

ANNEX A

Morocco's Exceptions to National Treatment Instrument

A. Exceptions at the national level

I. Investment by established foreign-controlled enterprises

Agricultural land: The acquisition of agricultural land by foreigners is not authorised. The acquisition of agricultural land located outside urban areas is permitted only for non-agricultural needs. Foreigners may lease agricultural land for up to 99 years.

Source:

Decree No. 1-73-645 of 23 April 1975 concerning the acquisition of agricultural properties or land for agricultural use outside urban areas

Air transport: Foreign investment in air transport companies is limited to 49% of capital.

Sources:

Decree No. 2-61-161 of 10 July 1962 enacting regulation of civil aviation

Order No. 544-00 of 2 November 2000 establishing the conditions for a license to operate public air transport services

Maritime transport: In order to fly the Moroccan flag, a vessel must be 75% Moroccan-owned (in the case of individuals); for vessels owned by corporations or partnerships, this condition is deemed fulfilled if the majority of members of the board of directors or the supervisory board are Moroccan citizens.

Sources:

Dahir of 31 May 1919 (Maritime Commerce Code) amended and supplemented Dahir No. 1-61-129 of 25 September 1962 on the organisation of maritime transport.

Maritime fisheries: The mandatory fishing license may be granted only for Moroccan-flag vessels or for foreign-flag vessels chartered by Moroccan natural or legal persons.

Sources:

Dahir No. 1-62-101 of 24 October 1962 on the conditions for granting or maintaining the Moroccan nationality of certain fishing vessels; Application Decree No. 2-62-234 of 4 December 1962

Dahir No. 1-73-255 of 23 November 1973 regulating the maritime fishery as amended and supplemented

Architecture services: Moroccan nationality is required to establish a practice as an architect in Morocco. Authorisation for foreign nationals to establish a practice as an architect may be granted in light of the sector's needs.

Sources:

Law No. 16-89 of 10 September 1939 on exercise of the architecture profession and establishment of the National College of Architects

Dahir of 15 November 1993 on immigration

Accounting and audit services: At least 75% of the shares or corporate rights of accounting and audit firms must be held members of the Moroccan College of Accountants. To become a member of that College, a foreigner must be a national of a State with which Morocco has signed an agreement authorising nationals of the two countries to exercise their profession in each other's territories, and must be a permanent resident of Morocco.

Source:

Law No. 15-89 of 8 January 1993 governing the accounting profession and instituting the College of Accountants

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local financing

None.

B. Exceptions at the territorial subdivisions

None.

Measures notified by Morocco for transparency

A. Measures reported for transparency at the level of national government

I. Measures based on public order and essential security considerations

a) Investments by established foreign-controlled enterprises

None.

II. Other measures reported for transparency

a) Corporate organisation

Maritime transport: The president of the board of directors, the director or delegated administrator must be of Moroccan nationality. The vessels must be operated by Moroccan crews.

Source:

Dahir No. 1-61-129 of 25 September 1962 on the organisation of maritime transport

Maritime fisheries: Fishing companies must have Moroccan nationals as their president and as a majority of the board of directors.

Source:

Dahir No. 1-73-255 of 23 November 1973 regulating the maritime fishery as amended and supplemented

Audiovisual services: At least one member of the board of directors of radio and television service companies must be of Moroccan nationality.

Sources:

Dahir No. 1-02-212 of 31 August 2002 creating the High Authority on Audiovisual Communication (HACA)

Decree-law No. 2-02-663 of 10 September 2002 abolishing the State monopoly in radio and television broadcasting

Law No. 77-03 of 7 January 2005 on audiovisual communication

Private higher education: The academic director of a private higher education establishment must be of Moroccan nationality and must reside in Morocco. Foreigners serving as teachers or managers in such establishments must have a work permit that takes account of needs in the sector.

Sources:

Law No. 01-00 on the organisation of higher education

Dahir No. 2-02-99 of 27 June 2007 establishing procedures for authorising

opening, expansion and modification of private higher education establishments

Private preschool, primary and secondary education: Foreigners serving as teachers or managers in such establishments must have a work permit that takes account of needs in the sector.

Source:

Law No. 06-00 of 19 May 2000 on the status of private education; Application Decree 2-00-1015 of 22 June 2001

Private medical clinics and laboratories for medical biology analysis: Foreigners may establish, direct or manage such establishments only if they are permanent residents of Morocco, the spouse of a Moroccan citizen, or nationals of a State that has concluded an agreement of reciprocity with Morocco authorising the nationals of each State to establish, direct or manage such establishments in the territory of the other State.

Sources:

Law No. 10-94 of 21 November 1996 on the practice of medicine

Law No. 12-01 of 7 November 2002 on private laboratories for medical biology analysis (Articles 3 and 6); Application Decree 2-05-752 of 13 July 2005

B. Measures reported for transparency by territorial subdivisions

None.

C. Private or mixed (public-private) monopolies

At the national level

I. Public monopolies

Phosphate: Phosphate exploration is a State monopoly operated by the *Office chérifien des phosphates* (OCP). The OCP was transformed into a State corporation and its shares may be held only by State establishments and corporations.

