calls for competition must provide, for foreign tenderers or subcontractors, a minimum threshold for the professional integration of the national workforce and qualified national executives in order to allow them to develop skills and gain experience.

8.7 Mandatory information, prices and payment terms

8.7.1 Prices

The co-contracting partner's remuneration shall be as follows:

— Overall and fixed rate price ;

— Unit price ;

— Mixed price ;

— Expenditures audited.

The contracting service may favour the remuneration of the contract according to the formula at a global and fixed price, in compliance with the prices. The price can be firm or revisable, it can also be updateable.

8.7.2 Payment terms

The financial settlement of the contract is made by payment of advances and/or down payments and by balance payments.

The contracting department is required to proceed with the mandate of the instalments or the balance within the deadlines, from the receipt of the situation or the invoice.

Failure to pay the accounts within the deadline for the benefit of the co-contracting partner entitles them to the benefit of default interest in accordance with the terms and procedures in force.

8.7.3 When there is a rider

The contracting service may resort to the conclusion of amendments to the public contract concluded within the framework of the provisions of Law 23-12.

The amendment constitutes a contractual document ancillary to the public contract which, in all cases, is concluded when its purpose is to increase or decrease the services and/or to modify one or more contractual clauses of the public contract.

The services, which are the subject of the amendment, may cover additional services falling within the overall scope of the public contract.

8.8 Subcontracting

By a subcontract, the co-contracting partner may entrust a subcontractor with the execution of part of the public contract, which may not exceed forty percent (40 %) of the amount of this public contract.

Foreign companies bidding alone, unless duly justified impossibility, must subcontract, at least, thirty percent (30%) of the initial amount of the contract to companies under Algerian law.

8.9 Guarantees, financial penalties and collateral

The contracting department must ensure that the necessary guarantees are met allowing the best conditions for the choice of its partners and/or the best conditions for the execution of the contract.

The guarantees to be provided and the terms of their return shall be fixed, as the case may be, in the specifications or in the contractual provisions of the public contract.

Non-performance by the co-contracting partner within the stipulated deadlines or non-compliant performance of the contractual obligations will result in the application of financial penalties by the contracting department, except in the event of:

- delay is the responsibility of the contracting department.
- force majeure

Public contracts and their amendments are likely to be collateralized, they serve as collateral for a bank loan for example.

8.10 Control of public procurement :

8.10.1 Internal control

In the context of internal control, the contracting department shall set up one or more standing committees, referred to as the "bid opening and evaluation committee".

8.10.2 External control

External control is ensured by an external control body, called Specialized Commission for Public Procurement The external control exercised by the Public Procurement Commission is an a *priori* control. Its purpose is to verify the regularity and compliance of public contracts with the legislation and regulations in force.

8.10.2.1 From the sectoral public procurement commission

A sectoral public procurement commission shall be set up within each ministerial department.

A sectoral public procurement commission shall be set up within each ministerial department.

8.10.2.2 From the National Public Procurement Board

A National Public Procurement Board is hereby established under the Minister of Finance.

8.11 The electronic public procurement portal

The information and documents that pass through the electronic public procurement portal are used to build a database, in compliance with the legislative and regulatory provisions in force. As such, bidders' application files are archived and used in subsequent procedures.

9 Delegation of Public Services

Introduction

Public service delegations based on public administration practice in order to involve private operators in the establishment, management and maintenance of the public service. These practices, which have remained unregulated for a long time, were regulated by Executive Decree 18-199 on public service delegation. Except that this text is repealed by Law 23-12 laying down the general rules relating to public procurement, however, these practices still remain adopted by public authorities.

As a result, public service delegations will be studied in the light of what was provided for by Decree 18-199.

9.1 General concepts

Within the meaning of Decree 18-199, a public service delegation is understood to mean the transfer, for a limited period of time, of certain non-sovereign tasks under the responsibility of the public authorities to the delegatee for the purpose of the general interest.

The delegation of public service must be carried out in compliance with the principles of equality, continuity and adaptability, and ensure the criteria of quality and performance of the provision of public service.

Local authorities and public institutions of an administrative nature, responsible for a public service, hereinafter referred to as "delegating authority", may delegate a public service to a legal person, public or private, under Algerian law, hereinafter referred to as the "delegatee", through a delegation agreement.

