CUSTOM LAW

(1) GENERAL REMARKS

1. Djibouti's trade regime reflects the structure of its economy, dominated by services. The absence of any substantial domestic production of goods has until now justified the lack of a domestic customs tariff to protect local industry. Nevertheless, the internal consumption tax (TIC), introduced primarily for fiscal reasons, can be assimilated to a customs tariff, with the very limited local production being exempt from duties and taxes. Djibouti notified the TIC to the WTO instead of a customs tariff. The TIC is essentially *ad valorem*, with rates ranging from 0 to 33 per cent and an average of 28.2 per cent.

2. During the Uruguay Round, Djibouti finished binding all its tariff rates. Other import duties and taxes were bound at 100 per cent. For 21 tariff lines, the applied rates are higher than the bound rates. In addition, Djibouti still applies the Brussels value definition. The reforms under way should lead to implementation of the WTO Customs Valuation Agreement. These reforms resulted in the establishment of the customs and indirect duties department in April 2005 and should eventually lead to the introduction of value-added tax. The ultimate objective of these reforms is to prepare Djibouti for the adoption of the COMESA's common external tariff (CET).

3. A tax is levied on exports of salt. There are a number of benefits under the Investment Code, but these are little used, *inter alia*, because of the low level of activities. A new Free Zone Code was drawn up in 2004 in order to revise and rationalize the relevant regime. The Government Procurement Code gives a preferential margin of 7.5 per cent to 15 per cent of the price to local suppliers. Technical regulations currently apply to two products, salt and packaged or bottled waters. A metrology laboratory was set up in December 2004 but has not yet started to operate.

4. Under the privatization programme initiated in 1996, two enterprises were privatized and three made the subject of concessions; however, three new State-owned enterprises have been created. Djibouti does not have any competition legislation. Some products and services ("common bread", hydrocarbons, medicines, water, telecommunications, electricity, urban transport) are subject to price controls. The industrial property legislation dates from the colonial era and is being revised, with technical help from the WIPO.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration, documentation and procedures

5. Any natural or legal person wishing to engage in import activities must be in possession of an importer's licence. They must pay the licence fee and a 7 per cent community centime tax (on the amount of the licence). All operators are *de facto* members of the Chamber of Commerce, even if some of them do not pay the community centime tax.[1] Djiboutian nationality is not required to engage in commercial activities in Djibouti. According to the authorities, foreign traders legally established in Djibouti are given national treatment. In addition, anyone may import any goods for personal use provided that they are not officially banned.

6. The special nature of Djibouti's import duties led to the abolition of its Customs Department in 1949. The *Sous-direction des recettes indirectes* (Indirect Revenue Unit), which is part of the *Direction des recettes et des domaines* (Office of Revenue and Property) in the Ministry of Finance, was responsible for customs matters until the *Direction des douanes et des droits indirects* (Department of Customs and Indirect Duties) (DDDI) was set up in April 2005.[2] In 2000, the *Système intégré de gestion de la douane* (Integrated Customs Management System) (SIGED) was introduced

[1] Law No. 179/AN/02/4$^{\text{ème}}$L of 24 August 2002.
[2] Law No. 102/AN/05/5$^{\text{ème}}$L on reform of the State services responsible for taxation and domains.

in the port. Because of the SIGED's shortcomings, on 15 June 2005 Djibouti adopted the computerized customs data management system MIRSAL[3], as part of its cooperation with the customs of the United Arab Emirates.

7. In order to clear goods for consumption in Djibouti, the national version of the single document known as the COMESA customs declaration (DDCOM) is required irrespective of the amount of the imports. The DDCOM must be accompanied by other documents such as the commercial invoice, the waybill (air waybill for air freight), the packing list, the delivery note from the shipping agency and, where applicable, the letter of credit, the certificate of origin and the pro forma invoices (the latter are required by the banks).[4] In some cases, a certificate or approval by a competent authority may also be required for purposes of sanitary or phytosanitary control.

8. Until November 1997, depending on their value, the majority of imported goods were subject to preshipment inspection by the company COTECNA, but this measure has since been abolished. The Republic of Djibouti is not a member of the World Customs Organization, but is considering joining.

9. Importers are required to file the DDCOM with the DDDI, together with the attached documents, in order to register their declaration and enter the data.[5] The DDDI verifies the documents and inspects the goods imported, and collects the import duties and taxes. According to the authorities, the average time taken for the formalities from the entry of the goods into Djibouti until their clearance is one half day if the required documentation is in order; if the clients have a clearance credit[6], a simplified procedure may apply in order to allow the goods to be cleared at the importer's domicile.

10. Djibouti still uses the Brussels definition of value, even after having been given the transitional period of five years granted to developing countries pursuant to the provisions of Article 20 of the WTO Customs Valuation Agreement. Depending on the origin of the goods and the documents furnished, minimum values are applied. For khat, a hallucinogenic substance, a reference value of DF 450/gross kg. has been set.[7] Arrangements are being made for application of the Agreement and the MIRSAL software is well adapted to this. According to the authorities, the cooperation agreement with the customs authorities of the United Arab Emirates also provides for reform of the Djibouti customs.

11. Within the DDDI, there is a dispute settlement service responsible for settling customs disputes. These generally concern value, classification or lack of documentation.

(ii) Customs duties, other taxes and levies

(a) Overview

12. Products imported into Djibouti may be subject to the internal consumption tax (TIC), a surcharge, a special solidarity tax, a levy, a business licence fee and a general solidarity tax. In 2004, the TIC generated some 62 per cent of budgetary revenue.[8] As domestic production is generally limited and exempt from duties and taxes, the TIC serves as a customs tariff. Reforms are currently

[3] Information available at: http://www.dxbcustoms.gov.ae/content/applications/mirsal.asp [23 September 2005].

[4] A certificate of origin is usually required for imports from COMESA member countries with a view to preferential treatment in Djibouti.

[5] In accordance with an agreement, an Ethiopian customs office has been set up in the port of Djibouti in order to carry out formalities relating to the prior declaration of goods in transit to Ethiopia.

[6] Guarantee deposited with the Treasury and allowing the importer a specific time for payment.

[7] Decree No. 93-0350/PR/FIN of 7 April 1993.

[8] Ministry of the Economy, Finance and Planning, responsible for privatization, Indirect Revenue Unit.

under way, including the creation of the DDDI, in order to clarify the situation and prepare Djibouti for application of the COMESA's CET at the appropriate time.

13. As regards customs duties, Djibouti grants at least most-favoured-nation treatment to all its trading partners. Since July 2005, it has been using the 2002 version of the Harmonized Commodity Description and Coding System (HS) and the MIRSAL system has been introduced. The tariff currently comprises 5,118 8-digit lines in the HS. Djibouti only applies *ad valorem* rates and does not use seasonal tariffs.

(b) Level and structure of customs duties

Bound duties

14. During the Uruguay Round, Djibouti completed the binding of all its tariff lines (Table III.1). It has bound its duties solely at *ad valorem* rates ranging from 0 to 450 per cent. Duty on non-agricultural products has been bound at rates ranging from 0 to 230 per cent and for agricultural products the rates vary from 0 to 450 per cent. The simple arithmetic average of the bound rates is 41.8 per cent (52.4 per cent for agricultural products and 40 per cent for other products); 97 per cent of the lines have been bound at a rate of 40 per cent; three lines have been bound at the ceiling rate of 450 per cent; and only 67 lines have been bound at the 0 per cent rate.

15. The other duties and taxes have been bound at a ceiling of 100 per cent. Djibouti has not made any commitments in the form of tariff quotas.

16. Rates have in general been bound at levels considerably above the applied rates, which does not make for a stable tariff regime. The current variation (13.6 percentage points) between the average bound rate and the average MFN rate applied leaves the authorities with a wide margin of manoeuvre to increase the applied rates without exceeding the ceilings (Table III.1). Nevertheless, for 21 tariff lines (wheat flour, meslin flour, oils, motors)[9], the applied rates are higher than the bound rates.

[9] HS tariff lines: 1101 0010, 1101 0020, 2709 0000, 2710 0033, 2710 0039, 8407 3100, 8407 3200, 8407 3300, 8407 3400, 8408 2000, 8408 9000, 8409 9100, 8507 1000, 8507 2000, 8507 3000, 8507 4000, 8507 8000, 8507 9000, 8706 0000, 8707 1000, 8707 9000.

