

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

1. Morocco has made a number of changes to its trade regime since the second review of its trade policy in 1996. The application of customs tariffs based on the tariffication of quantitative restrictions on imports was completed in 1996. Since then, the licensing system has only applied to products covered by international agreements to which Morocco is party or for sanitary or phytosanitary or morality reasons. Price controls and import monopolies have been abolished on almost all products and customs formalities simplified. Consumer subsidies are confined to domestic flour of common wheat. Structural reforms, including privatization, have made progress. The legislation on government procurement and competition entered into force in 1999 and 2001 respectively and progress has been made in harmonizing intellectual property legislation with the international agreements signed by Morocco.

2. Customs duties have been lowered on a number of non-agricultural products. In order to simplify import duties, the fiscal levy on imports (PFI) was incorporated into customs tariffs in 2000. However, this integration, together with Morocco's full application of rates resulting from tariffication and the disaggregation of tariff lines from 8 to 10 digits in the Harmonized System, has meant a rise of 33.4 per cent in the average duty applied (as compared with 23.5 per cent in 1995). Currently, over one third of the tariff lines are subject to rates higher than the bound rates. Moreover, the introduction of variable duties (applicable to around 40 tariff lines), which are in reverse proportion to the difference between the threshold price (fixed by the Government) and the import price, does not ensure compliance by Morocco with its commitments, either as regards tariff bindings or in relation to the WTO Customs Valuation Agreement, which Morocco has (in principle) been applying since October 1998.

3. In practice, the tariff quotas in Morocco's schedule of commitments are not applied, all imports of the products concerned being subject to out-of-quota rates. The provisions on contingency trade measures (anti-dumping, countervailing, and safeguard measures) have been modified; a safeguard duty of 130 per cent currently applies to the import of fresh bananas.

4. In order to boost exports, Morocco is granting certain benefits under customs regimes. Enterprises may also take advantage of the benefits granted by the free export zone regime. The State also grants subsidies for the promotion of exports of certain agricultural products by air freight. Nevertheless, levies are applied to exports of maize, plant fibre, and crude phosphates.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration and documentation

5. Registration requirements and the documentation needed for import have not changed greatly since the last review of Morocco's trade policy. Natural or legal persons wishing to engage in international trade activities must be listed in the commercial register and the roll of business licence holders. The operator's card has been abolished.

6. Imports come under the regime of convertibility of current transactions, so that they do not require an authorization from the Foreign Exchange Board. Imports of goods are, however, subject to registration of an import document (an undertaking to import, an import licence, or, in some cases, a

prior import declaration (DPI)) domiciled with a Moroccan bank.¹ This document permits custom clearance of the goods and their financial settlement.²

7. An import undertaking is a document valid for six months under which the importer undertakes to import goods into Morocco in exchange for the transfer of the corresponding price. It is drawn up for goods that can be freely imported. It is not required for ad hoc imports nor for those covered by special regimes.³

8. The following documents are also required for the purpose of levying duties and taxes at the border: invoices; banking certificate (showing the bank of domiciliation and the amount of the imports in foreign currency, the exchange rate and identification of the import document, the value per article); the duty-free entry voucher (*bon de franchise*). The other documents required for customs clearance are: an import licence (section (2)(vii)) and a DPI (section (2)(viii)) for those products subject to them; an invoice; transit documents for transport; an insurance certificate; and the packing list. A preshipment inspection certificate is not required.

9. Import authorizations are required for products subject to special regulations (repression of fraud, sanitary and phytosanitary controls⁴, industrial standards); and for the purposes of foreign trade controls. A marketing authorization (authorization to sell pharmaceutical specialities – ADSP) is required prior to the manufacture, import, possession or marketing of any medicines. It is granted by the Ministry of Health taking into account the views of a commission of experts, and technical controls by the National Drug Control Laboratory.⁵

10. All imported goods must be the subject of a detailed declaration called a “Single Declaration of Goods” (DUM). The documents required include shipping documents such as bills of lading, air waybills, or consignment notes.

(ii) Customs clearance

11. Goods are cleared through customs in the customs offices at land, maritime or air border posts. The importer must enter and validate the detailed declaration on a computer. The declaration itself must be handed over to a customs office within the prescribed period (24 hours for goods for consumption, 5 days for imports under a customs regime, and 15 days for transfers), with the supporting documents. After the documents have been verified, the declaration is returned to the importer with the note “Payable” as acknowledgement of receipt. The importer must then pay the duties and charges applicable.

¹ The importer undertakes to complete all the banking formalities prescribed in the foreign exchange regulations with a bank authorized to act as an intermediary. For the bank, domiciliation consists of carrying out the banking formalities required for imports on behalf of the client.

² The legislation does not impose any time limit on financial settlement of imports. Settlement may, however, only be made after the goods have actually entered Morocco or there is proof of shipment (to Morocco) in the form of a bill of lading. For capital goods, importers are authorized to transfer a deposit of up to 40 per cent of the f.o.b. value of the imports. They may also pay the import of certain products in advance (spare parts, consumables, samples against payment) up to an equivalent of DH 20,000 in foreign currency.

³ Article 16 of Law No. 13-89 on foreign trade, enacted by Dahir No. 1-91-261 of 9 November 1992, as amended and supplemented by Law No. 3-96, enacted by Dahir No. 1-97-63 of 12 February 1997.

⁴ A sanitary certificate is required for various products of animal origin, live animals, poultry, and eggs. Imports of seeds of eggplants and tomatoes and potato seedlings must be accompanied by a phytosanitary certificate attesting that they are free of parasites and have been screened, cleaned and placed in new packets.

⁵ The application must be made by a pharmaceutical laboratory and backed up by a technical dossier.

12. In order to simplify procedures, a customs clearance on site (PDD) procedure has been introduced, *inter alia*. It is available to enterprises that have regular trade flows with foreign countries and is intended to lessen the time required for customs formalities as these are carried out on the premises of the importer. In order to benefit from this procedure, the enterprise must present financial security and have a clearing credit.⁶ Two industrial zones in Casablanca currently have a PDD.

13. The following are some of the measures taken to simplify procedures: the introduction of new types of customs declaration (combined, simplified, supplementary, and comprehensive); extension of advance deposit of detailed declarations to all imports; controls based on objective parameters and random controls⁷; the development of customs clearance warehouses and bays⁸; the introduction of domiciliation offices⁹; the formulation of a simplified procedure for express shipments; the use of a single national clearing credit covering operations in computerized customs offices instead of a number of local credits; and use of new information and communications technology.

14. In order to monitor in detail the time taken for customs clearance, a computerized procedure that allows the time to be calculated has been introduced. The average time taken fell from 5.5 days in June 1997 to 24 hours in September 1998 and 52 minutes in September 2002.

(iii) Customs valuation

15. Since 5 October 1998, the principal method used by Morocco for customs valuation has been the transaction value.¹⁰ Morocco has been granted the transitional period available to developing countries pursuant to Article 20 (special and differential treatment) of the Agreement on Implementation of Article VII of the GATT 1994.

16. According to the authorities, where there is any doubt regarding the value, the customs asks the operator to provide proof of the value declared within a maximum period of one month. If the operator fails to do so, the customs rejects the transaction value and determines the value on the basis of the methods set out in the WTO Customs Valuation Agreement.

17. The most common disputes encountered in Morocco concern the classification of products and customs valuation. The operator may lodge an appeal with the customs and subsequently with the regional commissions, the national commission, and the World Customs Organization (WCO).¹¹

⁶ BMCEBANK (undated)

⁷ According to the authorities, 85 per cent of operations go ahead upon presentation of the documentation.

⁸ Since early 2000, 30 international transporters have been given permission to manage a customs clearance warehouse and bay on their own sites.

⁹ The domiciliation office chosen by the economic operator (in principle, an office in his place of residence) carries out certain customs formalities initiated by other offices. These include the payment of duties and charges, monitoring and managing accounts under customs regimes, and comprehensive processing of customs clearance operations under "combined declarations".

¹⁰ Prior to 5 October 1998, Morocco used the Brussels definition.

¹¹ Appeals to the WCO are rare.

18. After being given several waivers to allow reference prices to be maintained for certain products, Morocco abolished them on 1 August 2002.¹² “Minimum threshold prices” still apply, however, when applying variable duties on 40 tariff lines (section (iv)(a)).

(iv) Tariffs, other duties and taxes

(a) Overview

19. Products imported into Morocco may be subject to import duties, parafiscal import taxes, value added tax, domestic consumption taxes, and a number of other duties and taxes (sections (b) and (c) below). In 2000, in order to simplify matters, the fiscal import levy was incorporated into the import duty and column G of the tariff was deleted.¹³

20. As regards import duties, Morocco grants at least MFN treatment to all its trade partners. It is using the 2002 version of the Harmonized Commodity Description and Coding System (HS). The nomenclature was extended from 8 to 10 digits in 2000, which means that the number of tariff lines increased from 8,689 in 1995 to 16,676 in 2002. With the exception of 40 lines subject to variable tariffs (depending on the import price and a minimum threshold price), all the lines are subject to *ad valorem* duties based on the c.i.f. value of the imports plus the unloading fees.

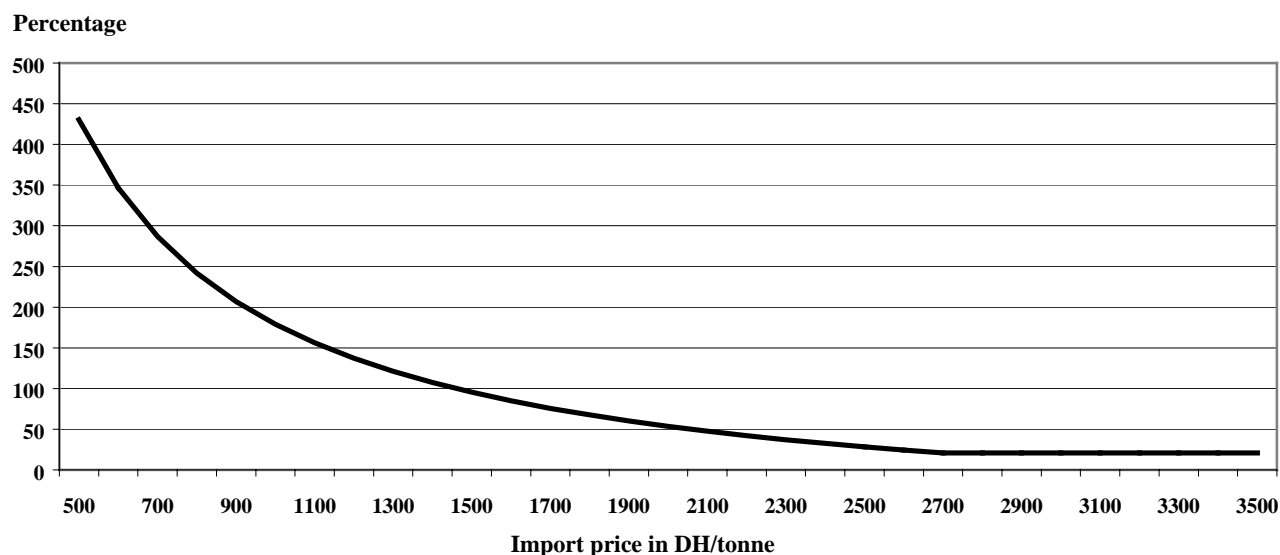
21. Two types of variable duty apply to certain cereals such as wheat and rice, soyabeans, colza, rape and sunflower seed, and sugar (Table AIII.1). For some categories of barley, rice and sorghum, two rates apply: one fairly high rate if the declared value is lower than the minimum threshold price fixed in the tariff for the good in question, and a lower rate when the declared value is higher than the minimum threshold price. The rates applicable to other products in Table AIII.1 are constant for declared values that are equal to or exceed the minimum threshold prices fixed in the tariff, and variable (ascending from the constant rate) for declared values that are below this threshold. In the latter case, the *ad valorem* equivalent of the duty (in reverse proportion to the import price) may vary from the constant rate (minimum) to an infinite figure: Chart III.1 illustrates this.

¹² Decree No. 2-02-347 of 17 July 2002 repealing Decree No. 2-98-517 of 29 September 1998 fixing the minimum values for goods at the customs and the list of goods to which they apply.

¹³ Column G consisted of general rates not applied. Currently, there is only one column. The deletion of column G put an end to the distinction between the rates used (column U) and the general rates (column G).

Chart III.1

Trend in variable customs duty on durum wheat^a, 2002



- a Durum wheat other than in seed form. The rate applicable is 21 per cent or, where the declared value is lower than DH 2,700/tonne, an additional duty of 93 per cent is applied to the difference between the threshold fixed (DH 2,700/tonne) and the declared value.

Source: WTO Secretariat based on information provided by the Moroccan authorities.

22. For some products in Chapters 07 and 08 of the HS, tariff lines at the same rate apply to the same good, depending on the season.

23. During the Uruguay Round, Morocco finished binding all its tariff lines, although 156 lines (in the Customs Cooperation Council Nomenclature - CCCN) had already been bound when Morocco acceded to the GATT in 1987.¹⁴ Morocco bound its duties solely at *ad valorem* rates ranging from zero to 380 per cent. Duties on non-agricultural products were bound at 40 per cent, with the exception of those bound in 1987. Morocco has undertaken gradually to lower duties on agricultural products, bound at high rates, by equal annual instalments; this should bring the maximum (bound) rate down to 289 per cent in 2004. On that date, the simple arithmetic average of the bound rates should be 42 per cent (Table III.1).