9.2 Forms of public service delegations

Public service delegation may take four (4) forms: — concession; — leasing; — interested management; — management.

9.2.1 Concession :

Is the form in which the delegating authority entrusts to the delegatee either the realization of works or the acquisition of goods necessary for the establishment of the public service and its operation, or it entrusts to him only the operation of the public service. The delegatee operates the public service on its behalf and at its own risk, under the partial control of the delegating authority. It finances itself the realization, acquisitions and operation of the public service, and collects fees from users. The maximum duration of the concession may not exceed thirty (30) years.

9.2.2 Leasing :

Is the form in which the delegating authority entrusts the delegatee with the management and maintenance of a public service, in return for an annual fee that it pays him. The delegatee acts on its own behalf and at its own risk, under the partial control of the delegating authority. The delegatee is exposed to commercial risks relating to operating revenues, as well as industrial risks relating to operating expenses and expenses related to the management of the public service. The delegating authority itself finances the establishment of the public service. The delegatee is remunerated by collecting fees from public service users. The duration of the public service delegation agreement, in the form of leasing, is set at a maximum of fifteen (15) years.

9.2.3 The governance concerned :

Is the form in which the delegating authority entrusts the delegatee with the management or management and maintenance of the public service. The delegatee may be exposed to commercial risks relating to operating revenues, as well as industrial risks relating to operating expenses and expenses related to the management of the public service. It operates the public service on behalf of the delegating authority, which itself finances the establishment of the public service and retains its management and total control.

The delegatee is remunerated directly by the delegating authority by means of a bonus fixed as a percentage of turnover, supplemented by a productivity bonus and possibly by a share of the profits.

The duration of the public service delegation agreement, in the form of an interested agency, is set at a maximum of ten (10) years.

9.2.4 Management :

Is the form in which the delegating authority entrusts the delegatee with the management or management and maintenance of the public service, without risk to the delegatee. The delegatee operates the public service on behalf of the delegating authority which itself finances the public service and retains its management and total control. The delegatee is remunerated directly by the delegating authority by means of a bonus fixed as a percentage of turnover, supplemented by a productivity bonus. The tariffs paid by users are set in advance in the specifications by the delegating authority that retains the benefits. In the event of a deficit, it reimburses the manager a lump sum remuneration. The delegatee collects the tariffs on behalf of the delegating authority concerned. The duration of the public service delegation agreement, in the form of management may not exceed five (5) years.

9.3 Amendment and subcontracting

9.3.1 The amendment

The delegating authority may have recourse to the conclusion of amendments, the amendment may not be concluded beyond the contractual deadlines.

The amendment may not, under any circumstances, concern:

- ❖ modification of the purpose of the agreement;
- ❖ the realization of investments or services that are the responsibility of the delegatee;
- ❖ Modification of the duration of the Company.

9.3.2 Subcontracting

Subcontracting, within the meaning of this decree, means the act by which the delegatee entrusts to another natural or legal person, referred to as the "subcontractor", the execution of part of the agreement concluded between the delegating authority and the delegatee, provided that this part of the agreement relates to the execution of works or the acquisition of goods necessary for the establishment or operation of the public service, within the limit of 40% of the public service delegation agreement.

The delegatee may entrust one or more subcontractors with the realization of works and the acquisition of goods subject to the delegation agreement, depending on the degree of its complexity, after prior agreement of the delegating authority for the choice of the subcontractor(s). The delegatee remains solely responsible, vis-à-vis the delegating authority, for the execution of the subcontracted part of the agreement. The use of subcontracting can only take place if it is explicitly mentioned in the public service delegation agreement.

10 Chapter Ten : Public Private Partnership (PPP)

Introduction

In its broadest sense, the concept of Public-Private Partnership (PPP) is a long-term contractual agreement between a public authority and a private partner in which, as a general rule, this partner finances and provides public services from an equipment (for example a transport or energy production infrastructure, or a hospital or a school).

The private partner may be entrusted with the design, construction, financing, operation or management of the asset and the provision of the corresponding service for a predetermined period; it is remunerated by means of fixed unit payments or fees paid by users. PPPs account for less than 15% of annual central government investment expenditure, and their degree of use varies widely across countries: the United Kingdom has the most PPP projects (648), followed by Korea (567) and Australia (127).