Table III.1
Breakdown of MFN rates, 1999 and 2005

		Uruguay Round	1999	2005
1	Bound tariff lines (as a percentage of all tariff lines)	100.0	100.0	100.0
2	Tariff lines eligible for duty-free entry (as a percentage of all tariff lines)	0.1	0.1	0.0
3	Duties other than *ad valorem* (as a percentage of all tariff lines)	0.0	2.3	0.0
4	Tariff quotas (as a percentage of all tariff lines)	0.0	0.0	0.0
5	Duties other than *ad valorem,* without any *ad valorem* equivalent (as a percentage of all tariff lines)	0.0	2.3	0.0
6	Simple average of rates	41.8	30.8	28.2
	Agricultural products (WTO definition)[a]	52.4	24.6	22.5
	Non-agricultural products (WTO definition)[b]	40.0	31.7	29.1
	Agriculture, hunting and forestry (ISIC 1)	40.5	23.2	20.9
	Mining and quarrying (ISIC 2)	39.6	30.4	30.6
	Manufacturing (ISIC 3)	42.0	31.2	28.6
7	Domestic tariff peaks (as a percentage of all tariff lines)[c]	0.6	0.1	0.0
8	International tariff peaks (as a percentage of all tariff lines)[d]	99.6	96.1	88.7
9	Overall standard variation in applied rates	18.2	8.1	8.6
10	"Nuisance" rates (as a percentage of all tariff lines)[e]	0.0	0.0	0.0

a WTO Agreement on Agriculture.
b Excluding petroleum.
c The domestic tariff peaks correspond to duties that are higher than three times the simple average of all the applied rates (indicator 6).
d The international tariff peaks correspond to duties that exceed 15 per cent.
e The "nuisance" rates are rates of over 0 per cent but not exceeding 2 per cent.

Note: Indicators 6 to 10 are calculated on the basis of the lines for which an *ad valorem* rate was taken into account.

Source: WTO Secretariat calculations, based on data provided by the Djibouti authorities.

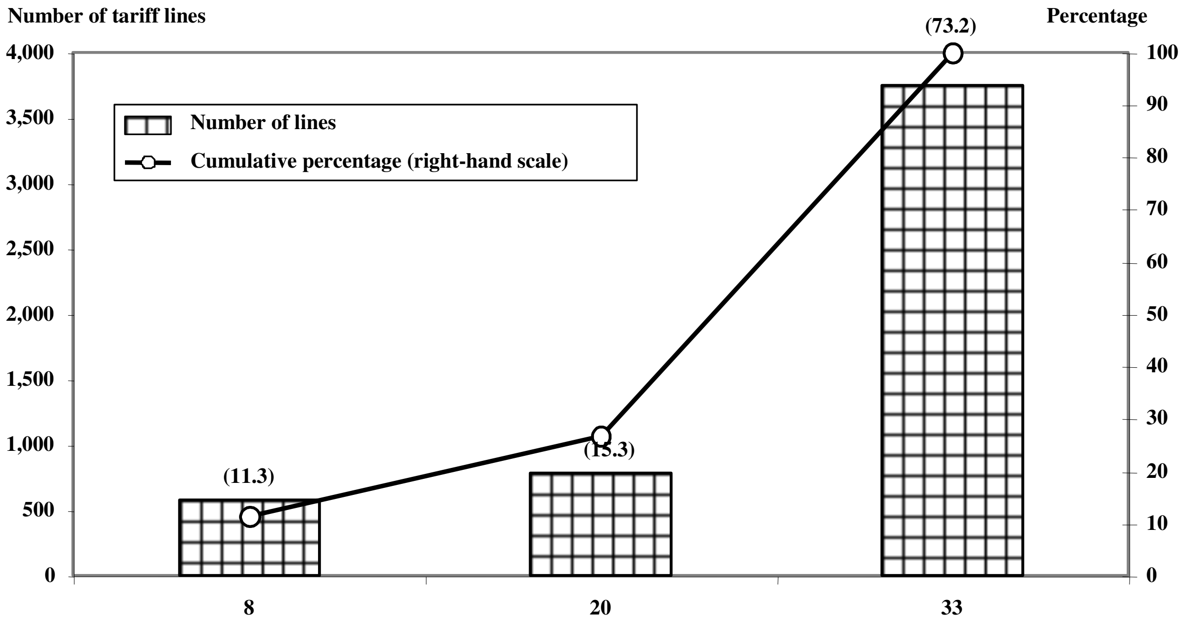
Applied MFN duties

17. The TIC, assimilated to the applied MFN customs duty, comprises six rates: 33 per cent on "luxury" goods; 20 per cent on intermediate goods; 10 per cent on alcohol in transit or for transhipment; 8 per cent on staple food products, pharmaceuticals, vehicles, clothing, household electrical goods and capital goods; 5 per cent on tobacco in transit or for transhipment by dhow (small sailing ship); and 0 per cent on banknotes and coins. The simple arithmetic average of these rates was 28.2 per cent in 2005 compared with 30.8 per cent in 1999. The modal rate (the most common) is 33 per cent and applies to over 70 per cent of the total number of lines (Chart III.1).[10] In other words, the majority of imported goods are deemed to be luxury products and this is clearly reflected in the coefficient of variation of 0.3, which indicates low dispersion of rates.

18. Non-agricultural products (according to the WTO definition) receive the highest protection, with an average rate of 29.1 per cent, compared with 22.5 per cent for agricultural products (Table III.2). The average rate remains relatively low in the agricultural sector (20.9 per cent) compared with the manufacturing sector (28.6 per cent) and mining (30.6 per cent), when using the International Standard Industrial Classification (ISIC, revision 2).

[10] This applies to lines in the following 1992 HS chapters: 05, 06, 09, 12 to 15, 17, 18, 20, 22, 24 to 30, 32 to 60, 63, and 65 to 97.

Chart III.1
Breakdown of applied MFN duties, 2005



Note: The figures within brackets correspond to the percentage of all lines. The amount is below 100 because seven lines of the HS do not have any rate in the list provided by the Djibouti authorities.

Source **: WTO Secretariat calculations based on data provided by the Djibouti authorities.**

Table III.2
Brief analysis of the MFN tariff, 2005

Description	Number of lines[a]	Rates applied in 2005				
		Number of lines used	Simple average of duties (per cent)	Range of rates (per cent)	Standard variation (per cent)	Coefficient of variation
Total	5,118	5,111	28.2	8-33	8.6	0.3
By WTO definition[b]						
Agriculture	737	734	22.5	8-33	9.9	0.4
Live animals and animal products	76	76	17.5	8-20	4.9	0.3
Dairy products	20	20	17.6	8-20	4.9	0.3
Coffee, tea, cocoa, sugar, etc.	131	130	23.4	8-33	7.9	0.3
Plants and cut flowers	38	38	27.7	8-33	10.3	0.4
Fruit and vegetables	148	147	14.5	8-20	6.0	0.4
Cereals	18	18	8.0	8	0.0	0.0
Oilseeds and fats	76	76	21.4	8-33	9.6	0.4
Beverages and alcohol	40	39	33.0	33	0.0	0.0
Tobacco	60	60	33.0	33	0.0	0.0
Other agricultural products	130	130	27.4	8-33	10.4	0.4
Non-agricultural products (excluding petroleum)	4,367	4,363	29.1	8-33	8.0	0.3
Fish and fish products	108	108	20.1	8-33	2.1	0.1

Table III.2 (cont'd)

Minerals, precious stones and metals	336	334	27.9	8-33	8.0	0.3
Metals	607	607	32.4	20-33	2.8	0.1
Chemicals and photographic products	822	821	32.0	8-33	4.5	0.1

Description	Number of lines[a]	Rates applied in 2005				
		Number of lines used	Simple average of duties (per cent)	Range of rates (per cent)	Standard variation (per cent)	Coefficient of variation
Leather, rubber, footwear, travel articles	140	140	30.2	8-33	5.7	0.2
Wood, wood pulp, paper and furniture	247	246	30.6	8-33	6.2	0.2
Textiles and clothing	816	816	23.0	8-33	10.2	0.4
Transport equipment	122	122	29.3	8-33	8.9	0.3
Non-electrical machinery	512	512	27.8	8-33	10.1	0.4
Electrical machinery	237	237	31.5	8-33	5.9	0.2
Non-agricultural products n.e.s.	420	420	32.8	8-33	2.3	0.1
By ISIC sector[c]						
Agriculture, hunting, forestry and fishing	296	295	20.9	8-33	11.2	0.5
Mining and quarrying	107	107	30.6	20-33	5.1	0.2
Manufacturing	4,714	4,708	28.6	8-33	8.2	0.3
By stage of processing						
Raw materials	637	636	25.1	8-33	10.3	0.4
Semi-processed products	1,678	1,674	28.7	8-33	8.8	0.3
Finished products	2,803	2,801	28.6	8-33	7.8	0.3

a This analysis is based on a reduced number of lines as seven HS lines were not included in the tariff provided by the Djibouti authorities.