¹⁴ In 1987, the transposition of 156 tariff lines bound in 1987 from the CCCN to the Harmonized System was certified (WTO document WT/LET/168 of 5 September 1997).

Table III.1
Morocco's MFN tariff structure, 2002-03

	2002 Tariff		Uruguay Round
	Applied	Bound	
1. Bound tariff lines (as a percentage of all lines)	100.0	100.0	100.0
2. Tariff lines benefiting from duty-free entry (as a percentage of all lines)	0.1	0.1	0.1
3. Non- <i>ad valorem</i> duties (as a percentage of all lines)	0.2	0.0	0.0
4. Tariff quotas (as a percentage of all lines)	4.1	4.1	4.1
5. Non- <i>ad valorem</i> duties, without an <i>ad valorem</i> equivalent (as a percentage of all lines)	0.2	0.0	0.0
6. Simple arithmetic average	33.4	42.6	42.0
Agricultural products (HS 01-24)	53.2	60.4	56.5
Non-agricultural products (HS 25-97)	30.1	39.6	39.6
Agricultural products WTO ^a	50.7	61.1	56.9
Non-agricultural products ^b	30.7	39.6	39.6
7. Domestic tariff "peaks" (as a percentage of all lines) ^c	1.3	1.7	1.7
8. International tariff "peaks" (as a percentage of all lines) ^d	80.3	99.3	99.3
9. Overall standard deviation of rates applied	24.7	22.4	20.7
10. "Nuisance" rates applied (as a percentage of all lines) ^e	0.0	0.0	n.a.

.. Not available.

n.a. Not applicable.

^a WTO Agreement on Agriculture

^b Excluding petroleum products

^c Domestic tariff "peaks" correspond to duties higher than three times the simple arithmetic average of the rates applied (indicator 6).

^d International tariff "peaks" correspond to duties exceeding 15 per cent.

^e "Nuisance" rates are those exceeding zero but less than or equal to 2 per cent.

Source: WTO Secretariat calculations based on data provided by the Moroccan authorities; WTO, Consolidated Tariff Schedule (CTS) database.

24. Over 24 per cent of the lines bound in 1994 were bound at rates of 100 per cent or more. The highest rate (originally 380 per cent) applied to certain live animals and meat. Morocco has retained the right to utilize the special safeguard clause provided in Article 5 of the WTO Agreement on Agriculture for 374 lines. The simple arithmetic average of the bound rates is 39.6 per cent for non-agricultural products and 56.9 per cent for agricultural products.

25. Other duties and taxes on the majority of products have generally been bound at 15 per cent, with the exception of those on certain goods bound at 7.5 per cent.¹⁵

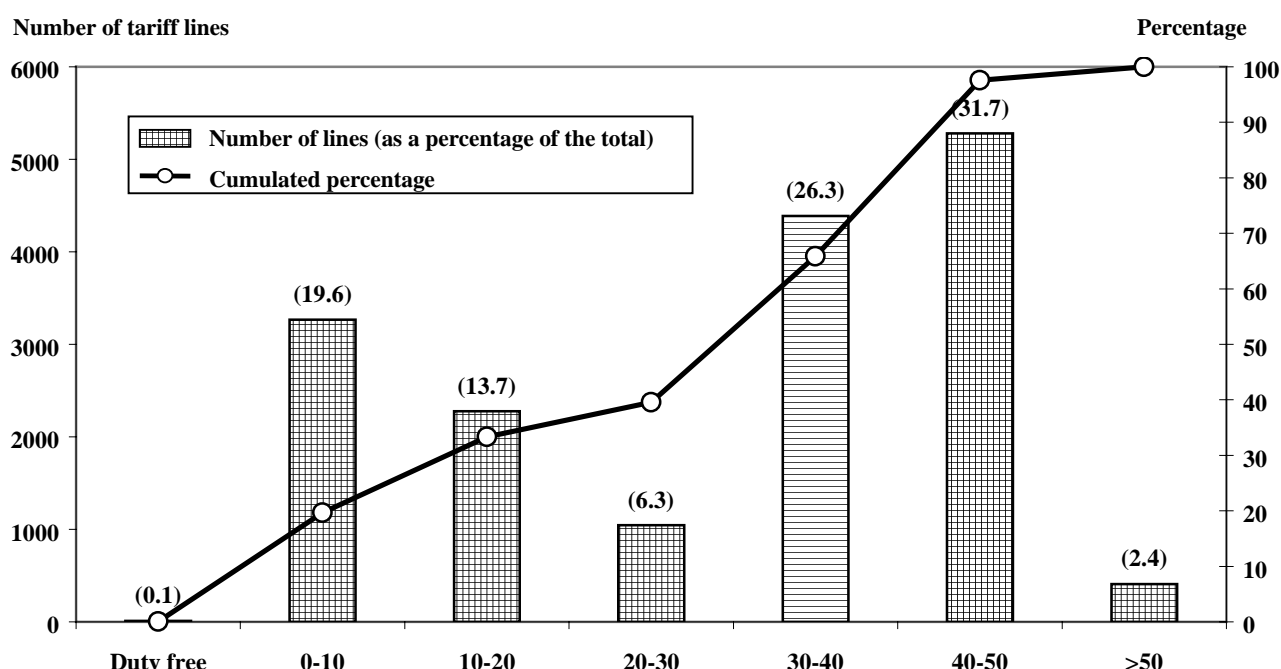
26. Morocco has also undertaken commitments in the form of tariff quotas on agricultural products such as bovine, sheep and poultry meat; milk; wheat, barley, maize, rice and sorghum; soyabean, groundnut, rape, sunflower and cotton seeds; oil; sugar; rape, cotton and sunflower seed oil-cake (Table AIII.2). Quotas for all these products will remain virtually unchanged during the period 1995-2004, with the exception of those for meat, milk, and oil-cake, which should increase by an annual figure of 6.5 per cent, amounting to a total increase of around 65 per cent over the period. In practice, tariff quotas are not applied (section (vii) below).

¹⁵ WTO, Schedule LXXXI – Morocco, 15 April 1994.

(b) Structure of MFN duties applied

27. Morocco's introduction of rates resulting from the tariffication of the quantitative restrictions previously imposed on agricultural products in 1996 and the incorporation of the fiscal import levy into the import duty, together with a more detailed breakdown of its customs tariff nomenclature contributed to raising the simple arithmetic average of MFN customs duties from 23.5 per cent in 1995 to 33.4 per cent in 2002.¹⁶ The 0.7 per cent coefficient of variation shows moderate dispersion (from zero to 339 per cent). The modal rate (which is the most common) is 50 per cent and applies to around 31 per cent of the total number of lines. Around 58 per cent of the lines have rates ranging from 30 to 50 per cent (Chart III.2).

Chart III.2
Breakdown of MFN duties applied, 2002



Note: The figures in brackets correspond to the percentage of total lines.
10- 20 includes tariff lines exceeding 10 per cent but not more than 20 per cent.

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

28. The zero rate applies to 10 lines, more precisely to types of sulphur (HS 250300). The high rate of 339 per cent applies to certain types of live animals (goats, sheep, not pure bred) and their meat. The 260.5 per cent rate applies to live bovine animals (other than pure-bred breeding animals), and 284 per cent to their meat, as well as to the meat of equine animals, donkeys and mules, and some offal. This results in relatively high simple arithmetic averages of 83.4 per cent for live animals and 141.2 per cent for meat and edible offal (Table AIII.3).

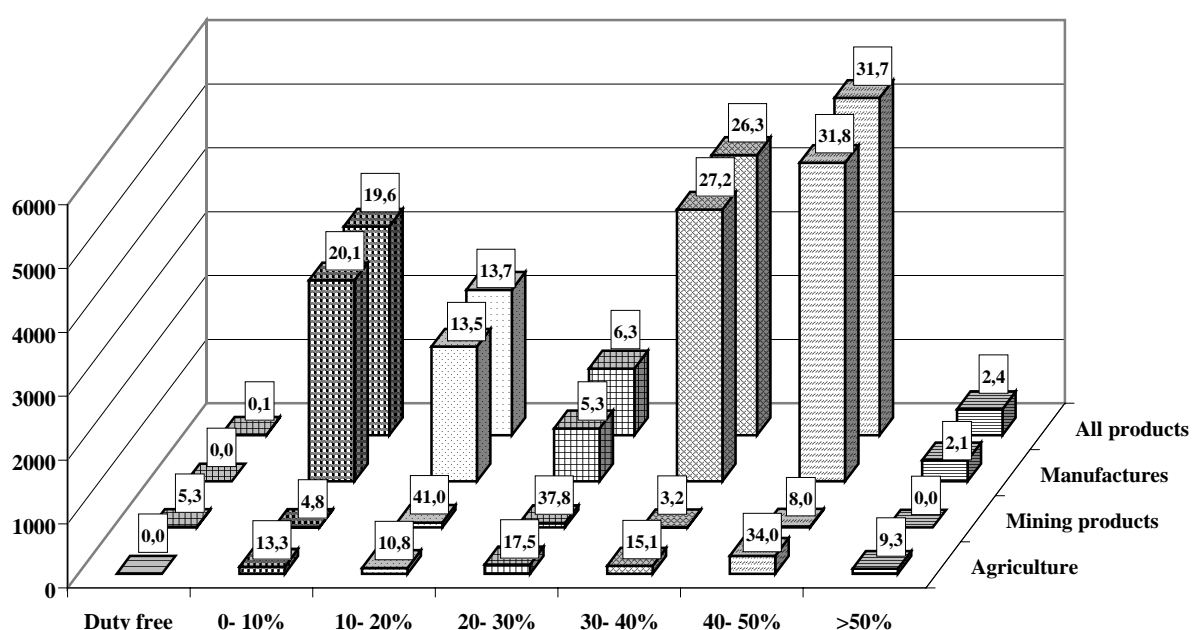
¹⁶ For the purposes of analysis, the minimum rates of variable duties have been used because the *ad valorem* equivalents or the data needed for their calculation were not available.

29. Agricultural products according to the WTO definition¹⁷ are the most protected with an average duty of 50.7 per cent, compared with 30.7 per cent for non-agricultural products (Table AIII.3). Average rates remain higher in the agricultural sector (around 40 per cent) than in the manufacturing sector (around 33 per cent) and mining (close to 22 per cent), when using the International Standard Industrial Classification (ISIC, Revision 2). Of all the sectors in the ISIC, agriculture has the highest proportion of rates exceeding 50 per cent (Chart III.3).

Chart III.3

Breakdown of MFN duties applied by sector (ISIC definitions)^a, 2002

Number of lines



^a The figures in brackets correspond to the percentage of total lines.
10-20 per cent includes tariff lines exceeding 10 per cent but not more than 20 per cent.

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

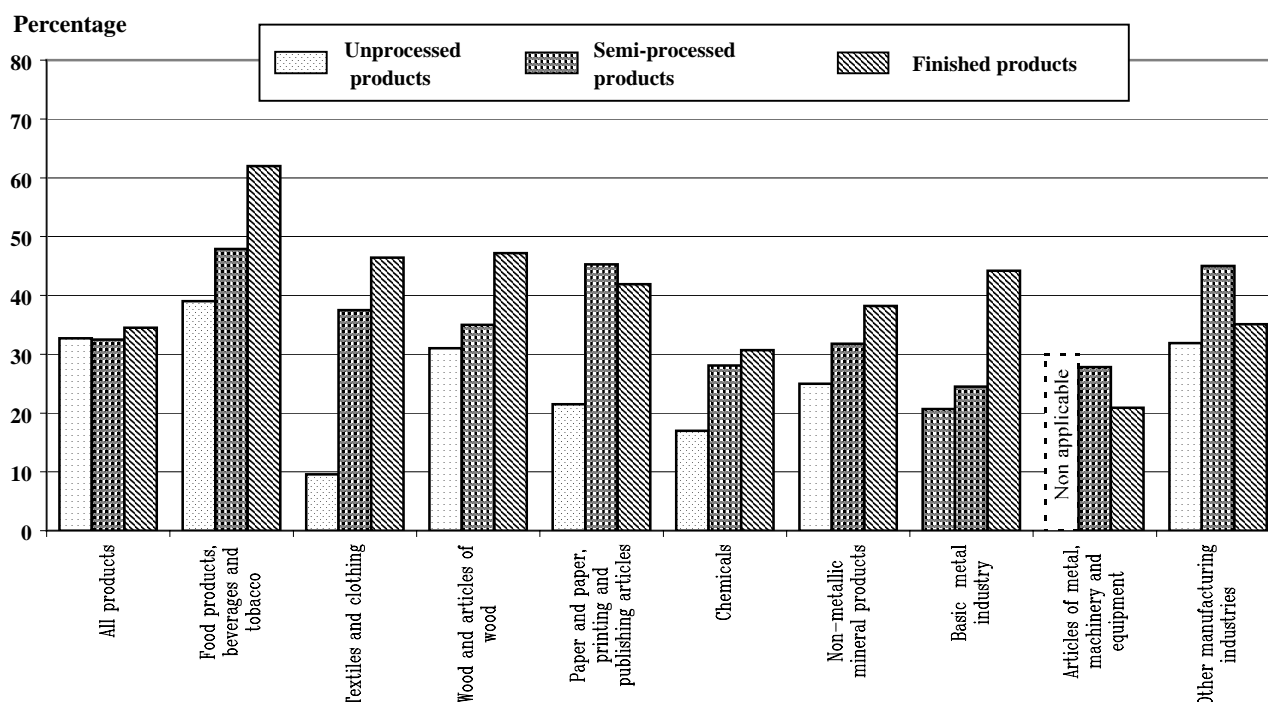
30. Overall, customs tariffs show mixed escalation, with a downward trend from the first to the second stage of processing (from 32.7 to 32.5 per cent) and an upward trend from the second to the third stage of processing, with an average rate of 34.3 per cent for the latter. The decrease in tariffs from the first to the second stage of processing is primarily due to the high taxation on agricultural products. With the exception of the paper industry, paper, printing and publishing articles, metal articles, machinery and equipment, and other manufacturing industries, customs tariffs escalate in all industries (Chart III.4).