Public administrations can consider the PPP solution because, compared to more traditional forms of public infrastructure procurement, this formula can allow them to better leverage the expertise of the private sector to combine the design and operation of equipment, which makes it possible to provide the corresponding service more efficiently.

According to countries that have enough experience and data to make a judgment about PPPs, these devices outperform traditional infrastructure markets (MITs) in terms of timeliness, construction costs and quality. However, the experience of some OECD member countries shows that not all PPPs are well managed and therefore not all deliver the expected benefits.

For some services, long-term contracts may prove too rigid given the changing needs of the public sector and technology, while the process of setting up PPPs is often lengthy, complex and costly for both the public and private sectors. Countries also report that transaction costs for private and public parties are higher with PPPs than WITH MITs. Finally, some countries have an incentive to use PPPs to finance assets outside the public sector balance sheet. If a PPP project is designed for this purpose, it may not be included in public sector net debt. This results in a lack of transparency about future charges and budgetary risks[33].

PPPs can give developing country governments the advantage of mobilizing additional sources of public infrastructure financing, adopting flexibility in the allocation and prioritization of fiscal resources, benefiting from technical expertise and innovation, ensuring effective project management and operation based on incentives and the ability to administer the asset or service throughout the project lifecycle.

10.1 PPP Success Environment :

To successfully develop an effective PPP model, developing countries are called upon to implement legal reforms that will create enabling (legal frameworks), competitive and transparent environments.

Five pillars can be implemented to better control PPP projects in developing countries, namely:

➢ Threshold capacity – This should include setting, threshold planning and risk management to avoid structural damage to the project;

➢ Adaptability – it is important that partnerships have the capacity to reduce the damage caused by an adverse event even if the costs exceed the thresholds initially set for the projects;

➢ Recovery capacity - This is the project's ability to quickly recover from delays and return to normal or better condition than before the event;

➢ Ability to anticipate - This is related to a project team's ability to anticipate unforeseen threats in projects;

➢ Transformation Capability – This is the ability of a project management team to transform how they operate to deal with expected catastrophic situations.

[33]OECD (2013), Government at a Glance 2013, OECD Publishing, Paris, https://doi.org/10.1787/gov_glance-2013-en. |

10.2 Procedures for concluding a PPP in Algeria:

10.2.1 Expression of interest

The investor wishing to establish a partnership with the public economic enterprise EPE sends its expression of interest to the latter in order to conduct the negotiations, depending on the activity as well as the strategy of each holding company, or in the event of a call for partnership tenders proposed by the company.

10.2.2 Preliminary Negotiations

After examining the expression of interest, the public undertaking concerned shall invite the economic operator to conduct negotiations on the partnership project, in particular on the financial, economic, social and technological aspects.

10.2.3 MoU signing

The parties sign this document in order to document the agreement on the basic elements of the partnership project, and at this stage, the documents are exchanged under the condition of maintaining the confidentiality of the information exchanged.