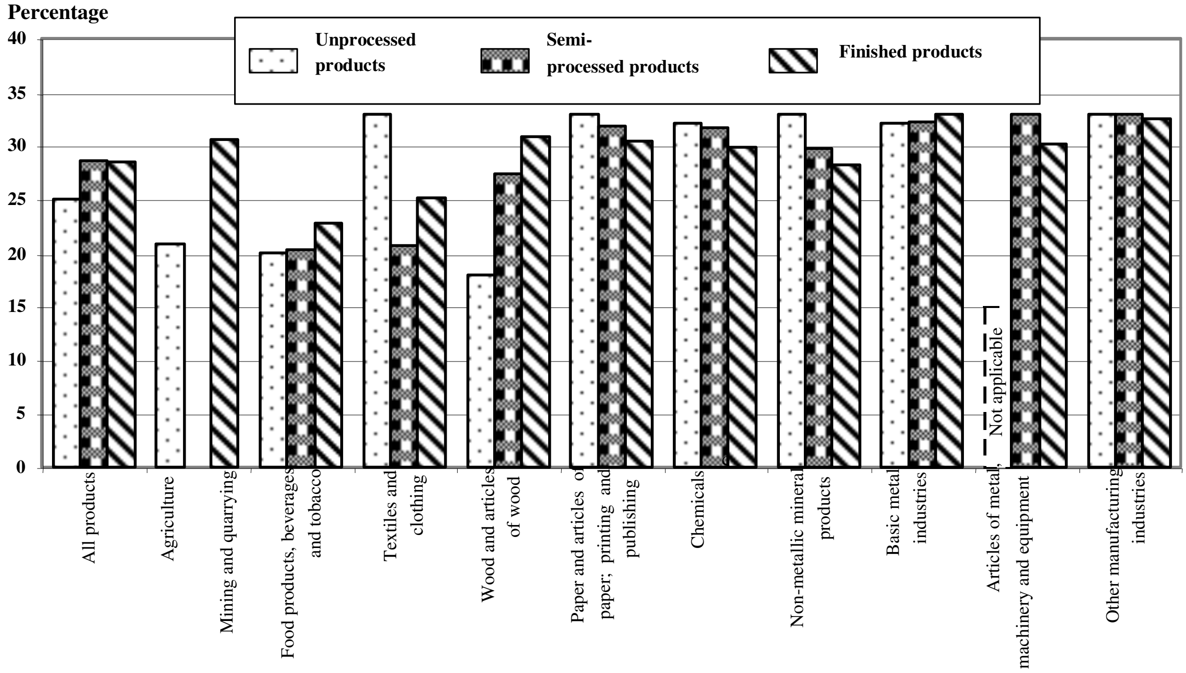
b There are 14 tariff lines that do not come under either the WTO definition of agricultural products or that of non-agricultural products (these are mainly petroleum products).

c International Standard Industrial Classification of All Economic Activities (revision 2). Excluding electricity, gas and water (one tariff line).

Source: WTO Secretariat estimates, based on data provided by the Djibouti authorities.

19. In general, duties show mixed escalation with average rates ranging from 25.1 per cent on products at the first stage of processing to 28.7 per cent on semi-finished goods and 28.6 per cent on finished goods. The escalation of duties is negative in the paper industry; the chemical, petroleum, coal, rubber and plastics industries; some non-metallic minerals industries; industries manufacturing metal articles, machinery and equipment; and other manufacturing industries. As far as the textile and clothing industry is concerned, escalation is mixed, with average duties of 33 per cent on unprocessed products, 20.8 per cent on semi-finished products and 25.2 per cent on finished goods (Chart III.2).

Chart III.2
Escalation of duties, 2005



Note: **The groups of products are defined by the two-digit ISIC.**

Source **: WTO Secretariat calculations, based on data provided by the Djibouti authorities.**

(c) Other duties and levies

20. In addition to the customs duty (TIC), a general solidarity tax (IGS) of 5 per cent is levied on all imports by persons not in possession of an importer's licence. An IGS of DF 100 and another tax of DF 50 is levied on each gross kilogram of khat imported or produced locally. In addition, a business licence contribution of DF 8.4 is levied on each gross kilogram of khat imported or produced locally. This is increased by 7 per cent for the community centime tax levied on behalf of the Djibouti Chamber of Commerce. A special solidarity tax for the Somalian people (Law No. 77/AN/00/4èmeL), introduced to finance reconciliation with Somalia, was levied on imports in 2000, but is no longer in force.

21. Surcharges (*ad valorem* and standing) apply to tobacco; alcohol; petroleum products; khat; mineral waters and non-alcoholic beverages; fruit and vegetable juices (whether imported or produced locally) for consumption. These surcharges are indicated in Table III.3.

22. A tax also applies to petroleum oils imported or produced locally. Its rate is determined according to the monthly price structure for each product, depending on the trend in petroleum prices for the previous month. There is also a tax on the sale of hydrocarbons for A1 jet fuel amounting to DF 5 per litre and on hydrocarbons (in transit to Somalia), at a rate of DF 32.13 per litre of premium and regular gasoline and DF 7.23 for diesel fuel.[11]

Table III.3
Surcharges applied in 2005

Product	Rate
Tobacco	

[11] Order No. 93-0665, 29 June 1993.

Product	Rate
Manufactured tobacco	54 per cent
Tobacco extracts and essences	54 per cent
Alcohol	
Beer	DF 4,700/litre of pure alcohol
Grape must	DF 4,700/litre of pure alcohol
Ordinary grape wine	DF 100/litre
Other grape wine	160 per cent
Vermouth and other similar wines	160 per cent
Cider and other fermented beverages	DF 4,700/litre of pure alcohol
Undenatured ethyl alcohol	DF 4,700/litre of pure alcohol
Compound alcoholic preparations	DF 4,700/litre of pure alcohol
Other spirits	DF 4,700/litre of pure alcohol
Toilet water containing alcohol	DF 300/litre of pure alcohol
Perfumes and perfume extracts containing alcohol	DF 2,500/litre of pure alcohol
Petroleum products	
Regular gasoline and premium gasoline	DF 49.5/litre
Diesel fuel	DF 6/litre
Kerosene	DF 14/litre
Lubrifying oils, brake oil, grease	DF 100/net kg.
Khat	
Khat	DF 561/gross kg.
Mineral waters and non-alcoholic beverages	
Natural or artificial mineral waters	DF 14/litre
Aerated waters whether or not containing added sugar or other sweetening matter or flavoured	DF 14/litre
Other non-alcoholic beverages	DF 14/litre
Fruit and vegetable juices	
Fruit juice	DF 160/net kg.
Vegetable juice	DF 160/net kg.

Source: Law No. 108/AN/00/4èmeL of 29 October 2000 reforming the General Tax Code.

23. As part of the reforms to prepare Djibouti for the adoption of the COMESA's CET, the Government is planning to eliminate the TIC at the appropriate time and to introduce a value-added tax (VAT). According to the authorities, studies are being carried out to assess the impact of these reforms.

24. For imports, the basis for levying internal taxes is the c.i.f. price, to which are added shipping costs (unloading, handling, landing fees). For domestic products, the taxable base is the unit cost of production, with the possible addition of other costs; the taxable value may also be based on reference prices.

(d) Tariff preferences

25. As part of the COMESA free trade zone since 1 November 2000, Djibouti should grant duty-free access to imports originating in the other countries. Nevertheless, the TIC, which Djibouti considers to be a domestic tax even though in practice it serves as a customs duty, is not the subject of preferences. Consequently, Djibouti does not grant any import preferences to any country.