31. For 5,887 tariff lines, the rates applied exceed the bound rates (Table AIII.4); the number of such lines would have been 353 if import duties and the fiscal import levy had not been amalgamated in 2000. In addition, the imposition of non-*ad valorem* rates when tariff bindings were made at *ad valorem* rates does not ensure compliance by Morocco with its commitments in this respect. The

¹⁷ Annex I to the WTO Agreement on Agriculture.

same applies to the imposition of variable rates on 40 tariff lines for agricultural products, both as regards commitments on customs valuation and binding.

Chart III.4
Tariff escalation, 2002



Note: The groups of products are defined by two digits in the ISIC.

Source: WTO Secretariat calculations based on data provided by the Moroccan authorities

(c) Other duties and levies

Parafiscal import tax

32. A 0.25 per cent parafiscal import tax applies to imported goods. It is not imposed on imports under customs regimes, capital goods, equipment and tools, spare parts and accessories needed to promote investment, duty free goods or goods not subject to import duties or taxes, or goods which are exempt from import duties and taxes in accordance with agreements or conventions signed with certain countries. Likewise, enterprises which undertake to make large-scale investment (exceeding DH 200 million) may be exempt when importing capital goods, equipment and tools required for their projects.¹⁸

¹⁸ Industrial Development Board (undated).

Value added tax (VAT)

33. VAT applies to imported and locally-produced goods and services. For imports, it is levied on the customs value, plus any duties and taxes imposed, including domestic taxes. For locally-produced goods, it is calculated on the selling price. Four rates apply: 20 per cent (the most common rate); 14 per cent (with or without the right to deduction)¹⁹; 10 per cent (with the right to deduction)²⁰; and 7 per cent (with or without the right to deduction)²¹. There is a special VAT rate on alcoholic beverages (DH 100/hl); gold and platinum (DH 4/g); and silver (DH 0.05/g).

34. The following are exempt from VAT, *inter alia*: staple goods; medical services and certain medical products and equipment; capital goods, equipment and medicines for the Moroccan Red Crescent; medicines needed to treat certain diseases (AIDS, diabetes, asthma, cardio-vascular disease); capital goods, equipment and tools for certain non-profit-making associations; gifts to the State, local authorities, public entities, and certain associations recognized as being of public utility; CD-Roms containing works of printing and composed cultural or educational works or books. Imports under customs regimes are also exempt, together with capital goods, equipment and tools for enterprises that are making large-scale investment (exceeding DH 200 million) in the context of their projects.²² Immovable capital goods are also exempt under the Investment Charter.

Domestic consumption taxes (TIC)

35. Domestic consumption taxes (TIC) apply (at the same rates) to certain goods whether imported or locally produced such as non-alcoholic beverages (DH 7 to 20/hl); beer (DH 550/hl); wine (DH 260 or 300/hl); ethyl alcohol and other alcohol to be used to receive ethyl alcohol applications (DH 200 to 700/hl of pure alcohol); manufactured tobacco (52 per cent)²³; energy products (for example, DH 7/tonne on fuel); and bitumen (DH 900/tonne).

Other

36. The following also apply: a special tax on cement (DH 50/tonne); a tax on imported wood (12 per cent); a verification and stamp tax on carpets (5 per cent); proportional duties on tobacco imported by individuals authorized by the Tobacco Authority (65 per cent plus additional taxes depending on the product); storage tax (2 to 10 per cent depending on the length of storage on customs premises); fees for use of the computer system (DH 500 for each summary declaration; DH 100 for each import declaration; DH 50 for each export declaration; and DH 6 for each page of

¹⁹ The 14 per cent rate with the right to deduction applies to construction work; transport and catering services provided to employees of enterprises; light goods vehicles; and some food products (tea, fats, jam, fruit and fruit juice to be used for making jam, coffee, soluble coffee extracts). The 14 per cent rate without the right to deduction applies to services furnished by agents, brokers, and sellers of insurance.

²⁰ The 10 per cent rate applies to food or beverages to be consumed on the spot, accommodation provided by hotels, rental of property for hotel use, motels, holiday villages, capital goods (excluding property and vehicles for transport) acquired by sugar companies, mills, and poultry farms, and the rental of property for tourist facilities.

²¹ With the right to deduction, this rate applies to the sale and delivery of general consumer goods (water, electricity, edible pasta, household soap, pharmaceuticals, scholastic materials) and to banking, loan or exchange transactions, transactions in movable assets carried out by stockbrokers, payment of motorways operated by concessionaires, private vehicles (economy cars). Without the right to deduction, it applies to services provided by persons exercising certain professions (veterinary surgeons, lawyers, interpreters, solicitors, bailiffs).

²² Industrial Development Board (undated).

²³ The TIC on manufactured tobacco came into effect on 1 January 2003; since then, these goods have also been subject to 20 per cent VAT.

status reports or management statements); veterinary sanitary inspection tax (DH 0.02 to DH 20 per unit, although the latter may vary) or inspection of plants (DH 0.01 to DH 0.3/kg.); administrative fees for verifying the manifest (DH 0.50 or DH 0.75/tonne deadweight tonnage, with a maximum of DH 1,500 or DH 3,000 respectively; DH 0.20 to DH 0.5/tonne if the tonnage of the goods loaded is less than one quarter of the deadweight tonnage); and a tax on the marketing of dried beet pulp (DH 10/quintal net weight).

(d) Tariff preferences

37. Morocco grants preferential treatment for imports from countries members of regional or bilateral trade agreements to which it is party, on a reciprocal basis, for example the UMA (Chapter II(5)(ii)(a)), the Arab Free-trade Area (Chapter II(5)(ii)(b)), the Association Agreement with the EU (Chapter II(5)(iii)(a)), the Free-trade Agreement with EFTA (Chapter II(5)(iii)(a)), and bilateral free-trade agreements with countries in the region such as Egypt, Jordan and Tunisia (Chapter II(5)(iii)(b)). Morocco also grants such treatment under trade and tariff agreements and the Global System of Trade Preferences (GSTP) (Chapter II(5)(iv)).

38. To be eligible for preferential treatment, goods must be covered by a certificate of origin proving that they have originated in a member country or a party to the agreement or convention in question (for example, an EUR1 certificate for EU or EFTA origin); they must be directly shipped to Morocco from the country of origin.

(v) Exemptions and refunds of duties and taxes

39. In addition to the benefits available to investors (for their imports) under the investment provisions, including the Investment Charter (Chapter II(6) and section (4)(i)), as well as those given for large-scale investment, other benefits are also granted under various customs regimes. These regimes (temporary entry for inward processing; in-bond warehousing or storage; temporary entry; temporary export for outward processing; temporary export; transit; free industrial warehouse; prior export; and drawback (section (3)(vii)) allow the storage, processing, use and movement of goods with suspension or refund of all duties and taxes. Under the suspension regime, the customs requires security equivalent to the taxes and duties suspended in the form of transfers or bonds (from banks or in any other approved form) (section (3)(vii)).²⁴ Benefits are also granted to enterprises under agreements concluded with the State, for example, the agreements between the State and enterprises such as Fiat, Maghreb Tube, SAMIR (petroleum), and SNEP (chemicals).

40. Morocco also grants exemptions and suspension of duties and taxes under the Vienna Convention on diplomatic relations. Under other special texts, a number of products usually subject to an import duty of 2.5 per cent have been made exempt, enter duty free, or the import duties and taxes are suspended. These include vessels, seeds, some fisheries products, aircraft, certain publishing articles, fertilizers, some imports by the Al-Maghrib Bank, goods imported by Entraide Nationale, the Red Crescent, and the Hassan II Foundation (to combat cancer), as well as other bodies, certain agricultural products, raw hides and skins, products and equipment to be used in agriculture, passports, bank notes, and coins.

41. During Ramadan, there are reductions in duties and taxes, within the quota limits, for the import of certain products (chick peas, lentils, beans, milk, and barley, depending on the year). Reductions may also be granted in case of need, for example, during droughts.

²⁴ MINEFI-DREE (2002e).

(vi) Rules of origin

42. Morocco applies two types of rules of origin: non-preferential (national definition) and preferential. According to the Customs and Indirect Taxation Code and without prejudice to agreements signed with other States, any product is deemed to have originated in its country of manufacture. According to Article 16 of the Code “goods wholly obtained in a particular country shall be deemed to originate in that country”. The decree implementing the Code specifies that the following shall be considered as originating in a country: “goods obtained in that country using products and raw materials of foreign origin (within the meaning of Article 16) which have undergone full-scale processing that has meant they have lost their original characteristics”.²⁵ Full-scale processing means working or processing that results in added value at least equivalent to the import value of the inputs in the processing country.²⁶

43. Preferential rules of origin are defined in bilateral or regional agreements or arrangements (Chapter II(5)). The Association Agreement with the EU provides for the possibility of regional cumulation with Algeria and Tunisia.²⁷ In the Free-trade Agreement with EFTA, cumulation only applies to goods originating in Morocco or the EFTA countries²⁸; cumulation with countries belonging to the European cumulation system is not allowed.²⁹ Cumulation with Tunisia and Algeria is nevertheless planned after the conclusion of their agreements with EFTA, and with EU countries.³⁰ For products imported from member countries of the EU or EFTA, an EUR1 certificate for the movement of goods is required. For other imports, the prescribed certificate of origin must be submitted.

(vii) Import prohibitions, quantitative restrictions and import licensing

44. Import bans or restrictions may be imposed under special legislation on the following products: narcotic drugs and psychotropic substances; weapons, parts of weapons, and ammunition, with the exception of those for the army; written or printed matter, drawings, posters, engravings, paintings, photographs, slides, or reproductions of a pornographic nature and any articles contrary to morality or likely to cause a breach of the peace (Article 115 of the Customs and Indirect Taxation Code); absinthe and like products (Order of 25 August 1952); anis or star anis essence and extracts thereof (Order of 28 August 1923, as amended); and imported bovine animals (Order No. 738-96 of 18 April 1996 of the Minister responsible for agriculture, as amended).³¹ The livestock products that may not be imported at present are live bovine animals, bovine embryos, and some other products (section (2)(ix)(b)).

45. In addition, under agreements to which Morocco is a party such as CITES³², the Basel Convention³³, the Stockholm Convention³⁴, and the Rotterdam Convention³⁵, certain products, wastes

²⁵ Decree No. 2-77-862 of 9 October 1977 implementing the Customs and Indirect Taxation Code, approved by the Dahir containing Law No. 1-77-339.

²⁶ Processing specific to thread, fabrics and clothing is described in the same Decree. BMCEBANK (undated).

²⁷ The rules of origin are applied under Protocol No. 4 to the Agreement, which entered into force on 1 March 2000 and replaces the Morocco-EEC Cooperation Agreement of 1976.

²⁸ The rules of origin are applied under Protocol B to the Agreement, which entered into force on 1 December 1999.

²⁹ Directorate General of Customs, Customs Tariff Division (1999).

³⁰ WTO document WT/REG/W/45 of 5 April 2002.

³¹ Pursuant to Law No. 13-89 on foreign trade, imports of goods and services may be restricted in order to protect morality, security and public order, human health, fauna or flora, and the national historic, archaeological or artistic heritage.

³² Convention on International Trade in Endangered Species of Wild Fauna and Flora.

and/or species are subject to a licence or a ban on their import.³⁶ Endangered species of wild fauna and flora (Annex I to CITES) require an import permit issued by the Water and Forestry Department. Import of wastes in list A to the Basel Convention is prohibited and wastes in list B require an authorization from the Department of the Environment. Products covered by the Montreal Protocol on CFCs (chlorofluorocarbons) also require an import licence.

46. Under the WTO Agreement on Agriculture, Morocco has undertaken commitments in the form of tariff quotas for certain agricultural products (section (2)(iv)(a) above). In practice, however, all these imports are subject to out-of-quota rates. Following the Association Agreement with the EU, Morocco introduced preferential tariff quotas for some agricultural products (Chapter II(5)(iii)(a)). A tariff quota is also applied to imports of bananas as a safeguard measure (section (viii)(a) below).

47. Imports of plant products require prior authorization from the Ministry of Agriculture. The authorization defines the terms on which the products must be imported and the Ministry inspects the products at the customs post.