Sources:

Dahir of 16 April 1951 on mining regulation in Morocco

Dahir of 27 January 1920 creating the *Office chérifien des phosphates* (OCP)

Law No. 46-07 of 26 February 2008 transforming the OCP into a corporation

Rail transport: Rail passenger and goods transportation and pushing and towing services are State monopoly, held by the *Office national des chemins de fer* (ONCF), which will be transformed in 2010 into a corporation, the *Société marocaine des chemins de fer* (SMCF) with 100% of capital owned by the State.

Sources:

Dahir No. 1-63-225 of 5 August 1963 creating the *Office national des chemins de fer*

Law No. 52-03 of 20 January 2005 on institutional reorganisation of the rail transport sector

Airports: The *Office national des aéroports* (ONDA), a public company, has a monopoly over the management and operation of airports, including the provision of airport services.

Sources:

Decree No. 2-61-161 of 10 July 1962 regulating civil aviation, and its application texts, in particular Order No. 544-00 of 2 November 2000 setting conditions for the authorisation to provide public air transport services

Postal and mail services: Postal services (domestic and international mail service, issuance of postage stamps and similar marks, collection of savings through the *Caisse d'épargne nationale*) are a State monopoly. (The monopoly does not apply to express delivery services supplied from points outside Morocco to points within its territory, or from points within Morocco to points outside its territory and for letters and packages over 1 kg).

Sources:

Dahir of 25 November 1924 on the postal monopoly

Law No. 24-96 of 7 August 1997 on postal and telecommunications services

Wholesale fruit, vegetable and fish markets and slaughterhouse operations are a State monopoly delegated to the municipalities.

Sources:

Decree of 22 May 1962 of the Minister of the Interior on the status of wholesale market agents for fruit, vegetables and fish

Law No. 78-00 of 3 October 2002 (Municipal Charter)

Hazardous waste management is a State monopoly delegated to the municipalities.

Sources:

Law No. 78-00 of 3 October 2002 (Municipal Charter)

Law No. 28-00 of 2006 on waste management and elimination

Decree No. 2-07-253 of the 7 July 2008 on waste classification and the list of hazardous wastes

II. Private monopolies

Production and wholesale distribution of tobacco: The production and wholesale distribution of manufactured tobacco products has been a monopoly exercised by the *Régie du tabac*, privatised in 2003 with 100% of its capital

having been transferred to Atladis, subsidiary of Imperial Tobacco. This private monopoly will be maintained until 2010.

Source:

Law No. 46-02 of 24 March 2003 on the regime for raw and manufactured tobacco

Wholesale distribution of ethyl alcohol: The State monopoly exercised by the *Service Autonome des Alcools* of the Department of Trade and Industry has been delegated to a private-sector company, the *Société de transformation des mélasses du Gharb* (SOTRAMEG) for 15 years.

Source:

Decree No. 2-72-377 of 18 December 1972 on eliminating the *Bureau des vins et alcools* and transfer of its functions

III. Concessions

Electricity: The transmission of electricity is handled by the *Office national de l'électricité* (ONE) under a management contract. The distribution of electricity is handled by the ONE and the municipal councils, which decide the terms of management, either through direct administration by municipalities or through public utility companies or under concessions, for which private firms may compete.

Sources:

Dahir No. 1-63-226 of 5 August 1963 creating the ONE, amended and supplemented by Decree No. 2-94-503 of 23 September 1994

Law No. 78-00 of 3 October 2002 (Municipal Charter)

Law No. 54-050 of 14 February 2006 on delegated management of public services

Water: Water production is handled by the *Office national de l'eau potable* (ONEP), by private companies, by municipal utilities, or by the municipalities. Distribution of drinking water is handled by municipal utilities, delegated companies, and the ONEP under a management contract. The municipal councils decide the terms of management of municipal public services, via direct administration, autonomous utility, concession or any other form of delegated management.

Sources:

Dahir No. 1-72-103 of 3 April 1972 creating the *Office national de l'eau potable* (ONEP)

Law No. 78-00 of 3 October 2002 (Municipal Charter)

Law No. 54-05 of 14 February 2006 on delegated management of public services

Non-hazardous waste management (street cleaning, garbage collection and sanitation): the municipal council is authorised to decide the terms for

managing these services, either through direct administration by the municipalities, through a delegated autonomous administration, or under concession.

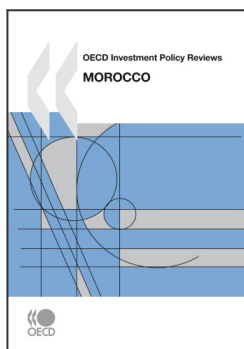
Source:

Law No. 78-00 of 3 October 2002 (Municipal Charter)

Motorways: Concessions may be let for the construction and operation of motorways. As international calls for tender have so far failed to attract bids, the *Société nationale des autoroutes du Maroc* is currently the only concessionaire for the entire motorway network.

Source:

Law No. 4-89 of 6 August 1992 on motorways; Application Decree of 2 February 1993



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