(iii) Duty and tax concessions

26. Law No. 108/AN/00/4èmeL provides for the following: definitive import (putting up for consumption with or without payment of the TIC) and definitive re-import; suspensive regime (temporary entry, transit and warehousing); export and re-export (section (3)(v) below).

27. Under the definitive import regime, the following goods are exempt from taxes and surcharges: (i) effects and objects being utilized, including the personal furnishings of foreigners taking up residence in the Republic of Djibouti or nationals returning permanently from abroad; (ii) tools, instruments, agricultural, industrial or commercial machinery belonging to persons or enterprises that have ceased operating abroad and transfer their facilities or industry to the Republic of Djibouti; (iii) samples of no commercial value; (iv) free medical samples marked as such, sent to physicians or hospital units by pharmaceutical laboratories; (v) advertising articles sent by suppliers without any financial payment and distributed free of charge, provided that they show the advertisement and with the exclusion of tobacco or alcohol; (vi) packages of no commercial value; (vii) supplies for schools approved by the Government and distributed free of charge to pupils; (viii) wheat flour, yeast and improvers to be used in bakeries; (ix) objects and goods intended for diplomatic and consular services or international organizations; and (x) objects and goods for the foreign army units stationed in Djibouti, enterprises approved under the Investment Code, the Djibouti-Ethiopian railway and companies operating cinemas.[12]

28. Goods under the regime suspending taxes, surcharges and other duties must be covered by a bond with the requisite guarantees.[13] The suspensive regime may be applied in a number of cases. Under the ordinary temporary entry regime (with suspension of taxes and surcharges), goods intended for the following uses may be imported: processing, working or additional labour; repair; or use in the same state. Goods entering under the ordinary temporary entry regime, including goods processed under this regime, are in principle intended for export. A special temporary entry regime allows the partial suspension of taxes and surcharges on imports of machinery, appliances and motors, including transport vehicles, with the exception of private vehicles, used to carry out works. At the time of import, the importer must make arrangements for their re-export or storage (before expiry of the period fixed).

29. Suspension of taxes, surcharges or other levies is also possible when goods are imported or exported for transit and for imports intended for a free zone (section (3)(v)). The same applies to private warehouses (under customs administration control) where goods are only subject to handling and warehousing fees. The goods may remain in the warehouse for two years.

30. The law provides an industrial warehousing regime for preparation of goods (with suspension of taxes and surcharges) by enterprises producing for export or the domestic market.[14] This regime, however, is not used. Under the special storage regime for hydrocarbons, enterprises storing hydrocarbons, linked by pipeline to port installations, may store the goods imported with suspension of the taxes and surcharges applicable.

31. Goods for which taxes, surcharges and other duties have been suspended may be the subject of a certain degree of treatment under clearly defined conditions. If they are put up for consumption (in Djibouti), goods that enter under a suspensive regime must pay the taxes, surcharges and other levies applicable. In private warehouses, and in the special hydrocarbons storage depot, such treatment is in principle prohibited.

32. Goods re-imported in the same state by the original exporter or on his behalf are free of taxes and surcharges.

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[12] Title VIII, sections II to V of Law No. 108/AN/00/4èmeL of 29 October 2000 reforming the General Tax Code.

[13] The bond includes, in addition to a detailed description of the goods, a commitment on the part of the principal concerned and his commitment to meet, within the fixed period and on penalty of legal proceedings, the requirements in the legislative or regulatory texts.

[14] This regime is granted under an order which determines the duration for which it is approved and, where appropriate, the volume of goods eligible for it, the time allowed in the warehouse and the respective percentages of "compensatory products" that must be exported outside Djibouti and those which may be consumed in the country.

(iv) Rules of origin

33. Djibouti does not have any non-preferential rules of origin. The COMESA Treaty, which Djibouti has signed, provides preferential rules of origin (Chapter II(5)(ii)(a)). The Djibouti Chamber of Commerce issues certificates of origin for Djiboutian products eligible for non-reciprocal preferences for export or goods in transit. For COMESA products, certificates are issued by the MCI.

(v) Prohibitions, quantitative restrictions and import licences

34. As a general rule, the import of any product deemed dangerous for public order, security, the population's health or the environment is prohibited, unless the competent authority issues a waiver. The prohibitions are in general those contained in the international agreements to which Djibouti is party, namely, CITES[15], the Stockholm Convention[16], and the Rotterdam Convention.[17] In practice, the import of goods covered by these agreements generally requires a licence. This applies to endangered species of wild fauna and flora (Annex I to the CITES), and products covered by the Montreal Protocol on CFCs (chlorofluorocarbons).[18]

35. According to current legislation, the only products whose import is specifically banned are right-hand drive vehicles[19], and non-biodegradable plastic bags.[20] Cattle feed requires an authorization from the MCI in order to protect a domestic industry that is currently being liquidated. Imports of medicines, arms and ammunition are subject to licences issued by the Ministry of Health and the Ministry of the Interior, respectively. Import of khat requires a licence issued by the MCI; it may only be imported by air or by land through the Galilée border post (Ali-Sabieh district).[21]

36. According to the authorities, Djibouti does not apply any quantitative restrictions on imports.

(vi) Anti-dmumping, countervailing and safeguard measures

37. The Republic of Djibouti does not have any legislation on, and has not taken any, anti-dumping, countervailing or safeguard measures.

(vii) Standards and other technical requirements

(a) Standards, testing and certification

38. The *Service de contrôle de la qualité et des normes* (Quality Control and Standards Unit) (*Direction du commerce, des normes et de la qualité* (Department of Trade, Standards and Quality)) in the Ministry of Trade, Industry and Handicrafts was set up with a view to the following: protecting consumers; promoting exports; defending fair competition among traders and suppressing fraud; drawing up and publishing standards; certifying products and processes; quality assurance; testing (laboratory analyses); metrology (weights, measures, volume); accrediting laboratories; and taking part in international work on standardization and related activities. The tasks given to this Unit are divided between two sections, namely, the standardization section and the quality control section. The Unit acts as the focal point and the notification authority in the context of the WTO Agreements

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[15] Convention on International Trade in Endangered Species of Wild Flora and Fauna.

[16] Stockholm Convention on Persistent Organic Pollutants.

[17] Rotterdam Convention on the Prior Informed Consent Procedure.

[18] Decree No. 2004-0066/PR/MHUEAT of 22 April 2004. The import of refrigeration appliances containing the substances mentioned in Annex II will be banned as of 2010.

[19] Order No. 97-0760/PRE of 17 November 1997.

[20] Order No. 99-0059/PR/MCI of 14 January 1999.

[21] Order No. 92-0359/PRE of 20 April 1992.

on SPS measures and technical barriers to trade. It is empowered to issue permits, licences and marketing authorizations.[22]

39. In spite of this institutional framework, until recently very little had been done with regard to standardization, technical regulations, testing, certification and control in the Republic of Djibouti. Consequently, activities in these areas remain marginal and Djibouti has few technical regulations.[23] In 2002, however, a committee was set up to review standardization with the intention of drawing up domestic legislation in the following areas (although it has had little success so far): (i) protecting consumers and suppressing fraud; (ii) standardization; and (iii) metrology.[24]

40. A project to introduce a legal metrology system is being implemented with UNIDO financing. The objective is to introduce a system for controlling and calibrating measuring instruments used by retailers and industrialists.[25] In December 2004, a metrology laboratory was set up within the Ministry of Trade. It has not yet started to operate because the MCI is preparing new legislation on metrology.

41. Salt and water are the two products currently subject to technical regulations (mandatory standards). Djibouti is considering joining the African Regional Organization for Standardization (ARSO) and the International Organization for Standardization (ISO).