48. The import of products such as powder and explosives, retreaded or used tyres, worn clothing, and chemicals that harm the ozone layer is also subject to licensing for reasons of security, health, or environmental protection.³⁷

49. Currently, the only products that require import licences are bananas. Nevertheless, licences are also used to administer preferential quotas governed by trade agreements. Import licences are issued by the Ministry responsible for foreign trade, on the advice of the Minister concerned. Decisions to grant or refuse licences must be notified to the applicant within 30 days at the latest after the application has been filed and the grounds for refusal must be given.³⁸ A licence is drawn up in six copies and is valid for a maximum of six months.

50. The import, manufacture, storage and marketing of pharmaceuticals are the responsibility of pharmaceutical establishments authorized by the Secretariat General of the Government; the Ministry of Health gives the authorization for their marketing (ADSP).

(viii) Contingency trade measures

51. In Morocco, contingency trade measures are governed by Law No. 13-89 of 1992 on foreign trade (as subsequently amended and supplemented).³⁹ While awaiting the imposition of contingency trade measures, the Government may provisionally (for a maximum period of nine months renewable

³³ Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, which was incorporated into Moroccan legislation recently under Dahir No. 1-96-92 of 24 November 2000, published in the Official Journal of 19 April 2001.

³⁴ Stockholm Convention on Persistent Organic Pollutants.

³⁵ Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

³⁶ Morocco has not yet ratified the Stockholm and Rotterdam Conventions, but it already prohibits the import of certain products covered by these Conventions.

³⁷ In practice, import licences for worn clothing and used or retreaded tyres are not granted for reasons of health and the security of persons.

³⁸ Article 4, Title I, of Decree No. 2-93-415 of 2 July 1993, implementing Law No. 13-89 on foreign trade, as amended and supplemented by Decree No. 2-99-1261 of 4 May 2000.

³⁹ Law No. 3-96 enacted in 1997; Decree No. 2-93-415 of 2 July 1993, as amended and supplemented by Decree No. 2-99-1261 of 4 May 2000, implementing Law No. 13-89.

once only) make any import causing or threatening to cause serious injury to a domestic industry subject to a prior import declaration (DPI) (section (i) above).⁴⁰

(a) Safeguard measures

52. When imports cause or threaten to cause material injury to an established domestic industry or materially retard its creation, tariff or non-tariff measures may be imposed if it is found that there has been a massive increase in imports of like or competitive products; in the case of imports of products entering duty free under agreements concluded prior to the entry into force of the law, non-tariff measures are applied.⁴¹ An additional duty, calculated on the basis of the price of the imported product and a reference price, may be levied if there is a noticeable decrease in the price of certain products such as cereals, oilseeds, sugar cane or beet, milk, meat and their by-products.⁴² These measures (with the exception of non-tariff measures for products entering duty free under agreements signed) may also be imposed on a provisional or emergency basis until the adoption of the definitive measures.

53. Morocco currently applies safeguard measures on imports of fresh bananas.⁴³ Under Order No. 956.00 of 10 August 2000, a provisional additional duty of 150 per cent was imposed on banana imports for a period of 200 days. In 2001, it was decided to continue to impose the safeguard measure; the additional *ad valorem* duty of 150 per cent will be reduced by 10 points annually between 2001 and 2004, and to zero in 2005. This should allow the domestic industry to implement a recovery plan. In order to guarantee a minimum level of imports, it was decided to apply an annual tariff quota of 7,000 tonnes (corresponding to average imports over the past three years) not subject to the additional duty.

54. In 2000, Morocco also initiated an investigation with a view to imposing a safeguard measure on imports of rubber plates and sheets. The investigation was terminated without the imposition of any measure because of the absence of a causal link between the imports and the injury suffered by domestic producers.⁴⁴

(b) Anti-dumping and countervailing measures

55. When imports cause or threaten to cause material injury to an established domestic industry or materially retard its creation, countervailing or anti-dumping duties may be imposed in specific cases. Imports may be subject to countervailing duties if it is found that the imported product benefits from a premium or subsidy for its manufacture, production or export in its country of origin or consignment.⁴⁵ An anti-dumping duty may be imposed if the import price is lower than the “normal

⁴⁰ A DPI is valid for three months as of the date of issue.

⁴¹ Article 15 of Title II of the Law.

⁴² If the additional duty is *ad valorem*, it is determined according to the following formula: tariff equivalent = ((reference price – import price)/import price) x 100; if it is in the form of a specific duty, it amounts to the difference between the two prices. The reference price is fixed annually on the basis of global prices or, in their absence, on domestic production costs.

⁴³ WTO documents G/SG/N/8/MAR/1 and G/SG/N/10/MAR/1 of 22 May 2001; G/SG/N/7/MAR/1 of 1 November 2000; and G/SG/N/6/MAR/1 of 24 July 2000.

⁴⁴ WTO documents G/SG/N/9/MAR/1 of 10 January 2002 and G/SG/N/6/MAR/2 of 9 January 2001.

⁴⁵ Law No. 13-89 on foreign trade, enacted by Dahir No. 1-91-261 of 9 November 1992, as amended and supplemented by Law No. 3-96, enacted by Dahir No. 1-97-63 of 12 February 1997.

value”.⁴⁶ Both duties may be imposed provisionally as emergency measures until the adoption of definitive measures.

56. Producers, importers, producers’ associations, authorities acting on behalf of a branch of industry, or users may request the imposition of such duties. Requests must be filed with the Ministry responsible for foreign trade and include evidence of the existence of dumping, a subsidy or a premium, and a causal link between the imports and the injury suffered. The Minister responsible for foreign trade transmits requests to the Minister concerned who, within a maximum period of 30 days, must return them to the former together with his opinion. If the Minister concerned provides evidence of dumping, a subsidy or premium, and injury caused to the domestic industry, the appropriate measure (anti-dumping or countervailing duty) is immediately applied by means of an order by the Minister for Finance. If this is not the case, the request is put before the Foreign Trade Commission (CCI) for an opinion.⁴⁷ The amount of the anti-dumping duty must not exceed the margin of dumping and the countervailing duty must not exceed the amount of the subsidy or premium; both remain in effect for as long as the practices that justified them persist. These provisions also apply to spare parts or components to be used for the assembly or final working of a product subject to an anti-dumping or countervailing duty.

57. In practice, Morocco has not yet taken any action in the area of countervailing or anti-dumping duties.

(ix) Standards and other technical specifications

(a) Standards, testing and certification

58. The purpose of standardization is to control the quality of certain industrial products when they are imported.⁴⁸ Moroccan standards and technical specifications are based on international standards, including those of the International Organization for Standardization (ISO), the French standardization association (AFNOR) and the WHO and FAO Codex Alimentarius for food products. They mainly apply to packaging, metallurgy, and construction. Morocco is a member of ISO.

59. Standards and technical specifications are drawn up by technical committees established by the Ministries responsible for the products to which the standards are to apply; experts and the departments concerned are consulted in the course of a three-month public enquiry.⁴⁹ Draft standards and technical specifications are sent to the Interministerial Supreme Council for Quality and Productivity (CSIQP) for its opinion, then to the Ministers concerned for approval as Moroccan standards. The approval orders are published in the Official Journal. The Moroccan Industrial

⁴⁶ The normal value is defined as the price of a like product destined for consumption in the exporting country or, in the absence of such a price, the highest price for the export of a like product to a third country, or the cost of production in the country of origin, plus a reasonable addition for selling cost and profits.

⁴⁷ The Commission may decide to submit the application to a prior public enquiry, which must be brought to the attention of any interested person through the press.

⁴⁸ The following are some of the principal texts which form the legal basis for standardization: Dahir No. 1-70-157 of 30 July 1970 on industrial standardization; Decree No. 2-70-314 of 8 October 1970 defining the composition and competence of industrial standardization bodies; Decree No. 2-93-530 of 20 September 1993 implementing Dahir No. 1-70-157 of 30 July 1970 on marks showing conformity with Moroccan standards, which repeals and replaces Decree No. 2-79-437 of 12 September 1979; circular of the Minister for Trade, Industry and Handicrafts of 13 December 2000 on marks showing conformity with Moroccan standards for industrial products; circular of the Minister for Trade, Industry and Handicrafts of 10 September 2002 on NM ISO 9000 certification. A new draft law and draft implementing decree on the control of industrial products and services is currently with the Secretariat General of the Government

⁴⁹ Around 60 technical committees have been established in various Ministries.

Standardization Service (SNIMA), attached to the Ministry responsible for trade and industry, prints and promotes Moroccan standards, as well as serving as an enquiry point.⁵⁰ In July 1997, the SNIMA accepted the WTO Code of Good Practice for the elaboration, adoption and application of standards.

60. Moroccan standards and technical specifications are generally optional. Approval orders may, however, make them mandatory for reasons mainly to do with health, security, hygiene and environmental protection, *inter alia*. In such cases, they become mandatory and apply without discrimination to imported and locally-produced goods; imports are subject to a certificate showing that they conform to the mandatory standards issued by the Ministry responsible for the industry.⁵¹ Mandatory standards currently apply to some iron and steel products, gas products, electrical equipment, textile products, domestic appliances, and toys, *inter alia*.

61. NM certification of products is administered in accordance with the international guide ISO/IEC 65.⁵² In order to use the NM mark, an application must be submitted to the SNIMA, which examines the technical documentation and appoints a verification team. The latter conducts a visit and takes samples for testing in the laboratory selected by the SNIMA. Depending on the results of the tests, the technical committee expresses its opinion (approval or rejection) on the applicant's right to use the mark.⁵³ If positive, the final decision is published in the Official Journal. Regular monitoring visits ensure the follow-up.

62. For the time being, Morocco has not signed any mutual recognition agreement and does not automatically accept foreign certification; the revision of the regulatory framework currently under way may address this issue.

63. Morocco has also set up a system for certifying enterprises (their management) based on the ISO 9000 and ISO 14000 standards, and a system for accrediting testing and calibration laboratories managed in accordance with the criteria in the international guide ISO/IEC 58. Accreditations are granted on the basis of Moroccan standards.⁵⁴

64. In the case of medicines for human use, manufacturers must comply with the standards for good manufacturing practices (BPF), pursuant to circular No. 36 of 31 July 1995 of the Minister for Health on the BPF.

(b) Sanitary, phytosanitary and environmental measures

65. Sanitary measures for imports are regulated by Law No. 24-89 of 10 September 1993, its implementing decree, and ministerial decrees and orders concerning specific products.⁵⁵ The import

⁵⁰ Moroccan Industrial Standardization Service, information available on-line at <http://snima.mcinet.gov.ma/> [6 December 2002].

⁵¹ WTO document G/TBT/2/Add.39 of 6 August 1997.

⁵² The NM mark may apply to all products and, ultimately, to supply of services. The Ministry responsible for industry may guarantee that the products conform to Moroccan standards by means of the NM mark.

⁵³ The committee may also propose that there should be a further visit or invite the applicant to improve the manufacturing process or controls before issuing a final opinion.

⁵⁴ Laboratories are assessed on the basis of one of the NM ISO 25 and NM ISO 17025 references, which follow, respectively, the international guide ISO/IEC 25 and the international standard ISO/IEC 17025 on general requirements for the competency of testing and calibration laboratories.

⁵⁵ Dahir No. 1-89-230 of 10 September 1993 enacting Law No. 24-89 prescribing veterinary sanitary control measures for the import of animals, animal food products, products of animal origin, animal reproduction products, and marine and freshwater products; Decree No. 2-89-597 of 12 October 1993 on its implementation; Decree No. 2-57-1524 of 12 November 1957 on the import of milk to be used for cattle feed;

of animals, animal food products, products of animal origin and animal reproduction products, marine and freshwater products, with the exception of those in international transit which are not unloaded, is subject to sanitary inspection at the expense of the importer.⁵⁶ Such imports are banned, by order of the Minister responsible for agriculture, when they come from a country not recognized as free of contagious disease, unless they have undergone special treatment and no longer present any danger of contagion.⁵⁷

66. Imports must be accompanied by the sanitary documents issued by the country of origin and, where applicable, the country of transit.⁵⁸ A sanitary certificate issued at the border is also required for animals.⁵⁹ The documents are checked by the veterinary services after unloading (except in the case of live animals, irrespective of their country of origin, and animal products in their raw state from countries not recognized as free of contagious disease). Following the inspection, a sanitary permit, which is compulsory for customs clearance, is issued by the border post. Animals may also be subject to quarantine. Sanitary inspection is conducted systematically for all imports.

67. Suspect animals, either contaminated or recognized as diseased, are either refused entry or made subject to measures that guarantee the non-transmissibility of their contagious disease. Their flesh may be released for consumption in accordance with the sanitary legislation. Foodstuffs and products that are suspect or unfit for consumption or may transmit disease are refused entry. At the request of the importer, they may be destroyed, incinerated or brought into conformity, at the importer's expense.

68. Phytosanitary import measures are governed by the Dahir of 1927, which regulates sanitary controls for plants (as amended) and several orders governing the import of specific products.⁶⁰ The legislation defines the plants and plant products that are subject to phytosanitary inspection and list those products that may not be imported or whose import is subject to prior issue of a technical import authorization.

ministerial orders defining the following: requirements for the introduction of fish and crustaceans into inland waters within the public domain (1994); animal health standards for the import of breeding animals of the bovine species (1994), sheep, goats and equine animals, health requirements and treatments required for the import of animal products to be used in the animal by-products industry (1994); animal health standards for the import of cocks and hens for reproduction, of a weight not exceeding 185 gr. (1998); sanitary requirements for the import of certain live animals and certain products of animal origin (1996).