10.2.4 Draft shareholders' agreement backed by the business plan

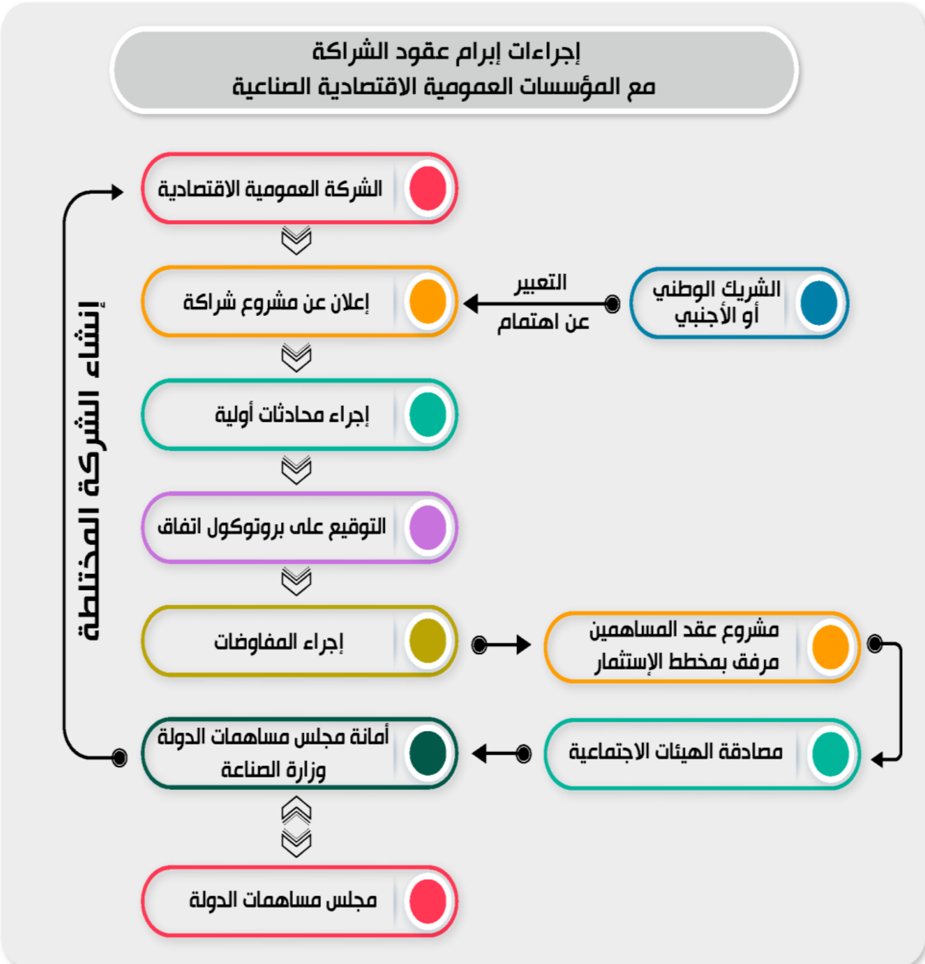
The draft shareholders' agreement, backed by the Business plan, includes all the elements agreed by the parties, in particular the commitments of constitution and continuity of the mixed company. At this stage, the public economic company submits the draft shareholders' agreement and the Business plan to its corporate bodies for approval. In the event of approval, the two initialled documents are sent to the ministry in charge of industry.

10.2.5 Approval of the partnership project by the State Participation Council

The Ministry in charge of Industry, which provides the technical secretariat of the CPE State Participation Council, schedules the partnership project (the draft shareholders' agreement and the Business plan) for study and approval by resolution of the CPE.

10.2.6 Company foundation:

After the approval of the State Shareholding Council, and the signing of the shareholders' agreement, the shareholders convene the constituent general meeting of the mixed company in accordance with the provisions of the Commercial Code. After that, the file is filed with the National Center of the Commercial Register to obtain the commercial registration and proceed with the rest of the legal procedures for the exercise of the activity.



10.3 Challenges and pitfalls in the evaluation of projects in the PPP framework:

Two major groups of challenges and pitfalls challenge us. These are not the only challenges and pitfalls of importance, but they are the ones that are most pervasive. First, the evaluation of investments itself: the (uncertain) forecasting of project costs and benefits, the identification and management of real and financial risks, managerial flexibility (real options) in the implementation of the project and in the management of the equipment as well as the cost (s) of capital and the appropriate discount rate (s). Then, the evaluation of "contracts" or more generally of MOP vs. PPP "governance" in imperfect and incomplete information: the role and power of incentives for performance, effectiveness and efficiency. It is important to emphasize and understand that these organizational, contractual or governance issues are not unique to PPP mode but are also present in the conventional CSP or MOP mode, albeit in a somewhat different form.

Many works show a profoundly deficient understanding of the economic analysis of the value of a public project, an inadequate or even erroneous understanding of the rules of modern finance, in addition to errors in analytical logic that make said reports practically irrecoverable.

10.3.1 The choice of the MOP (public project management) vs. PPP embodiment

In sum, the following elements will be decisive for the profitability of a project carried out in PPP mode compared to the same project carried out in MOP mode: the relative capacities, skills and incentives of the private partner and the public sector to manage the real risks associated with the project; the relative capacities, skills and incentives of the private partner and the public sector to carry out the project at lower costs as well as the level of competition between potential private partners. Again, issues related to capabilities, skills and incentives are present in both PPP and MOP modes. Only the citizen himself can fight for his rights.

10.3.2 Risk identification and management

To fully understand the nature and role of risk management, it is useful to distinguish between so-called "real" risks and so-called "market" or systematic risk. Actual risks are those risks that can impact the cash flows of a project or company regardless of fluctuations in general economic activity.

Systematic or market risk is common to all companies and all projects, depending in some way on demand and supply in the systematic risk market (s).