(b) Sanitary, phytosanitary and environmental measures

42. Djibouti has ratified a number of international conventions relating to sanitary and phytosanitary matters and environmental protection: the Framework Convention on Climate Change and the related Kyoto Protocol; the Convention to Combat Desertification; the International Plant Protection Convention; the Convention on Biological Diversity and the Cartagena Protocol on Biosafety; the Phyto-sanitary Convention for Africa; the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Ozone-Depleting Substances; the Stockholm Convention on Persistent Organic Pollutants; the Rotterdam Convention on the Prior Informed Consent Procedure; the Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal; the Ramsar Convention on Wetlands; and the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES).[26]

43. As a general rule, any material liable to introduce disease and/or infections may not be imported into the Republic of Djibouti. The same applies to hazardous waste. According to the legislation in force, in order to be recognized as suitable for consumption, animal foodstuffs or foodstuffs of animal origin, whether imported or produced domestically, must meet certain microbiological and chemical criteria established in orders.[27] The criteria are in principle controlled according to defined procedures. In addition, iodized salt may not be marketed/imported unless it is

[22] Law No. 102/AN/700/4$^{\text{ème}}$L of 25 October 2000, on the organization and operation of the Ministry of Trade, Industry and Handicrafts.

[23] Technical regulations are published in the form of presidential decrees.

[24] Order No. 2002-0757/PR/MCI of 17 October 2002 establishing the *Comité de réflexion sur la normalisation* (Committee to review standardization).

[25] UNIDO (2003).

[26] Available at: http://www.presidence.dj/page460.html [12 April 2005].

[27] Orders No. 2000-0727/PR/MAEM and No. 2000-0728/PR/MAEM of 23 September 2000. The foodstuffs are: (i) meat; (ii) ready-minced meat, cooked meats, delicatessen products, dumplings, pre-cooked dishes, dehydrated soups; (iii) poultry meat; (iv) fish products; (v) egg products, cakes, custards; (vi) fermented milk (yoghourt, kefir), jellied milk, pasteurized fresh cheese, pasteurized fresh cream; ices and ice creams, casein and caseinates; (vii) cans of animal foodstuffs or foodstuffs of animal origin; and (viii) processed animal foodstuffs or foodstuffs of animal origin.

accompanied by a quality certificate showing the iodine content, set between 20 to 40 mg/kg. (or between 34 and 66 mg/kg. of potassium iodide).[28]

44. The import and sale of non-biodegradable plastic bags has been strictly prohibited since 31 January 1999[29]; however, such bags are still being imported. Trade in (as well as hunting and capturing of) all wild species, their carcasses, skins and trophies are prohibited in the Republic of Djibouti. If they are in transit through Djibouti, animals listed in Annex I to the CITES or their products must be covered by a CITES export permit issued by the country of origin of the animals/products and by a CITES import permit issued by the country of destination.[30] The import of toxic or hazardous substances requires a special authorization from the Ministry responsible for the environment. Transport, storage, sale and use of these substances must comply with the conditions defined by the Ministry.

45. The import of products on Lists A(1) and (C) of the Annexes to the Montreal Protocol is subject to annual quotas defined and administered by the Ministry responsible for the environment, by means of a prior authorization granted subject to an opinion by the Minister for Trade and in consultation with the National Ozone Committee. The import of refrigeration appliances, whether used or new, containing certain (specified) ozone-depleting substances will be prohibited as of 2010.[31] The appliances concerned are the following: mobile air-conditioning equipment for cars, lorries (whether or not incorporated into the vehicle); refrigeration and air-conditioning appliances, heat pumps for domestic or commercial use (refrigerators, ice-cream machines, freezers, dehumidifiers, water coolers, machines for manufacturing heat pumps); sprays other than those used for medicinal purposes; portable fire extinguishers; compressors for refrigerators; freezer cabinets, chest-type refrigerators, of a capacity not exceeding 800 litres; freezer cabinets, cupboard-type refrigerators, of a capacity not exceeding 900 litres; and other material, equipment or appliances for refrigeration.

46. Marketing of packaged or bottled waters for human consumption is subject to a marketing licence (valid for one year) issued by the Quality Control and Standards Unit, on the basis of a conformity certificate attesting that the national standards fixed have been met, following laboratory tests. Imported water must be accompanied by a sanitary certificate and a certificate of conformity with the national standards set. For each first application to import, the Quality Control and Standards Unit undertakes analyses to control the product. A fee is payable for issue of the documents amounting to DF 5,000 for the conformity certificate and DF 15,000 for the marketing licence.[32]

47. The following products are subject to sanitary inspection upon export: live animals, cattle, abattoir by-products, stuffed animals or trophies; shells, mother of pearl and corals; shellfish; and hides and skins. Ivory and animal skins must be accompanied by a certificate of origin and a health certificate issued by the country of origin. Food products of animal origin must be accompanied by a sanitary certificate upon both import and export.

(c) Marks, labelling and packaging

48. Labels on bottles of natural mineral water or spring water must show the geographical origin of the underground source from which they come; the content in dissolved mineral salts and ion fluoride (expressed in parts per million – ppm); the detailed composition of the eight major elements; the pH and total mineral content; the serial number; and, where applicable, whether fluorine or

[28] Decree No. 97-0189/PR/MS of 27 December 1997, as amended by Decree No. 2002-0095/PRIMCIA of 2 June 2002.
[29] Order No. 99-0059/PR/MCI of 14 January 1999.
[30] Decrees No. 2001-0098/PR/MHUEAT of 27 May 2001 approving the strategy and national action programme for the conservation of biodiversity and No. 2004-0065/PR/MHUEAT of 22 April 2004 on the protection of biodiversity.
[31] Decree No. 2004-0066/PR/MHUEAT of 22 April 2004.
[32] Decree No. 2001-0010/PR/MCIA of 15 January 2001 regulating packaged waters for human consumption, and Order No. 2002-0420/PR/MCIA of 2 June 2002.

nitrogen has been added. In addition to these basic indications (with the exception of any additions and the source of origin), labels on mineralized waters must show the date of production and the sell-by date, as well as the origin of the untreated water and any treatments it has undergone. Water to which minerals have been added and intended for consumption must be distinguished from natural mineral water or spring water.[33] A law on labelling is currently being drafted.

49. The packaging of iodized salt for human consumption must bear the following indications: iodized cooking salt, the net weight, the mode of storage, the date of manufacture and the number of the batch, the company name and the address of the manufacturer.[34] In addition, the packaging of hazardous chemicals must show the symbols and information concerning the hazard and indicate safety measures.[35]

(viii) Government procurement

50. In Djibouti, government procurement is governed by Law No. 75/AN/95/3ème L of 14 February 1995 applicable to contracts for works, supplies, transport and services. It provides for three ways of awarding contracts, namely, open bidding procedures, restricted bidding procedures and simple agreement. The contracting authority draws up, prepares and publishes the invitation to tender according to the method adopted, but must justify its choice to the *Commission nationale des marchés publics* (National Government Procurement Commission) (CNMP). Ministries may award contracts for an amount not exceeding DF 5 million (US$28,090) by means of a purchase order. For such contracts, at least three pro-forma invoices must be compared, and the contract awarded to the lowest bidder.

51. The most commonly used method of awarding contracts is an open bidding procedure, which is mandatory for amounts exceeding DF 15 million (US$84,270). Where the contract has special features, a restricted bidding procedure is used. The contract is awarded to the bidder deemed capable of carrying out the contract whose bid complies with the criteria laid down and is the lowest. The simple agreement procedure mainly applies to purchases which, for reasons of emergency, may not be delayed. The CNMP organizes public sessions for opening the bids, which all bidders may attend. It is not obliged to give its reasons or to inform those whose bids have not been accepted.

52. The law provides for a preference of 7.5 per cent to 15 per cent (of the price) for domestic suppliers. Contracts financed by international institutions are subject to the procedures they impose. Notice of invitations to tender, as well as the notice of award of the contract, are published in the newspaper "*La Nation*", which is published three times a week. Appeals against the award of contracts may be lodged with the Administrative Court.

53. Djibouti is neither a party nor an observer to the plurilateral agreement on government procurement and has not announced its intention to accede to it.

(ix) Other measures

54. According to the authorities, Djibouti is not involved in any barter agreements nor in any export restraint agreements. There are no mandatory reserves for any product.

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[33] Decree No. 2001-0010/PR/MCIA of 15 January 2001 and Order No. 2002-0420/PR/MCIA of 2 June 2002.

[34] Decrees No. 97-0189/PR/MS of 27 December 1997 and No. 2002-0095/PR/MCIA of 2 June 2002.