⁵⁶ Decree No. 2-94-76 of 22 November 1996 fixing the fee for veterinary sanitary inspection of imports of animals, animal food products, products of animal origin or animal reproduction products, and marine and fresh water products.

⁵⁷ The products that may be subject to treatment are mainly intended for industry, for example, hides and skins or gelatine.

⁵⁸ Morocco has signed sanitary agreements with the following countries: Argentina, Bulgaria, China, Egypt, France, Germany, Hungary, India, Islamic Republic of Iran, Mauritania, Netherlands, Poland, Portugal, South Africa, Spain, Sudan, Syrian Arab Republic, and Tunisia; it has proposed or is considering agreements with a further 18 countries.

⁵⁹ The sanitary certificate must conform to the sanitary code of the International Office of Epizootics (OIE), unless there are special sanitary requirements because of the national or international animal health situation.

⁶⁰ Dahir No. 1-69-169 of 25 July 1969 regulating the production and marketing of seeds and seedlings, as amended; Order of the Minister for Agriculture and Agrarian Reform No. 467-84 of 19 March 1984 regulating the import of plants or parts of plants liable to be infested by certain harmful species of animals or plant pests; Order of the Minister for Agriculture and Agrarian Reform No. 1306-85 of 22 December 1986 on sanitary controls on imported plants or plant products; Order of the Minister for Agriculture and Agrarian Reform No. 966-93 of 20 April 1993; Order of the Minister for Agriculture No. 832-02 of 12 June 2002 amending and supplementing Order No. 467-84. See also <http://www.mcinet.gov.ma>.

69. Plant products or parts of plants whose import requires a phytosanitary certificate issued by the plant protection service in the exporting country are listed in Ministerial Order No. 832-02 of 2002. The certificate must comply with the model laid down in the FAO's 1951 International Plant Protection Convention (IPPC), as amended. Imports of potato seedlings, and tomato and eggplant seeds must also be accompanied by an additional declaration from the country of origin certifying that they are free of certain parasites and diseases, and have been screened, cleaned and placed in new sacks.

70. Phytosanitary inspection is conducted by the Plant Protection Service or the Seed and Seedling Control Service attached to the Ministry responsible for agriculture, which inspects the goods, draws up a record and places a stamp on the declaration to indicate that the products may enter, are refused entry, are to be destroyed or are to undergo fumigation. The cost of inspection, as well as rejection or destruction of any shipment of banned products, must be met by the importer.

71. With regard to plant protection, Morocco has signed the Basel Convention on the Transboundary Movements of Hazardous Wastes and their Disposal, the FAO's IPPC, the Stockholm Convention on Persistent Organic Pollutants, and the Rotterdam Convention on the Prior Informed Consent Procedure (the latter two are currently being ratified). It has also acceded to the Montreal Protocol on Substances that Deplete the Ozone Layer. It is a member of the European and Mediterranean Plant Protection Organization and the FAO/WHO Codex Alimentarius Commission, and participates as an observer at the International Union for the Protection of New Varieties of Plants (UPOV).

72. Since the last review of its trade policy, Morocco has notified to the WTO a series of sanitary and phytosanitary measures, including emergency measures such as those taken during the bovine spongiform encephalopathy (BSE) crisis and the dioxin crisis. In 1996, Morocco banned the import of live bovine animals, meat and offal of bovine animals, and products obtained from bovine animals slaughtered in Canada, Denmark, France (for some of these products), Germany, Ireland, Italy, Oman, Portugal, Switzerland, and the United Kingdom.⁶¹ In 2001, Morocco totally banned the import of like products, including those from countries free of the disease, which had been processed in countries where there had been declared cases of BSE, as well as meal of meat, blood and bones of mammals (as live bovine animals of any origin were banned, the other products were also banned if they came from countries where the OIE had officially declared cases of BSE).⁶²

73. In 1999, Morocco banned the import of live poultry, poultry products, foods containing poultry by-products and pigmeat-based products from Belgium.⁶³ In the same year, the ban was extended to imports of raw materials to be used to manufacture foods and animal feeding stuffs containing animal fats or by-products of animal origin, with the exception of those intended for pet

⁶¹ Order No. 738-96 of the Minister for Agriculture and Agricultural Development of 18 April 1996 banning the entry into Morocco of live bovine animals, animal foods, products of animal origin and animal reproduction products from bovine animals originating in or coming from specified countries. WTO document G/SPS/N/MAR/2 of 26 May 1997.

⁶² Order No. 1674-01 of the Minister for Agriculture and Agricultural Development, Water Resources and Forestry of 7 September 2001 amending Order No. 738-96 of 18 April 1996 banning the entry into Morocco of live bovine animals, animal foods, products of animal origin and animal reproduction products from bovine animals originating in or coming from specified countries. WTO document G/SPS/N/MAR/16 of 21 December 2001.

⁶³ Order of the Minister for Agriculture, Rural Development and Marine Fisheries banning the entry into Morocco of live poultry, poultry products, foods containing poultry by-products and pigmeat-based products. WTO document SPS/N/MAR/4 of 11 June 1999.

animals. Additional sanitary documents containing certain requirements were introduced for their import from other EU countries.⁶⁴ These measures were suspended in August 2000.⁶⁵

74. Morocco has also notified other measures adopted with a view to protecting consumer and/or animal health, promoting product quality and exports, developing the agro-industrial sector, and defining procedures for sanitary inspection of imports or the requirements for the preparation and sale of certain products (Table AII.1).

(c) Marking, labelling and packaging

75. Morocco does not have special regulations on the marking of containers. However, in order to facilitate identification of products and speed up customs clearance, it is recommended that the shipping container show, *inter alia*, the net weight in kilograms. The entry of any product bearing an emblem or sign that resembles or copies an official or religious emblem or sign in Morocco is prohibited.⁶⁶

76. Labels must generally be in French or Arabic and show the country of origin. Labels in Arabic have recently been made compulsory for foodstuffs.⁶⁷ Also with regard to labelling, there are special requirements for food products and pharmaceuticals. The labels on processed food products must show, *inter alia*, the exact name of the product, its ingredients, the name or company name and address of the producer or packaging enterprise, the country of origin, and the weight of the contents. The date of manufacture and the sell-by date must also be indicated on canned goods and soft drink cans.⁶⁸ Similar criteria apply to pharmaceuticals (including medicines) and, if they are compounds, the name and percentage of each ingredient must also be indicated.⁶⁹

77. Since 2002, Morocco has required that details of the Moroccan importer be indicated on all imported foodstuffs.⁷⁰

(x) State trading

78. Since the last review of its trade policy, Morocco has liberalized branches of activities in which the State had a monopoly. This is the case for sugar marketing, liberalized in 1996 following

⁶⁴ Order of the Minister for Agriculture, Rural Development and Marine Fisheries amending Order No. 906-99 of 8 June 1999 banning the entry into Morocco of certain animal products or products of animal origin intended for human or animal consumption. WTO document G/SPS/N/MAR/7 of 5 August 1999.

⁶⁵ Draft Order of the Minister for Agriculture, Rural Development and Marine Fisheries repealing Order No. 906-99 of 8 June 1999 banning the entry into Morocco of certain animal products or products of animal origin intended for human or animal consumption. WTO document G/SPS/N/MAR/12 of 6 November 2000.

⁶⁶ Dun & Bradstreet (2001).

⁶⁷ Decree No. 2-01-1016 of 4 June 2002 regulating requirements for the labelling and presentation of foodstuffs.

⁶⁸ Law No. 17-88 on indication of the period of validity of canned and similar goods and beverage containers for human or animal consumption. Decree No. 2-95-908 of 5 May 1999 implementing Law No. 17-88 and Joint Order No. 440-01 of 26 February 2001 on the period of validity and requirements for the conservation of certain products.

⁶⁹ Dun & Bradstreet (2001).

⁷⁰ The name of the importer is required on imported products in order to reassure consumers concerning the quality of controls and products. It is recommended that importers require their suppliers to do this or, if not, affix an additional label for this purpose.

the abolition of the National Tea and Sugar Board's (ONTS) monopoly.⁷¹ The marketing of cereals has been liberalized; the import monopoly enjoyed by the National Interprofessional Cereals and Pulses Board (ONICL) was abolished in 1996.⁷² Law No. 24-96 on post and telecommunications separated postal services from telecommunications and opened up all telecommunications services to competition (Chapter IV(5)(ii)).

79. Some activities nevertheless remain a State monopoly. The Tobacco Authority (RT) has a monopoly of imports and marketing of tobacco. The volume of imports is determined according to domestic demand and prices are fixed by the Government. It is planned to privatize it in 2003 (section (4)(iii)). The Port Operations Board (ODEP) has a monopoly of management and operation of certain port services, and the National Railways Board (ONCF) and the National Airports Board (ONDA) also have a monopoly or exclusive rights, each in its own sphere of competence. The National Transport Board's (ONT) freight monopoly was ended in March 2003.⁷³

(xi) Government procurement

80. Morocco has recently updated the legal and regulatory framework for awarding government procurement contracts and the provisions on their administration and control.⁷⁴ Decree No. 2-98-482 on government procurement (which entered into force on 1 July 1999) defines the requirements and methods for awarding contracts for works, supplies or services on behalf of the State. It contains provisions on monitoring contracts and their administration and seeks to clarify and simplify procedures.

81. The improvements made in the new Decree include provisions to enhance transparency and combat corruption: each authority must announce its planned budget at the beginning of each financial year; envelopes must be opened in public (except for contracts affecting national defence); the decisions of the Bids Commission must be published within 24 hours of their adoption; restriction of the number of negotiated tenders to nine (previously 17); abolition of systematic recourse to a direct understanding in the case of design contracts; the right of the bidder to approach the contracting authority to ascertain the reason for the elimination of a competitor; and the introduction of an optional internal audit by the Ministry concerned (compulsory for contracts exceeding

⁷¹ Marketing of tea had already been liberalized in 1994. The ONTS was turned into a public limited company called SOMATHES (Moroccan Tea and Sugar Company) and added to the list of companies to be privatized.

⁷² The ONICL monitors the supply of cereals and pulses and organizes the bidding process for common wheat.

⁷³ Dahir No. 1-00-23 of 15 February 2000 enacting Law No. 16-99 amending and supplementing Dahir No. 1-63-260 of 12 November 1963 on road transport by automobile.

⁷⁴ Reform of government procurement has led to the adoption of the following legal texts: Decree No. 2-98-482 of 30 December 1998 defining the criteria and methods for awarding contracts by the State; Decree No. 2-99-1087 of 4 May 2000 approving the list of General Administrative clauses applicable to public works contracts; Decree No. 2-01-2332 of 4 June 2002 approving the list of General Administrative clauses applicable to design contracts and project management; Law No. 61-99 enacted by Dahir No. 1-02-25 of 3 April 2002 on the responsibility of public contracting agencies, controllers and accountants; circular No. 14/99 of the Prime Minister of 19 May 1999 extending application of the system for the qualification and classification of building and public works enterprises in relation to the award of construction and public works contracts; Decree No. 2-98-984 of 22 March 1999 establishing a system for the approval of natural or legal persons providing design and project management services in respect of the award of certain services contracts on behalf of the State; a series of accompanying texts defining the model documents and establishing implementing orders for the Decree of 30 December 1998. The legal framework for government procurement also includes other texts, namely, the Dahir of 1 June 1948 on payment of damages for delay, the Dahir of 28 August 1948 on collateral for government procurement.

DH 5 million). Other provisions have led to changes, for example, the participation of a representative of the Control of State Spending Commitments (CED) in the Bids Commission; and the minimum obligatory period of 21 days for an open invitation to tender (previously 15 days). In the case of invitations to tender involving preselection and competition, the period is 15 days for the acceptance and preselection of candidates, and 30 days for the submission of bids. For bids relating to markets financed from external resources, the period is 45 days (in accordance with the directives of the donors).

82. The same regime also applies to local authorities. Some enterprises and State entities base themselves on this regime while awaiting the finalization of the draft law on financial control of State enterprises and entities. The following do not come within the scope of the regime: contracts governed by special provisions (international agreements or conventions), contracts which the State must award according to the procedures and rules of ordinary law, for example, property rental, subscriptions to periodicals, supply of water and electricity, or telecommunications services, as well as contracts for public service concessions.

83. Morocco does not have any central procurement office for the Government nor any single authority responsible for awarding contracts. Ministries, State enterprises and local authorities award contracts themselves. The Ministers are the authorizing officers (*ordonnateurs*) and have the authority to approve contracts. They may delegate the procedure (organization and award of contracts) to their deputies (*sous-ordonnateurs*) (the authorities which award the contracts). For local authority contracts, the authorizing officers are the governors, and the presidents of the communal councils and trade union committees; the president of the inter-regional cooperation committee; and the Wali (prefect) of Rabat-Salé.