10.3.3 Long-term maintenance and upkeep of structures

To carry out an analysis of the long-term maintenance and upkeep of a structure, we need to use two sets of considerations or factors: the quality of the construction (materials and fittings) and the incentives to maintain and maintain the structure in good working order. One thing is certain: there is nothing mechanical or automatic in the evolution of the functional quality of a work in the long term and there is no physical law that allows us to predict the quality, in the long term, of the work.

10.3.4 Costs to be updated

To better understand the methodology for evaluating the costs of capital projects, consider the following definitions. These definitions and values allow a stylized representation, disregarding the complexity of the contractual details, of the methodological framework of the comparative evaluations of the envisaged embodiments of major projects.

10.4 Conclusion :

The PPP model is a strategic choice for Algeria that integrates the diversification of financing methods, especially for large projects, in order to relieve the pressure on the Public Treasury hence the need to accelerate the development of the regulatory framework dedicated to PPPs in order to better supervise the preparation, monitoring and evaluation of PPP programs and projects in Algeria.

The establishment of a body in charge of PPPs, which must be placed under the supervision of the Prime Ministry, in order to strengthen its authority regarding the management of PPP programs and projects and the need to adapt higher education programs to allow the inclusion of new subjects, in relation to the concept of PPP in certain academic disciplines (law, finance, management, economics).

11 ANNEX I: List of public companies in the Wilaya of Oran. For more information on the 58 Wilayas, see: https://www.industrie.gov.dz/guide-ent-indust/

N°	المجمع الصناعي	التسمية	Phone:	الثابت المحمول	Email address.	Title	Wilaya	Sector	Activity
1	AGRODIV	CIC d 'oran	34, AVENUE MUSTAPHA BEN BOULAID (Ex ALBERT 1er) ORAN			34, AVENUE MUSTAPHA BEN BOULAID (Ex ALBERT 1er) ORAN	Oran	alternative cereal sector	Production and marketing of semolina, flour and milling products.
2	AGRODIV	ORAN ECU	34, Rue Capitaine Hamri Gambetta			34, Rue Capitaine Hamri Gambetta	Oran	Distribution and packaging	· Marketing of agrifood products.
3	GETEX	TEXALG (Ex SOTEXHAM)	BP 17 Industrial Zone of Es-Sénia –Oran			BP 17 Industrial Zone of Es-Sénia –Oran	Oran	TEXTILE	Weaving
4	GETEX	C&H (Ex WEST MOD'S)	46, Rue Abdellilah Sid Ahmed Medioni, Oran			46, Rue Abdellilah Sid Ahmed Medioni, Oran	Oran	CRAFTSMANSHIP AND CLOTHING	Manufacture of professional clothing and various tarpaulins.
5	EL DJAZAIR SPA	Electronic Industries Company	Industrial Zone of Hassi Ameur BPN ° 11 Hassi Bounif			Industrial Zone of Hassi Ameur BPN ° 11 Hassi Bounif	Oran		Production and marketing of IT systems and equipment, in parallel with services in terms of maintenance, technical assistance and integration of IT networks
6	IMETAL	Steel Engineer	01, Rue LATREC			01, Rue LATRECHE	Oran	STUDIES &	Geotechnical work,

		ing and Realisation Company	HE Mohamed, El-Moudjahid, Oran			Mohamed, El-Moudjahid, Oran		ENGINEERING	analysis and control of concrete.
7	IMETAL	Industrial Assembly and Maintenance	Hassi Ameur Industrial Zone, ORAN, ALGERIA,			Hassi Ameur Industrial Zone, ORAN, ALGERIA,	Oran	METAL CONSTRUCTION & HEATING	Industrial Assembly and Maintenance
8	IMETAL	Feraille Recovery Company	Oran			Oran	Oran	SIDERURGY & metallurgy	Ferrous and Non-Ferrous Metals
9	IMETAL	secondary melting and processing unit	Oran			Oran	Oran	SIDERURGY & metallurgy	Ferrous and Non-Ferrous Metals
10	IMETAL	Weighing unit and industrial control	Hassi Ameur Oran			Hassi Ameur Oran	Oran	SIDERURGY & metallurgy	Manufacture of weighing equipment and industrial control
11	IMETAL	Small and profiled tubes	Z,I Hassi Ameur Oran			Z,I Hassi Ameur Oran	Oran	SIDERURGICAL TRANSFORMATION	production Small tubes and profiled tubes
12	IMETAL	Ms Greif	Z.I platinum road BP:30.ARZEW			Z.I platinum road BP:30.ARZEW	Oran	SIDERURGICAL TRANSFORMATIONS	manufacture of metal boxes and metal packing products
13	IMETAL	Algerian Foundries of Oran	01, route Mohamed BENTAYEB ex gambetta – Oran			01, route Mohamed BENTAYEB ex gambetta – Oran	Oran	SIDERURGICAL TRANSFORMATIONS	Production and marketing of foundry products
14	IMETAL	food-processing plant	19 Rue Mekki KHELIFA – Oran – PO Box			19 Rue Mekki KHELIFA – Oran – PO Box 1005 Oran El Menouar	Oran	SIDERURGICAL TRANSFORMATION	Subsidiary portfolio manager group.