[35] Decree No. 2003-0212/PR/MHUEAT of 18 October 2003.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Registration and documentation

55. All goods exported must be the subject of a detailed declaration made to the DDDI in order to place them under a regime. Ministerial orders determine the form and content of the declarations and the documents that must be attached thereto.[36] Status as a trader gives the right to engage in import, export and re-export transactions. According to the authorities, producers are free to export or re-export their products provided that there is no shortage of these on the domestic market in the case of staple goods. The exceptions are coral and sawn timber (section (iii) below).

(ii) Export taxes

56. Djibouti levies an export tax of DF 500/tonne on salt.

(iii) Export prohibitions, restrictions and licences

57. In Djibouti, the export of sawn timber and coral is prohibited. According to the authorities, apart from the restrictions imposed under the international agreements signed by Djibouti (section (2)(vii)(b) above), there are no other export restrictions.[37] Djibouti does not currently require export licences.

(iv) Voluntary export restraint

58. According to the authorities, Djibouti has not concluded any voluntary export restraint agreements for any products.

(v) Free zones

59. The free zone regime provides a number of benefits; however, its objectives are far from having been achieved (Chapter II(7) and Table II.2). There were numerous laws which the establishment of a free-zone port authority and a new Free Zone Code terminated. Nevertheless, the free zone is still in its early stages, which explains the lack of statistics on its activities.

60. In the free zone, taxes and surcharges payable for consumption are suspended. They become payable if the goods are imported from the free zone to Djiboutian customs territory. With the exception of fairs, retail sale is not allowed in the free zone. Under the new Code, all operations are authorized in the free zone. Operations authorized under the former regime included the following: assembling, preparing, packaging, cleaning, sorting, mixing, screening, separating, roasting, crushing, grinding, spraying, or any other processing or complementary labour.

(vi) Export subsidies, export promotion and financing

61. According to the authorities, Djibouti does not subsidize its exports. The main export promotion measures are the incentives described in the Investment Code (Chapter II(6)) and the customs regimes covered by Law No. 108/AN/00/4ème L reforming the General Tax Code (section (2)(iii)). While the industrial warehouse regime is applicable to all enterprises producing either for the domestic market or for export, the ordinary temporary entry regime allows the suspension of taxes and surcharges for exporting enterprises in particular.

62. For the moment, the MCI and the Chamber of Commerce are responsible for promoting exports. Nevertheless, there have only been marginal promotion activities through fairs.

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[36] Law No. 108/AN/00/4ème L.

[37] Decree No. 2004-0065/PR/MHUEAT of 22 April 2004 on the protection of biodiversity.

63. The African Trade Insurance Agency (ATIA), to which Djibouti has belonged since July 2004[38], was set up in 2001 and has been in operation since the beginning of 2002. It provides insurance facilities for periods of up to five years against the political risks of commercial transactions.[39] The target markets are foreign companies or member countries exporting goods and services to other members, as well as foreign banks and financial institutions which finance exports to member countries. The ATIA also offers credit insurance to cover the risk of non-payment on domestic or export markets for up to 90 per cent.[40] State-owned companies, semi-public companies or companies controlled by the State may also be covered, but independent entities are excluded.

64. The eligible transactions must usually involve cross-border movement of goods and services and be related to production in the member country.[41] More precisely, the transactions comprise the following: sale of goods and services on credit; confirmation of letters of credit; leasing; credit for companies' working capital; import and export of capital goods, goods to be stored with a view to sale or goods to be processed; and credits granted by a foreign or local lender. The maximum limit of the transaction to be insured varies according to the country; cover may extend to up to 100 per cent of the value of the transaction. For exports, the term of the facility is one year (although a longer period may be granted). The premiums are around 0.4 to 2.5 per cent per annum of the amount involved, with a minimum of US$250 for export transactions.[42] According to the authorities, exporters have not yet sought the services of the ATIA as Djibouti has only just joined it.

65. The Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC), of which Djibouti has been a member since July 2004[43], was set up in 1995 and offers the following: (i) export credit insurance against commercial and non-commercial risks; (ii) insurance or reinsurance of investment against non-commercial risks (country); and (iii) reinsurance of export credit agencies in member countries.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Incentives

66. The main incentives are those provided under the Investment Code and the free zone regime (Chapter II(6) and (7)). In addition, faced with a lack of finance, in 2002 the *Fonds de développement économique de Djibouti* (Djibouti Economic Development Fund) (FDED) was set up. Its main objectives are the following: (i) to finance the private sector's development projects or programmes through direct loans but also through technical assistance, particularly for preparing projects, with priority being given to the development of agricultural and livestock activities, fishing, tourism, services and small and medium-sized industries processing domestic raw materials; and (ii) to

[38] Law No. 70/AN/04/5èmeL of 3 July 2004. The founding members of the ATIA, whose head office is in Nairobi, are: Burundi, Kenya, Malawi, Rwanda, Uganda, the United Republic of Tanzania and Zambia. All African countries may belong to it.

[39] The following are some of the political risks covered: war and civil disturbances in the country of the buyer or the transit country; embargoes or any other sanctions imposed by the United Nations Security Council or any measures having equivalent effect; action or failure to act by the government leading to the non-convertibility of the local currency or inability to transfer currency abroad; imposition of exchange controls; inability to purchase foreign currency with the national currency of the country of the buyer and/or the country of transit; expropriation, attachment of goods, ban on sales or export for reasons other than public health, safety, well-being or environmental protection; government interference in entities that have guaranteed obligations; cancellation of import or export licences; import or export restrictions; discriminatory imposition or increase of import and export taxes; interference (including by the government) in the shipment of the goods; risk of diversion. Natural disasters are not covered.

[40] The ATIA is associated with Gerling NCM, the second largest credit insurer in the world.

[41] The goods must originate in a member country (with the possibility of regional origin).

[42] WTO (2004).

[43] Law No. 71/AN/04/5èmeL of 3 July 2004. Available at: http://www.isdb.org/french_docs/idb_home/q_ans6.htm#114 [7 April 2005].

finance projects that present sufficient guarantees of financial balance and are likely to promote the country's socio-economic development.[44]

67. The FDED is a public enterprise of a commercial nature whose task is to promote the private production sector. It gives potential promoters loans amounting to DF 3 to 50 million to be refunded over a period ranging from five to 12 years on preferential terms not exceeding 8 per cent (5 per cent or lower for the primary sector). The FDED's resources come chiefly from a capital contribution from the State (DF 300 million) and lines of credit from international organizations, such as the Kuwaiti Arab Economic Development Fund (US$5 million), to finance SMEs.[45] The eligibility criteria for loans are the profitability of the project, its economic impact on job creation and in terms of import substitution and the priority nature of the investment sector for the country. The FDED comes under the Ministry of Finance and is supervised by the Central Bank. At the time of finalizing this report, the FDED had not yet financed any projects but had received some hundred applications.

68. In order to restructure and extend the scope of "alternative financing", the *Fonds social de développement* (Social Development Fund) (FSD), financed by the African Development Bank, was set up in 2000. Its objective is to support the Government's efforts to alleviate poverty by granting loans, providing basic social services and building institutional capacity. The Fund gives lines of credit to non-governmental organizations (NGOs) at an interest rate of 3 per cent. The latter then grant loans, at an 18 per cent rate of interest, to micro-entrepreneurs, who form solidarity groups.[46]

(ii) Competition policy and price controls

(a) Competition policy

69. Djibouti does not have any special law on competition. The Government plans to draft one, but for the moment the relevant national technical competence is lacking. The Commercial Chamber of the Court of First Instance rules on competition disputes on a case-by-case basis. A regional competition policy is being introduced within the COMESA framework (Chapter II(5)(ii)(a)).

70. According to some sources, the lack of a competition policy is being exploited by institutions such as banks through the interest rate on the loans they grant.

(b) Price regulation and controls

71. Currently, the price of common bread[47], telecommunications, electricity and water services, postal services and urban transport are controlled by the State.[48] The price of petroleum products at the pump was determined by presidential decree until 1999; currently, the price structure is drawn up by the Ministry of Finance and discussed with private operators. The profit margin on medicines and minor medical articles (essentials) is controlled by the *Centrale d'achat des médicaments et matériels essentiels* (Central Procurement Agency for Essential Medicines and Materials) (CAMME), whose objectives are, *inter alia*, to ensure that health units in the public and semi-public sectors, as well as those in the non-profit-making private sector, can obtain essential medicines and medical goods at a social price that is nevertheless sufficient to allow operations and to build up reserves to cover fluctuations in the market price of pharmaceuticals. The CAMME is responsible for approving the

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[44] Decrees No. 2000-0140/PRE of 30 April 2000; No. 2002-0133/PR/MEF of 7 July 2002; No. 2003-0034/PR/MEF of 3 March 2003; No. 2003-0168/MEFPCP of 14 August 2003; and Order No. 2002-0486/PR/MEFCP of 7 July 2002.