84. The following are the various methods, procedures and practices for awarding contracts in Morocco: open competitive bidding, limited competitive bidding (at least three candidates)⁷⁵, or bidding with prequalification (if this is necessary because of the special nature or complexity of the service); competition (when technical, aesthetic or financial reasons call for specialized research); negotiated contracts (where the contracting authority may discuss the project freely with the candidate of its choice); and purchase orders (for works, services and supplies not exceeding DH 100,000 during a single financial year and for each person entitled).⁷⁶ Framework contracts may be awarded when the volume and pace of execution of a service cannot be determined in advance. Contracts financed through foreign funds are awarded according to the directives in the relevant agreements.

85. All invitations to tender must be the subject of a notification (at least 21 days prior to the date for receipt of bids). The notification of the invitation to tender must be published in at least two newspapers, one of which must be a national newspaper published in Arabic. Invitations concerning contracts financed through foreign funds are also sent to Embassies for circulation.

86. The required criteria are set out in the tender specifications. The contract is awarded to the bid evaluated and deemed the most advantageous, after the bidder has met the capacity criteria specified (legal, technical, financial) and submitted an administrative dossier and a complete technical

⁷⁵ Limited competitive bidding only applies to complex services that can only be carried out by a limited number of competitors for a maximum amount of DH 1 million.

⁷⁶ Article 69 lays down the requirements and reasons which justify recourse to negotiated contracts, namely: services which must be kept secret for reasons of national defence or public security; urgent services relating to Morocco's defence, the security of the population, road, air or maritime traffic safety; technical requirements; unacceptable bids; withdrawal of the person awarded the contract; the need for additional services within a limit of 10 per cent; patents; urgent necessity due to unforeseen circumstances; and definition contracts (i.e. preliminary contract which precedes a design contract).

dossier. The other criteria to be met may relate to the quoted price, the quality of the services, the operating costs, the professional guarantees of the bidder, and the implementation period proposed.

87. Whether the contracts are for the State, local authorities, or State enterprises or entities, the control bodies are the Control of State Spending Commitments (CED), the Inspectorate General of Finance (IGF), the General Treasury and the Department of State Entities and Holdings (DEPP), which all come under the Ministry of the Economy and Finance. The Court of Audit and the regional courts of audit also play a role in monitoring government procurement. The IGF may take part in the auditing of contracts, especially those financed by international donors.

88. The Procurement Commission, which is attached to the Secretariat General of the Government, has competence, *inter alia*, for giving an opinion on draft legislative or regulatory texts on government procurement, drawing up instructions for the procurement services, proposing provisions to supplement the regulations, and codifying and updating the latter.⁷⁷ It is planned to reform the Procurement Commission.

89. The participants are informed through posting of the final decisions on the bids within 24 hours of the conclusion of the Commission's work in the premises of the contracting authority, for at least 15 days. Discussions are held in closed session.

90. The Bids Commission is responsible for public opening of the bids and for evaluating them. The Commission's members are appointed by the contracting authority and convened at its request. It is composed of a representative of the contracting authority (president); two other representatives of the contracting agency; a representative of the Ministry responsible for finance; a representative of the Control of State Spending Commitments; and a representative of the Ministry of Trade (for contracts concerning supplies exceeding DH 200,000). Its decisions are final, but the competent authority may decide not to continue with the invitation to tender and may order that the whole procedure recommence.

91. The monitoring and control of the execution of contracts is the sole responsibility of the Ministers concerned, who in fact have discretionary authority. Article 86 also imposes compulsory internal controls and audits of the preparation, award and performance of contracts exceeding DH 5 million, except for contracts relating to national defence; an initial report must be submitted for each contract and a completion report in the case of contracts for works and related design contracts for an amount exceeding DH 1 million.

92. Preference is given to Moroccan enterprises for contracts for works and related design contracts. The amounts bid by foreign enterprises are increased by a percentage not exceeding 15 per cent. When groups comprising Moroccan and foreign enterprises bid, the percentage applies to the share of the foreign enterprises. The contracting authority is the sole authority entitled to decide when this national preference mechanism should apply.

93. For the 2001 financial year, government procurement amounted to DH 15 billion. Investment by local authorities and major State enterprises and entities was DH 3 billion and DH 18 billion respectively. The breakdown of categories of spending was approximately the following: 56 per cent for works; 37 per cent for supplies; and 4 per cent for services. In 2001, the most common method of government procurement was open competitive bidding (66 per cent), followed by negotiated contracts (33 per cent) and limited competitive bidding (1 per cent) (Table III.2).

⁷⁷ Decree No. 2-75-840 of 30 December 1975 on reform of the Procurement Commission.

Table III.2

Annual amount of government procurement and share of procurement according to procedure followed

Year of contract	Amount (DH millions)	Open competitive bidding (%)	Limited competitive bidding (%)	Negotiated contracts (%)
1996-97	8,353	59	2	28
1997-98	7,064	76	3	19
1998-99	9,250	74	2.5	18.6
1999-2000	13,505	62	1	37
2001	15,166	66	1	33

Source: Information provided by the Moroccan authorities.

94. Morocco is neither a party nor an observer to the Plurilateral Agreement on Government Procurement and has not yet indicated any intention of acceding.

(xii) Local content requirements

95. Locally-made components amounting to 60 to 70 per cent are required in the automobile assembly industry.⁷⁸ Pursuant to an agreement between the Government and the company Fiat Auto SpA, the CKD components⁷⁹, raw materials and inputs needed for the manufacture of “economy” cars are exempt from import duties and benefit from a reduced VAT of 7 per cent. In exchange, the company Fiat Auto SpA had to incorporate at least 15 per cent of components of Moroccan origin in the car’s manufacture during the first 24 months as of 1 October 1995, 25 per cent during the following nine months, and then 50 per cent as of 1 July 1998. A compensation mechanism in the form of export of spare parts also applies.⁸⁰

(xiii) Other measures

96. According to the authorities, there is no agreement with any foreign government or enterprise intended to affect the quantity or value of goods or services exported to Morocco. Nor do the authorities have any knowledge of any such agreements between Moroccan and foreign enterprises.

97. Compulsory reserves of petroleum products and pharmaceuticals are kept.

98. Import insurance must be taken out with a Moroccan insurance company. Nevertheless, for certain goods for which the import document is drawn up in c.i.f. terms or for imports by air or through the post, foreign insurance is allowed.⁸¹

99. Morocco applies the international trade sanctions adopted by the United Nations Security Council.

⁷⁸ Decree No. 2-81-489 of 27 May 1982 implementing Law No. 10-81 regulating the automobile assembly industry.

⁷⁹ “CKD” means “completely knocked down” and refers to the import of cars in parts, which are then assembled in the country of destination.

⁸⁰ The provisions on the exemptions granted for “economy” cars are specified in the 1995 Finance Law. See WTO (1996) for further details.

⁸¹ For example, goods imported in the context of external financing; capital goods or tools imported under “turnkey” contracts or an investment programme providing for insurance to be taken out abroad; crude petroleum, gas or diesel fuel; wood; and heifers. Foreign Exchange Board (undated).

(3) MEASURES DIRECTLY AFFECTING EXPORTS**(i) Registration and documentation**

100. Since 2001, inclusion in the commercial register is no longer required for engaging in an export activity. In order to export, an operator must have an export document allowing the goods to go through customs. It may be a foreign exchange undertaking for freely exportable goods, or an export licence for goods subject to quantitative restrictions and requiring prior approval by the Ministry responsible for foreign trade (section (iii) below).⁸² A Single Goods Declaration (DUM) is required for any goods sent for export.

101. Under a foreign exchange commitment, the exporter undertakes to repatriate all the earnings from the exports within a maximum period of 150 days⁸³, but the Foreign Exchange Board may authorize the exporter not to repatriate the earnings within this period.⁸⁴ A foreign exchange commitment is drawn up in four copies; it is accompanied by a commercial contract and must be submitted to the customs post.

102. Export authorizations for certain operations must be approved in advance by the Foreign Exchange Board. This concerns exports of products other than vegetables, fresh fruit, citrus fruit, flowers, and handicrafts products.⁸⁵

103. Some exports of a special nature do not require an export authorization.⁸⁶ These are exports of a commercial nature (not exceeding DH 3,000) and free samples (not exceeding DH 10,000); temporary exports of goods by tourists leaving Morocco, and exports by a Moroccan trader on behalf of a tourist (not exceeding DH 50,000); temporary exports for outward processing.⁸⁷ Exporters must, however, complete a Single Goods Declaration (DUM).⁸⁸

104. Other documents must be presented upon export, namely, wharfage, receipt or deposit documents or any other proof that the goods have been presented to the customs for the purpose of export. In order to benefit from preferential regimes, movement certificates and certificates of origin are required. For goods exported to the EU and EFTA, EUR1 movement certificates are required. For other goods, the prescribed certificate of origin is required.

⁸² Article 19 of Law No. 13-89 on foreign trade, enacted by Dahir No. 1-91-261 of 9 November 1992, as amended and supplemented by Law No. 3-96, enacted by Dahir No. 1-97-63 of 12 February 1997. According to this Law, quantitative export (or import) restrictions may be imposed in order to protect morality, security, public order and human health, fauna or flora, the national archaeological or artistic heritage, or to preserve Morocco's external financial position (Article 1).

⁸³ Circular No. 1606 of the Foreign Exchange Board of 21 September 1993.

⁸⁴ Foreign Exchange Board (undated).

⁸⁵ Circular No. 1620 to approved intermediary banks, Rabat, 7 October 1994, available at <http://www/oc.gov.ma/OC/Circulaires/1620.htm> [20 September 2002].

⁸⁶ Article 18 of Law No. 13-89 on foreign trade, enacted by Dahir No. 1-91-261 of 9 November 1992, as amended and supplemented by Law No. 3-96, enacted by Dahir No. 1-97-63 of 12 February 1997.

⁸⁷ The following are also exempt: exports not subject to payment; export of goods to supplement or replace missing or faulty products and those intended for tests and analyses in foreign laboratories; re-export of goods returned to the Moroccan exporter for further processing and goods that are faulty or do not match the order.

⁸⁸ Foreign Exchange Board (undated).

(ii) Export taxes

105. A tax amounting to DH 0.05 is levied on every quintal of maize exported. Exports of plant fibre are subject to a levy of DH 7/tonne. A levy (on the exploitation of phosphates) of DH 34/tonne of crude phosphate equivalent is payable on phosphate exported.

(iii) Prohibitions, restrictions and export licensing

106. Ministerial Order No. 1308-94 of 28 April 1994 (as amended) lists the goods of Moroccan origin subject to quantitative export restrictions and, thus, to export licensing, namely, cereal flour (except rice flour), charcoal, collections and specimens for various collections (zoological, botanical, mineralogical, and archaeological); and antiques over 100 years old.⁸⁹ In 2001, in order to ensure supplies for the hides and skin industry, Morocco imposed an export licence on hides and skins of sheep, bovine and equine animals, and goats.⁹⁰ This requirement was abolished in October 2002 for certain types of hides and skins (buff, patent or plastic-surfaced and metallized leather).

107. Export licences are issued by the Minister responsible for foreign trade. Decisions on granting or refusing licences are notified to the applicant within a maximum period of 30 days and the grounds for refusal must be given.⁹¹

108. Under multilateral agreements such as CITES or the Basel Convention, products, waste and/or species are subject to a permit, certificate or export ban. Endangered species of wild fauna and flora (Annexes I and II to the CITES) require an export permit or a re-export certificate; for species included by Morocco in Annex III, an export permit is required; in the case of species listed by other countries, a certificate of origin must be produced. These permits and certificates are issued by the Department of Water Resources and Forestry. The export of waste in List A of the Basel Convention requires an authorization from the Department of the Environment and the consent of the importing country.

109. According to the authorities, Morocco does not have any self-restraint agreement for exports.

(iv) State trading

110. The export of phosphates is a State monopoly exercised by the Moroccan Phosphates Board (OCP), the world's leading exporter of phosphates, whose global market share was 27 per cent in 2001 (Chapter IV(3)(i)(b)).⁹²

(v) Free export zones and industrial zones

111. Free export zones (ZFE) were created by Law No. 19-94 of 26 January 1995. Their organization and management are the subject of concessions granted, after an invitation to compete, to a body that undertakes to submit investors' applications to a local ZFE commission for approval. This

⁸⁹ Circular No. 1617 to approved intermediary banks, Rabat, 25 July 1994, available at <http://www.oc.gov.ma/OC/circulaires/1616/htm> [20 September 2002].

⁹⁰ Decree No. 760-01 of the Minister for Industry, Trade, Energy and Mining of 12 April 2001 supplementing Order No. 138-94 determining the list of goods subject to quantitative import and export restrictions.

⁹¹ Article 8, Title II, of Decree No. 2-93-415 of 2 July 1993 implementing Law No. 13-89 on foreign trade, as amended and supplemented by Decree No. 2-99-1261 of 4 May 2000.