			1005 Oran El Menouar						
15	IMETAL	Oran Trefolding Company	19, Rue Mekki Khelifa, Oran			19, Rue Mekki Khelifa, Oran	Oran	SIDERURGICAL TRANSFORMATION	Production and marketing of clear drawn wires, welded wire mesh, light metal beams.
16	DIVINDUS	EQUIBAT / ORAN	28 Av. of the Martyrs of the Revolution, Oran			28 Av. of the Martyrs of the Revolution, Oran	Oran		Manufacture of wood and aluminium joinery.
17	DIVINDUS	n/a	Chtaïbo Nedjma Industrial Zone			Chtaïbo Nedjma Industrial Zone	Oran		Distribution and supply of wood raw materials.
18	DIVINDUS	MABECO / ORAN	91, Rue Mohamed BOUDIAF – Oran			91, Rue Mohamed BOUDIAF – Oran	Oran		Marketing of office furniture and furnishings.
19	DIVINDUS	DIVINDUS-ZI UGZIA Oran	67 boulevard de l 'ANP Mediouni Oran			67 boulevard de l 'ANP Mediouni Oran	Oran		Management of Industrial Zones and Activity Zones
20	ACS	Glasses and Abrasives Industrial Group	Zuhn USTO Oran			Zuhn USTO Oran	Oran	glass and abrasives	Production-marketing of glasses and abrasives.
21	ACS	Sacheried 'Oran Company	Avenue des Martyrs de la Révolution B.P..76. ORAN			Avenue des Martyrs de la Révolution B.P..76. ORAN	Oran	paper and board	Production and marketing of large-capacity paper bags

12 ANNEX II: Model PPP Experience in Algeria: Port of Bejaia :

The setting up of the PPP contract in 2005 between the Bejaia Port Company and the Singaporean company PORTEK Systems and Equipment (PSE) which gave rise to the BMT (Bejaia Mediterranean Terminal) joint venture specialising in the operation, operation and management of the container terminal (container processing), on the basis of a decision taken by the State Participation Council (CPE) in May 2004. The purpose of BMT is to create and manage a container terminal at the port of Bejaia, otherwise known as; loading and unloading ships (handling), stevedoring (work on the centenary fleet) and possibly logistics.

The statistics on the evolution of the performance indicators, presented by the speaker, show that the company EP Béjaia has achieved a number of advantages in particular; in terms of the acquisition of new management methods, new knowledge and managerial skills as well as in terms of improving the containerization activity through the acquisition of new technologies, increasing traffic volume, reducing stopover time, improving the processing rate of ships (productivity) and creating new jobs.

The realization of this partnership has allowed the EPB to carry out its containerization activity in universal standards, introducing new methods, new technologies, and a new computer system.

The success of the partnership is reflected in the achievement of almost all the objectives set in advance, and that the BMT joint venture was a success in the realization of the first container terminal in Algeria with gantries and can be considered as a strategic development option and one of the privileged levers of growth[34].

[34]CNESE: Public-Private Partnership, Bulletin No.2. 2018. P.13

***13* Referees:**

Law 08-09 of 25 February 2028, on the Code of Civil and Administrative Procedure, JORA No.21 of 23 April 2008.

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MOHAND AREZKI ISLI, La création d 'entreprises en Algérie, Cahiers du CREAD, 2005, pages 3-4

EPE subsidiaries often take the form of EPIC (Public Industrial and Commercial Enterprise).

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