[45] Line of credit granted at a rate of 2.5 per cent for 20 years, with a grace period of five years.

[46] Decree No. 2000-0140/PR/MESN of 29 May 2000. Currently, eight of the nine micro-credit institutions are operating in partnership with the FSD.

[47] Decree No. 2004-0130/PR/MCIA of 14 July 2004 fixes the selling price of a loaf of bread at DF 20.

[48] Decree No. 2003-0031/PR/MCCC of 27 February 2003 and Order No. 2001-0021/PR/MAEM of 8 January 2001.

method for calculating the selling price of pharmaceuticals; determining the transfer price of essential medicines and the purchasing procedures; and organizing the management of the stocks.[49]

(iii) State enterprises and privatization

72. The State still plays an important role in economic activities. There are currently some 25 State-owned enterprises, of which only one has joint capital, while the rest are wholly owned by the State.[50] State-owned enterprises are active in industry (including the agro-food industry), mining, hotels, financial services, telecommunications and transport and warehousing services.

73. Law No. 130/AN/96/3èmeL[51] lays down the terms and conditions for the privatization of holdings, enterprises, assets or activities belonging to the public sector. A government corporation as such cannot be privatized. It must first be liquidated and its assets transferred to an existing State-owned company or one to be created, which can then be the subject of privatization. The conditions for liquidation and transfer of assets must be defined in a decree. The buyers cannot under any circumstances be made liable for the liabilities of privatized companies. A decision must be taken to this effect on a case-by-case basis in the privatization decree.[52] Each decree also states which of the following procedures or a combination thereof is to be used for privatization: (i) public offer of sale by transferring to the public shares in the companies to be privatized; (ii) restricted or open national or international bidding procedure for the transfer of blocks of shares, the majority or all the shares making up the capital of the companies to be privatized; (iii) restricted or open national or international bidding procedure for the transfer of operations or the granting of a concession or the leasing of the company or activities to be privatized; (iv) direct sale of all or part of the company, an activity or an asset to be privatized, on an exceptional basis and only when justified by the need to turn to buyers that have decisive advantages such as financial, technical and/or commercial capacity[53]; and (v) sale by public auction to the highest bidder for transfers of tangible assets, movable or fixed assets and equipment.

74. A "special share" in the capital of companies to be privatized may be established and held by the State for a maximum period of five years, giving it control through a right of veto over decisions by the board of directors. A right of preference may be granted to natural or legal private persons subject to Djiboutian law. In particular, the acquisition of 10 per cent of the total number of shares transferred may be reserved as a priority for those employed (for at least the past 24 months) by the privatized company at a price that is 25 per cent below the selling price to the public and with payment deferred for a maximum of three years. Employees of a public service, part of the central administration or a government corporation have a right of first refusal to buy all or part of the assets of the service being privatized, and have the same preferences as those mentioned above.

75. A *Comité national de privatisation* (National Privatization Committee) (CNP), under the supervision of the Minister for Finance, has been set up to implement the privatization programme. The CNP estimates the value of the companies to be privatized and the assets to be sold or transferred to the private sector, or orders such a valuation to be made. The privatization decrees are prepared by the Minister for Finance on the basis of the valuation reports.

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[49] Decrees No. 2004-0059/PR/MS of 13 April 2004, No. 97-0039/PR/SP of 3 April 1997 on the publication and requirements for updating the list of essential medicines, and Order No. 2003-0526/PR/MS of 8 July 2003.

[50] State-owned enterprises are governed by Law No. 130/AN/96/3èmeL of 15 February 1997 establishing the terms and conditions for the privatization of State holdings, enterprises, assets or activities.

[51] Law of 15 February 1997 establishing the terms and conditions for the privatization of State holdings, enterprises, assets or activities.

[52] Article 5(c) of Law No. 130/AN/96/3èmeL.

[53] Use of this exceptional procedure can only be envisaged when it has been explicitly authorized and justified in the privatization decree.

76. The profits of such sales are kept in a special ex-budgetary account opened for this purpose in the Treasury's books, and are mainly used to finance expenditure directly related to privatization, particularly the payment of any restructuring costs, settlement of accounts and redundancy payments. If there are any annual surpluses in this ex-budgetary account, these are incorporated into the general budget during the next financial year.

77. The privatization process began in 1997 and originally envisaged the sale of 13 enterprises or institutions.[54] To a certain extent the adoption on 23 September 2001 of Decree No. 2001-0191/PR/MEFPP on the privatization strategy for the major infrastructural enterprises managed by the State has revived the implementation of the privatization programme.[55] Between 1997 and September 2005, two enterprises were privatized (*Pharmacie de l'Indépendance* and the Djibouti Sheraton Hotel), three were the subject of a concession (port, airport and fishing port), four were liquidated and two are in the process of being liquidated. Three new State-owned enterprises were created, however (SIEMAS, cement works, CNC) (Table III.4).

78. In June 2000, a contract for the management and operation of port facilities (management concession agreement) for Djibouti International Autonomous Port (PAID) was granted to Dubai Ports International (DPI) for a period of 20 years. According to the Diagnostic Trade Integration Study, there do not appear to be any contractual obligations on the DPI to invest. The terms of this contract are confidential. Since 15 June 2002, the management of Djibouti International Airport has been given to the DPI for a period of 20 years.[56] In April 2004, operation of Djibouti's fishing port was entrusted to the Djibouti Maritime Management and Investment Company.[57]

Table III.4
State-owned enterprises, September 2005

Company	Activity	Share of the capital held by the State	Progress of the privatization project
Société industrielle des eaux minérales d'Ali-Sabieh (SIEMAS)	Sale and export of mineral water	100 per cent	New enterprise.
Société d'exploitation des eaux de Tadjourah (SEET)	Production of mineral water	100 per cent	Liquidated.
Cimenterie d'Ali-Sabieh	Cement	100 per cent	Being set up.
Imprimerie nationale de Djibouti	Printing	100 per cent	Financial situation being stabilized with a view to granting a concession or management contract.
Laiterie de Djibouti (LDJ)	Dairy products	100 per cent	Liquidated.
Pharmacie de l'Indépendance (PI)	Pharmacy		Privatized in 1999 through sale of assets after an international bidding procedure, sold to the highest bidder.
Société des aliments du bétail (SAB)	Production and marketing of cattle feed	100 per cent	Liquidated.
Compagnie nouvelle de commerce (CNC)	Production of ceramics	100 per cent	New enterprise.
Centrale d'achat des médicaments et matériels essentiels (CAMME)	Purchase and sale of medicines	100 per cent	..
Banque de développement de Djibouti (BDD)	Banking	100 per cent	Being liquidated.
Fonds de développement économique de Djibouti (FDED)	Financing	100 per cent	Not yet operating.
Électricité de Djibouti (EDD)	Electricity	100 per cent	Financial situation being stabilized with a view to granting a concession or

[54] Law No. 130/AN/96/3èmeL of 15 February 1997 and Decree No. 99-0077/PR/MFEN of 8 June 1999.

[55] Djibouti Électricité (EDD), *Office national des Eaux* (National Water Board) (ONED), Djibouti International Airport and Djibouti Télécom.

[56] Decree No. 2003-0041/PR/MET of 17 March 2003 approving the contract for management of the airport.

[57] Decree No. 2004-0027/PR/MEFPP of 25 February 2004.