⁹² OCP Group (undated).

body serves as a single window for applications for authorization as a ZFE enterprise.⁹³ There is currently one 345-hectare ZFE in Morocco, in Tangiers. It is operated by the Tangier Free Zone company and comprises an industrial in-bond zone and a logistical zone.⁹⁴ In all, 109 companies have been authorized to set up in the Tangiers ZFE, representing investment of over DH 1.7 billion and the creation of 16,273 jobs.⁹⁵

112. In order to benefit from ZFE status, enterprises must export all their production. Services enterprises working with free zone enterprises are also given ZFE status. Foreign exchange operations for transactions abroad by enterprises established in ZFEs are totally free.⁹⁶ Goods entering or leaving ZFEs are exempt from all duties and taxes on imports, exports, production, movement, or consumption. Other fiscal measures include exemption from registration and stamp tax on constituting or increasing capital, and on the purchase of the land needed for the enterprise's investment projects; exemption from the business tax is given for 15 years, from urban tax for 15 years, and from the national solidarity contribution; full exemption from corporation tax (IS) for the first five years, followed by an 8.75 per cent reduction (instead of the normal 35 per cent rate) for the next ten years; total exemption from income tax (IGR) for the first five years, and then a reduction of 80 per cent for the next ten years. Total exemption from the IS and the IGR apply to enterprises created since 1 January 2001.⁹⁷ Dividends paid to non-residents are also exempt from tax; a rate of 7.5 per cent is imposed on dividends paid to Moroccan residents.⁹⁸

113. The National Industrial Zones Programme, initiated in the 1970s as part of regional development policy, has led to the establishment of 74 industrial zones in Morocco (48 already finished and 26 currently being completed).⁹⁹ Despite the progress, a number of problems have arisen, for example, the scarcity of serviced lots in attractive regions; the lack of maintenance and management services and facilities needed for the proper functioning of the plants established; virtually complete lack of ready-to-use buildings; and land speculation. In order to remedy the situation, a new planning and infrastructure policy is being implemented based on the introduction of partnerships between the central authorities and private operators, local authorities, professional associations, and public entities.¹⁰⁰

(vi) Export subsidies

114. The State grants subsidies to promote exports of certain agricultural products by air freight, namely, fruit, vegetables, cut flowers, and ornamental plants. The subsidies range from DH 1 to DH 4.5 per kg. depending on the destination and are paid to air transport companies, which may deduct them from the freight rates.

⁹³ MINEFI-DREE (2002f).

⁹⁴ The Tanger-Boukhalef ZFE was established under Decree No. 2-96-511 of 10 November 1997; its rules of procedure were approved by a ministerial order of 5 June 2000. It was set up under the priority programme for the infrastructure, which also planned another 300-hectare ZFE project in Nador (Decree No.2-96-512 of 20 November 1997). The Nador ZFE is not yet functioning.

⁹⁵ Forty companies are operating, 29 are being set up, 11 have been authorized and the contract is under way for 29.

⁹⁶ Transactions within free zones may only be paid in convertible currency.

⁹⁷ Industrial Development Board (undated).

⁹⁸ MINEFI-DREE (2002f).

⁹⁹ Ministry of Industry, Trade and Telecommunications (undated). In 1996, during the last review of Morocco's trade policy, there were 24 such zones.

¹⁰⁰ Government authorities undertake to help the promoters of industrial zones to purchase land on favourable terms and to assist the installation of off-site facilities needed to link up to the energy, water and sanitation infrastructure.

(vii) Tariff and fiscal incentives

115. In Morocco, there are seven regimes that allow import with the suspension of duties and taxes: temporary admission for inward processing; in-bond warehousing or storage; temporary admission; temporary export for outward processing; temporary export; transit; and free industrial warehouses. Goods benefiting from a suspension regime must be covered by one of the forms of security approved by the customs authority (bank guarantee, transfer of duties and taxes with payment suspended, or any other security approved by the Minister responsible for finance).¹⁰¹

116. The temporary admission for inward processing regime allows goods to be imported (without foreign trade control formalities) for a period of two years, renewable for two further periods of six months each, in order to be processed, worked or completed and then re-exported.

117. The in-bond warehousing or storage regime authorizes goods to be placed in warehouses under the control of the customs authority for a specified period. This regime complements that of temporary admission for inward processing and allows the enterprise to store goods obtained under the latter regime while awaiting their export.

118. Temporary admission allows an enterprise to bring into Morocco for a period of six months to two years (without any foreign trade control formalities) equipment or products exportable in the state in which they were imported, after they have been used without any form of processing.

119. Temporary export for outward processing allows goods to be exported provisionally (for a maximum of one year) for the purpose of processing or working. When they return to Morocco, only the foreign value added is subject to import duties and taxes.

120. Temporary export allows equipment or products intended for use during a specified period to be sent abroad, but they must return to Morocco in the same state within a maximum period of six months.¹⁰²

121. Transit allows the transport of goods in bond from one customs post or warehouse to another (the prohibitions and restrictions normally applicable are suspended).

122. The free industrial warehouse regime allows the import of materials, equipment, parts and spare parts, as well as goods to be worked, under an agreement between the authorities and the enterprise, so that the “compensatory products” obtained can be exported. This regime is authorized for newly-created enterprises intending to invest DH 150 million, create at least 200 jobs and achieve an export turnover of DH 100 million within a maximum period of three years; and to enterprises seeking to extend their activities in an amount of DH 50 million, to create a minimum of 75 new jobs, and keep stock accounts. They are allowed to sell 15 per cent of their output on the domestic market¹⁰³ and may combine the benefits of temporary entry and temporary import, as well as taking advantage of free zones (section (3)(v)).¹⁰⁴

123. Two regimes allow the refund of duties and taxes paid, namely, the prior export and drawback regimes. The former allows the export of products obtained from goods of foreign origin on which

¹⁰¹ The other forms of security are principally the bond facilities available to exporting enterprises (for example, mixed guarantees, global guarantees, and a performance bond from the exporting enterprise) (section (3)(iii) above).

¹⁰² Industrial Development Board (undated).

¹⁰³ Industrial Development Board (undated).

¹⁰⁴ Ministry of Industry, Trade, Energy and Mining (2001a).

import duties and taxes have been paid, and then the import of raw materials and semi-finished products on which duties and taxes have not been paid up to the amount previously paid (tax credit).¹⁰⁵ The latter regime permits the refund to exporting enterprises, according to a standard fixed rate, of duties and taxes originally paid on the import of raw materials or semi-finished products used to manufacture goods exported. Only the products designated by decree are eligible for this regime.

(viii) Export financing, insurance and guarantees

124. Loans contracted abroad in order to finance or prefinance exports are not subject to prior authorization by the Foreign Exchange Board. The terms applicable such as the rate of interest and the repayment period must comply with those in effect on foreign markets at the time the agreement was concluded.¹⁰⁶

125. The Moroccan Export Insurance Company (SMAEX) offers three types of export insurance: credit insurance, fairs insurance, and market survey insurance.¹⁰⁷ Credit insurance covers 90 per cent of the cost of exporting against ordinary commercial risks (for example, the insolvency of the foreign client), and against political risks and disasters.¹⁰⁸ The premium for this guarantee is around 0.25 to 1.8 per cent of the value of the exports in question.¹⁰⁹ The fairs insurance covers the costs committed amounting to up to 50 per cent for unsuccessful participation in an international trade event and the premium is 3 per cent of the approved budget. Market survey insurance offers the same cover against the risks of an unsuccessful market survey; to the 3 per cent cost of the premium must be added a fee for preparing the dossier. If the market survey is successful, an additional premium is levied on the earnings during the amortization period.¹¹⁰

126. Simplified market survey insurance is provided for small and medium industries and enterprises (SMI/SME) whose annual export turnover does not exceed DH 1 million and for enterprises that have been engaged in export activities for at least two years. It allows exporters to present an overall budget without going into detail. Its cost comprises a fee for opening the dossier and a single insurance premium of 1.5 per cent of the approved budget. The exporter has the right to obtain security for the contract with a financial organization in order to finance the market survey programme.¹¹¹

127. Exporters are nevertheless free to conclude factoring and export insurance contracts with foreign specialized entities.¹¹²

(ix) Export promotion, marketing aids

128. The Moroccan Export Promotion Centre (CMPE) is a State body under the supervision of the Ministry of Industry, Trade, Energy and Mining and is responsible for promoting and developing exports of industrial and agro-food products, services and all products that do not fall within the

¹⁰⁵ Ministry of Industry, Trade, Energy and Mining (2001a).

¹⁰⁶ Foreign Exchange Board (undated(b)).

¹⁰⁷ The SMAEX was set up in 1987 as a semi-public company. Its financial structure is composed of own funds (DH 56.6 million), a special reserve fund (DH 68.5 million), and a State reserve fund (DH 186 million). Moroccan Export Promotion Centre (undated).

¹⁰⁸ Foreign Exchange Board (undated (b)).

¹⁰⁹ Moroccan Export Promotion Centre (undated).

¹¹⁰ Foreign Exchange Board (undated (b)); and Moroccan Export Promotion Centre (undated).

¹¹¹ Moroccan Export Promotion Centre (undated).

¹¹² The Foreign Exchange Board's Circular No. 1613 of 28 December 1993 gave Moroccan banks the authority to debit CCPEXs or foreign currency accounts in order to settle premiums and commissions payable under insurance contracts.

competence of other State institutions. Each year, it conducts programmes for Morocco's participation in foreign and Moroccan trade events (decided upon by the Interministerial Fairs and Exhibitions Committee).¹¹³ The CMPE also makes available to exporters a promotional space on its web site, which consists of an interactive database in the form of list of enterprises.¹¹⁴ It is financed in part by the parafiscal import tax.

129. Exporters may also hold foreign currency or convertible DH accounts (convertible export promotion accounts (CCPEX)) with a Moroccan bank for up to 20 per cent of export earnings repatriated. Prior authorization from the Foreign Exchange Board is required to open such an account. An authorization is not required by exporters that already have CCPEX accounts.¹¹⁵

130. The State also grants subsidies to promote the export of certain agricultural products (section (3)(vi)).

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Incentives

131. The 1995 Investment Charter gave investors additional benefits (Chapter II(6)). In 2000, the Government also established the Hassan II Fund for economic and social development¹¹⁶ which, *inter alia*, promotes investment in certain industrial sectors.¹¹⁷ It contributes up to 50 per cent of the purchase price of industrial land and up to 30 per cent of the cost of building business premises.¹¹⁸

132. For several decades, subsidies have been granted for agricultural products. In recent years, however, the Government has started to eliminate subsidies for various products, including oilseeds (except for locally-produced sunflower seed) and sugar for industrial use (Chapter IV(2)(iii)). Subsidies are still granted either in the form of production support (purchase of agricultural equipment, price support for producers, *inter alia*) or in the form of consumer price support. The rate of subsidies granted to farmers for the purchase of agricultural equipment ranges from 10 to 60 per cent depending on the type of equipment and the situation of the beneficiary (individual or cooperative). The sunflower seed subsidy guarantees producers a price. Subsidies are also granted for consumer prices for certain products, for example, domestic flour of common wheat (in the amount of 10 million quintals), sugar, butane gas and, exceptionally, petroleum products.¹¹⁹ The

¹¹³ The Interministerial Fairs and Exhibitions Committee comprises the ministries concerned and general and sectoral professional associations.

¹¹⁴ Moroccan Export Promotion Centre, information available on line at <http://www.cmpe.org.ma/export.htm> [23 September 2002].

¹¹⁵ The total amount of all accounts must not, however, exceed 20 per cent of the currency repatriated.

¹¹⁶ Decree No. 2-00-129 of 16 March 2000 establishes the trust fund No. 3.1.04.04 called the "Hassan II Fund for economic and social development"; Dahir No. 1-02-02 of 29 January 2002 enacts Law No. 36-01 creating the Hassan II Fund for economic and social development and its implementing Decree No. 2-02-93 of 12 March 2002.

¹¹⁷ For example textiles (spinning, weaving and finishing); electronics; clothing and knitted and crocheted articles; automobile sub-contracting (manufacture of automobile components and precision engineering); leather; tourism; fishing; environmental protection through the treatment, recycling and industrial use of waste.

¹¹⁸ The contribution to the cost of the land is based on a maximum price of DH 250/m² and the cost of building on a maximum cost of DH 1,500/m². The contribution may be 100 per cent if it only concerns purchase of land.

¹¹⁹ Consumer price support for petroleum products and gas was granted for the period July 1999 to December 2000. During this period, the Compensation Fund paid out over DH 7 billion. Subsidies for edible oils were abolished in November 2000.

subsidies are paid through the Compensation Fund.¹²⁰ Table III.3 shows the consumer subsidies for food products.

133. The State does not generally intervene in the price of agricultural inputs (fertilizer, seeds, phytosanitary products, agricultural machinery). Exceptionally, in cases of drought and to support the selling price of certified cereal seeds, the State fixes maximum subsidized prices for retrocession for certified cereal seeds (common wheat, durum wheat, and barley). Two types of subsidy are applied: for production (support for storage fees and transport of seeds marketed by the National Seed Marketing Company (SONACOS) for an annual average figure of DH 20 million) and for use (solely in years of drought).

Table III.3

Trend in net consumer subsidies for food products, 1996-2001
(in DH millions)

	Domestic common wheat	Sugar	Vegetable oils	Total
1996	849	1,325	545	2,719
1997	415	1,087	939	2,441
1998	0	1,310	824	2,134
1999	0	1,271	632	1,903
2000	0	1,250	28	1,278
2001	0	1,600	0	1,600

Source: Information provided by the Moroccan authorities.

134. Subsidies are granted for 10 per cent of land equipped with major hydraulic works, for which the irrigation water rates only cover between 56 and 83 per cent of the cost of operating and maintaining the irrigation network. Subsidies are also given for the operating and equipment budget of the regional agricultural development boards (ORMVA) for planning and supporting agricultural development (including the extension of irrigation and promoting awareness) (Chapter IV(2)(i)).