Company	Activity	Share of the capital held by the State	Progress of the privatization project
			management contract.
Office national des eaux de Djibouti (ONED)	Water	100 per cent	Financial situation being stabilized with a view to granting a concession or management contract.
Djibouti Télécom (DT)	Telecommunications, fixed and mobile telephony	100 per cent	Being restructured. In October 1999, the national telecommunications activities of the former *Office des postes et télécommunications* (Post and Telecommunications Board) (OPT) were merged with the activities of the *Société des télécommunications internationales de Djibouti* (Djibouti International Telecommunications Company) (STID). Privatization envisaged (sale of shares) through a bidding procedure and the granting of a mobile telephony licence.
Table III.4 (cont'd)			
Port autonome international de Djibouti (PAID)	Port services	100 per cent	Since June 2000, the management and operation of the port facilities have been given to Dubai Ports International for a period of 20 years.
Port de pêche de Djibouti	Development of fishing and aquaculture	100 per cent	Since April 2004, a concession has been given to Djibouti Maritime Management and Investment Company.
Aéroport international de Djibouti (AID)	Airport	100 per cent	Since 15 June 2002, the management and operation of the airport facilities have been given to Dubai Ports International for a period of 20 years.
Chemin de fer Djibouti – Éthiopie.	Rail transport	Owned by the two States (50 per cent each)	Negotiations under way to allow a concession to be granted. Invitation to tender issued.
Poste de Djibouti	Postal services	100 per cent	Financial situation being stabilized with a view to granting a concession or management contract.
Société internationale des hydrocarbures de Djibouti (SIHD)	Petroleum	100 per cent	..
Société hôtelière d'État de Djibouti (SHED)	Hotel services	100 per cent	Being liquidated.
Djibouti Sheraton hôtel	Hotel services		Sale of the building to the *Société djiboutienne d'hôtellerie et du tourisme* (Djibouti Hotel and Tourism Company) (SODHET) in 1999
Office national d'approvisionnement et de commercialisation (ONAC)	Purchase and sale of foodstuffs	100 per cent	Liquidated
Société immobilière de Djibouti (SID)	Urban housing	100 per cent	..
Radio télévision de Djibouti (RTD)	Audiovisual	100 per cent	..

.. Not available.

Source: Decrees No. 99-0077/PR/MFEN of 8 June 1999 and No. 2001-0191/OR/MEFPP of 23 September 2001.

79. State-owned enterprises and semi-public enterprises are a heavy burden on the domestic economy, including on the State's budget. The majority of these enterprises are not in a position to generate the revenue they need to finance their day-to-day operations. In 1999, estimates showed an overall debt of DF 9 billion for the EDD; an operating deficit of DF 160 million for the ONED; and the operating loss of the airport amounted to DF 200 million in 1999, representing a cumulative sum of DF 820 million between 1994 and 1999.[58] This poor performance is mainly due to weak management, investment that is not very profitable or unprofitable and the State's arrears. According

[58] Decree No. 2001-0191/PR/MEFPP of 23 September 2001.

to the authorities, the financial situation of the EDD and the airport have improved since 2003. The strategy adopted in this respect consists of stabilizing their financial situation before a concession is granted rather than opening up their capital.

(iv) Protection of intellectual property rights

(a) Overview

80. Djibouti has been a member of the World Intellectual Property Organization (WIPO) since May 2002 and the African Intellectual Property Organization (OAPI) since 2001.[59] It has not ratified the revised Bangui Agreement. It has acceded to the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works.[60] Djibouti is considering acceding to the Madrid Protocol.

81. The ministries responsible for intellectual property-related matters are those in charge of industry (industrial property) and culture (copyright).

(b) Industrial property rights

82. Djibouti's industrial property legislation dates from the colonial era.[61] The law only covers trademarks and service marks. Consequently, other types of industrial property, including patents and industrial designs, are not protected.

83. Since Djibouti became independent, trademarks have been filed with the clerk of the court (Ministry of Justice). Parallel imports of products protected by trademarks are prohibited in Djibouti.

84. The WIPO undertook a mission in order to define priorities and a timetable for introducing the following: (i) legislation consistent with the relevant international texts; (ii) a national intellectual property office; and (iii) special training.[62] A draft industrial property law is currently being prepared with the assistance of the WIPO.

(c) Copyright and related rights

85. Law No. 114/AN/96/3èmeL of 3 September 1996 protects the following: (i) books, brochures and other written literary, scientific or artistic works; (ii) lectures, speeches, sermons, pleadings and other similar works; (iii) works created for the theatre or for broadcasting (sound or visual), whether dramatic or dramatico-musical, choreographic or mime works, whose representation is written or otherwise determined; (iv) musical compositions, with or without words, whether or not in written form; (v) drawings, paintings, engravings, lithographs; (vi) tapestries and objects made using artistic methods or the applied arts, whether sketches or models or the work itself; (vii) architectural works, both drawings and models and the building itself; (viii) sculptures, bas-reliefs and mosaics of all sorts; (ix) photographic works, to which are assimilated works made using a process similar to photography; (x) cinematographic works, to which are assimilated works made using a process similar to cinematography; (xi) geographical maps, illustrations, plans, sketches or three-dimensional

[59] Law No. 63/AN/94/3èmeL of 26 November 1994. The other members of the Bangui Agreement (1977) creating the OAPI are: Benin; Burkina Faso; Cameroon; Central African Republic; Chad; Republic of Congo; Côte d'Ivoire; Equatorial Guinea; Gabon; Guinea; Guinea-Bissau; Mali; Mauritania; Niger; Senegal; and Togo. The Bangui Agreement replaced the African and Malagasy Industrial Property Office, created in 1962 under the Libreville Agreement. Available at: http://www.wipo.int/clea/docs_new/en/oa/oa003fr.html [30 March 2005].

[60] Law No. 150/AN/02/4èmeL of 31 January 2002.

[61] French law of 31 December 1994. The French National Industrial Property Office (INPI) was also responsible for matters relating to trademarks and copyright in Djibouti.

[62] UNIDO (2003).

works relating to geography, topography, architecture or science; and (xii) works of national folklore and works based on such folklore.

86. Protection is given to authors and (where applicable) co-authors for their lifetime and for 25 years after the death of the last surviving author or co-author. In the case of a work published anonymously or under a pseudonym, rights are protected until the date on which the work is lawfully published for the first time. For cinematographic works, rights are protected until the expiry of a period of 25 years from the date of completion of the work or, if the work has been made accessible to the public with the consent of the author during this period, for 25 years after its communication to the public. In the case of photographic works or works of applied art, rights are protected for 25 years after the work has been completed.

87. The law gives the author, in addition to his economic rights, moral, perpetual, inalienable and imprescriptible rights to claim the authorship of his work and, in general, to oppose any distortion, mutilation or other modification of his work, as well as any disclosure or reproduction without his agreement.

88. According to Article 75, works whose country of origin is not Djibouti enjoy protection pursuant to Djibouti's obligations under the international conventions to which it is party.[63] Infringement of copyright is subject to penalties in the form of a fine of up to DF 200,000 and, if the offence is repeated[64], of up to DF 400,000 and a term of imprisonment of one to six months.

89. A *Bureau djiboutien du droit d'auteur* (Djibouti copyright office) (BBDA), under the Minister in charge of culture, was set up in 1996.[65] It is responsible for administering rights and for protecting the moral and material interests of authors and composers. Its responsibilities are determined in ministerial decrees. According to Article 67, the BBDA, to the exclusion of any other natural or legal person, is entitled to act as intermediary between the author or the persons entitled and the users of literary and artistic works for the purpose of issuing authorizations and collecting the relevant royalties. In Djibouti, the office will administer the interests of various organizations of foreign authors under reciprocal representation conventions or agreements.

(d) New plant varieties

90. Djibouti does not have any legislation on protection of new plant varieties, nor has it ratified the Convention establishing the International Union for the Protection of New Plant Varieties (UPOV).[66]

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[63] The following are considered to be works that have Djibouti as the country of origin: works created by authors of Djiboutian nationality; works of legal persons subject to Djiboutian jurisdiction; works of foreign nationals published for the first time in Djibouti; works whose authors have their customary residence or are living in Djibouti; works of architecture built on Djiboutian territory and any work of art that is an integral part of a building situated on Djiboutian territory; and works of national folklore as State property, as well as works in the public domain.

[64] It is considered that the offence is repeated if, within the five years preceding the offence in question, the offender had already been convicted for an identical offence.

[65] Chapter IV of Law No. 114/AN/96/3$^{\text{ème}}$L of 3 September 1996.

[66] Available at: http://www.upov.int/en/about/members/pdf/pub423.pdf [4 April 2005].