135. To the WTO Secretariat's knowledge, other non-agricultural industries do not receive any direct subsidies.

(ii) Competition policy and price controls

136. The 1996 Constitution proclaimed the principle of freedom to do business, which served as the basis for the adoption of Law No. 06-99 on pricing freedom and competition, and its implementing decree.¹²¹ The purpose of this Law is to define the provisions governing pricing freedom, to organize free competition, and to lay down the rules for its protection. Its scope covers: all natural or legal persons whose activities have an impact on competition in the Moroccan market; production, distribution and services, including those by State entities acting as operators; and understandings (between exporters) that affect competition on the domestic market.

137. Article 2 of Title II lays down the principle of pricing freedom and pricing based on free competition. It is, however, restricted by the exceptions that give the State the right to intervene in the case of monopolies; ongoing supply difficulties; legislative or regulatory provisions; large-scale

¹²⁰ Subject to the provisions in Articles 3, 4, 5 and 83 of Law No. 06-99 on pricing freedom and competition, the price of agricultural products is determined by market forces. Nevertheless, price controls on some products (domestic flour of common wheat, sugar, raw or manufactured tobacco) may be maintained for a transitional period of five years as of the date of entry into force of Law No. 06-99 (2001) (section (ii)(a)).

¹²¹ Law No. 06-99 on pricing freedom and competition (which entered into force on 6 July 2001), and its implementing Decree No. 2-00-854 of 17 September 2001. They replace Law No. 008-71 on price regulations and controls and requirements for stocking and selling products and goods.

disasters or abnormal market situations; and excessive price fluctuations. At the request of professional organizations or at the initiative of the Government, prices may be subject to approval.

138. The Law sets out the rules on transparency and prohibits practices that constitute restrictions on relations among economic operators. The following practices are deemed to be restrictive: practices that affect the consumer's freedom of choice (the Law makes it compulsory to provide information and prohibits refusal to sell or provide a service, sales or services contingent upon the purchase of another product or service, and sales or services with a premium¹²²); practices that restrict trade relations among professionals (the obligation to provide an invoice and to communicate price lists and terms of sale; a ban on compulsory minimum resale prices, discriminatory practices, refusal to meet buyers' requests and tied sales); practices relating to storage of goods (the Law combats smuggling and speculation by prohibiting "clandestine storage").

139. The Law also prohibits concerted action, agreements, understandings or collusive action and the abuse of a dominant position when the objective is to prevent, restrict or distort competition. Exceptions concern SMEs and agricultural or handicrafts cooperatives; export promotion; or practices that make a sufficient contribution to "economic progress" to offset the restrictions and give users a fair share of the benefits. When assessing the contribution to economic progress, the Competition Council takes into account the enterprise's competitiveness.

140. Economic concentration projects liable to prejudice competition are submitted to the Competition Council by the Prime Minister for an opinion.¹²³ Concentration is defined as the result of any act that includes a transfer of property or use of all or part of an enterprise's assets, rights and obligations, or which allows an enterprise to exercise a decisive influence over another. Two forms of concentration are allowed: agreements whose purpose is to improve the management of SMEs or the marketing of agricultural products.

141. The Government's control is exercised through the Interministerial Price Commission (for products which are still regulated) and the Competition Council, responsible for implementing the legislation on monitoring market structures and the resulting practices. The Competition Council plays an advisory role as regards concentration, anti-competitive practices, and pricing, but has no decision-making authority. It may be consulted by Parliament, the Government, regional councils, and urban communities, chambers of commerce, industry and services, professional chambers, trade union and professional organizations and consumers' associations.¹²⁴ It cannot, however, act on its own initiative nor at the instigation of an enterprise. It may recommend to the Prime Minister that he bring the matter before the King's Prosecutor at the competent court of first instance in order to initiate criminal proceedings. Sanctions usually fall within the competence of the courts and their levels are determined in Framework Law No. 06-99. The Prime Minister may, however, decide not to have recourse to the courts and, on the recommendation of the Competition Council, order that the anti-competitive practices be terminated within a specified period or impose special conditions.

142. The disputes recently brought before the courts in relation to competition dealt *inter alia* with maritime transport (understanding against the entry of a new operator), petroleum products (distribution monopoly), and aerated beverages (abuse of a dominant position).

¹²² In order to supplement the Law on competition, new consumer protection legislation is being adopted.

¹²³ Article 10 sets 40 per cent of market share as the threshold for control.

¹²⁴ It must be consulted on regulatory texts that may restrict competition; prior to the fixing of prices and terms of sale; and on the granting of State or local authority aid.

143. According to Article 83 of Law No. 06-99, pricing freedom only applies to products and services on a list fixed in the regulations.¹²⁵ Currently, the State regulates the price (*inter alia*) of goods whose consumption is subsidized, basic services (drinking water, electricity, compulsory car insurance, transport, school books), products and services of a social nature (pharmaceuticals), and products or services that are the subject of a monopoly. Maximum profit margins are also fixed for some products (foodstuffs and pharmaceuticals). Since 1995, the price of fuel has been fixed according to an index in which fluctuating global prices are reflected in higher or lower domestic prices.

(iii) Privatization

144. Morocco launched its privatization programme in 1993. At the end of 2000, the portfolio of State holdings comprised 741 State enterprises and entities.¹²⁶ Law No. 39-89 on privatization authorized the transfer of 112 entities (including 37 hotels) to the private sector.¹²⁷ The deadline for the privatization programme was extended from 31 December 1995 to 31 December 1998. In 1999, a new law (Law No. 34-98) abolished the deadline for implementation of the programme and removed from the list of enterprises to be privatized those that had encountered major legal and financial difficulties (Table III.4).¹²⁸ The Law defines three methods of privatization: through the financial market (Casablanca Stock Exchange), through invitations to tender, and by direct transfer.

Table III.4
Companies to be privatized, March 2003

Name	Sector of activity	Share to be sold (%)
SNDE	Agriculture/livestock	96.60
BNDE	Development finance/bank	43.53
Biopharma	Medicines and veterinary medicines	..
BTNA ^a	Building materials and ceramic products	..
CIH	Finance/bank, property and hotel loans	48.89
FERTIMA	Fertilizers	..
DRAPOR ^b	Dredging of ports, hydrographic works, works or services in ports	..
National Zoological Park (PZN)	Tourism	..
Tobacco Authority	Growing, manufacture, import and exploitation of tobacco	..
SCS ^c	Operation of mines, salt mines, salt and sea salt sources	..
Moroccan Tea and Sugar Company	Tea, sugar and other food products, import, packaging, storage, marketing and export	..
SOCOCHARBO ^a	Wood and solid fuel, trade, import and export	..
SOMACA	Automobile industry	38.00
SONACOS	Marketing and packaging of seeds	..
SONIR	Operation of printing works	..

Table III.4 (cont'd)

¹²⁵ This concerns the following products and services: domestic flour of common wheat; sugar; raw tobacco; manufactured tobacco; electricity; drinking water; sanitation; liquid or gaseous fuels; industrial fish; pharmaceuticals for veterinary use; bags of blood and its by-products; acts by midwives; nurses in the private sector; physicians' and veterinarians' fees; dental surgery; medical analyses; daily newspapers; school books; acts by bailiffs; acts in Hebrew; passenger and freight road and rail transport; domestic air transport of passengers; urban passenger transport; docks-silos; refrigerated warehouses; pilot and towing services in ports; compulsory car insurance; commissioning of insurance intermediaries; and legal, judicial and administrative announcements and notices. These regulations may remain in force for a transitional period of five years as of the date of entry into force of Law No. 06-99 (2001).

¹²⁶ They consist of 173 State bodies of an administrative nature; 51 State enterprises of an industrial or commercial nature; and 517 public limited companies.

¹²⁷ Subsequently, other enterprises were added to the list, bringing the number of enterprises to be privatized to 124.

¹²⁸ Several implementing decrees have also been adopted concerning, *inter alia*, the legal and financial procedures for transfers; the authority of the Minister responsible for effecting the transfers, the Transfers Commission or the Evaluation Body; the procedure for pre-emptive rights and the share of retired employees of enterprises transferred, and the methods of transfer and evaluation.

Name	Sector of activity	Share to be sold (%)
SSM ^c	Operation of mines, salt mines, salt and sea salt sources	..
SUCRAFOR	Granulated white sugar industry	72.16
SUNABEL	Granulated white sugar industry	99.53
SURAC	Granulated white sugar industry	100.00
SUTA	Granulated white sugar industry	99.50
SETAFIL	Textile industry, cotton thread and folded yarn	59.23
COTEF	Textile industry, spinning, weaving, dyeing of thread, printing	98.52
SACEM	Mining, manganese	42.99
Asmaa	Hotel industry	
Ibn Toumert	Hotel industry	

.. Not available

^a Subsidiary of *Charbonnage du Maroc* (CDM)

^b Subsidiary of the Port Operating Authority (ODEP)

^c Subsidiary of the Mining Prospecting and Holdings Board (BRPM).

Source: Ministry of the Economy, Finance, Privatization and Tourism, Privatization Department (2002) and the Moroccan authorities.

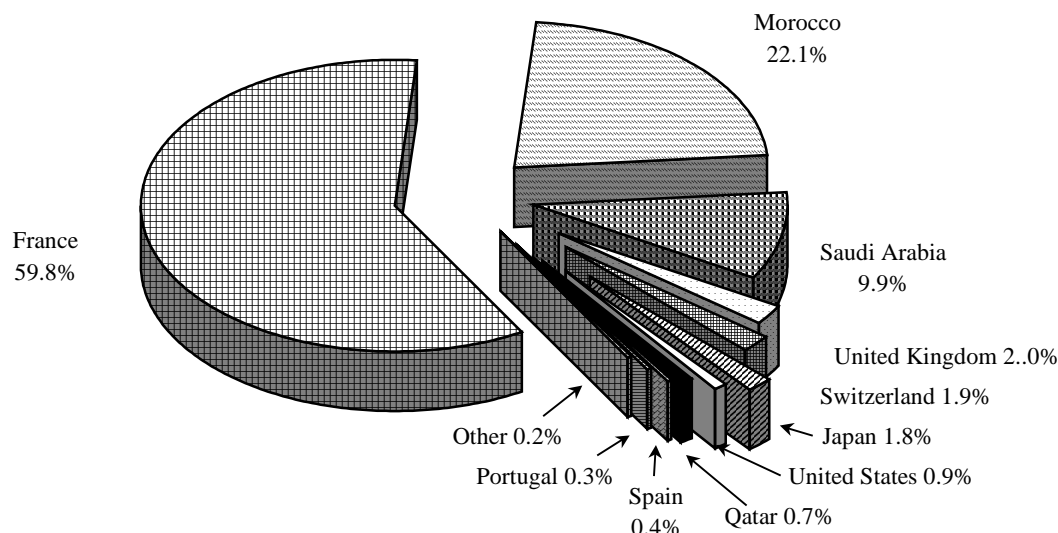
145. In all, 63 entities (including 26 hotels) have been privatized since the programme began and the total revenue earned amounts to DH 40 billion. Of these 63 entities, 18 companies and five hotels have been wholly or partly sold to foreign buyers.¹²⁹ Chart III.5 shows the breakdown by country of the earnings from privatization. Competitive bidding is the most common method (68.5 per cent of revenue generated), followed by direct sale (22.6 per cent) and public offering through the Casablanca Stock Exchange (8.9 per cent).¹³⁰

146. In 2002, privatization suffered the negative impact of trends in financial markets and the international economic situation. The collapse of the telecommunications sub-sector and the air transport crisis made it necessary to delay two important privatizations planned for 2002 (the quotation of *Maroc Télécom* on the stock exchange and the privatization of *Royal Air Maroc*). In addition, some operations planned were extremely complex and were delayed for legal or institutional reasons. This was the case for the Tobacco Authority, whose privatization required the adoption of legal provisions ending its monopoly. According to the authorities, in the medium term, privatization operations will be longer and more complex because the majority of enterprises in competitive sectors have already been privatized and the privatization of enterprises that have monopolies or those in sectors governed by special regulations first requires the adoption of a new legislative and regulatory framework.

¹²⁹ Between February 1993 and June 1995, 16 companies and 16 hotels had already been privatized, including eight companies and four hotels wholly or partly bought by foreigners.

¹³⁰ Direct sale was the method used for the sale of shares to employees, following unsuccessful invitations to tender, in order to respect pre-emptive rights or priority, or when activities were opened up to competition.

Chart III.5
Revenue from privatization by country



Source: Ministry of the Economy, Finance, Privatization and Tourism, Privatization Department (2002), Guide de la privatisation.

147. The legislation allows a maximum of 10 per cent of the capital of enterprises to be privatized to be reserved for employees when the enterprise is sold or 20 per cent of the shares up to a limit of 10 per cent of the capital when shares are sold. Employees may be given a maximum reduction of 15 per cent of the selling price.¹³¹ In order to ensure regional development, priority may be given to natural persons resident, born or exercising an economic activity in the region where the enterprise is situated, to Moroccan citizens belonging to the region, to companies whose objective is to develop the regional economy and which have their headquarters in the region, or to cooperatives having their headquarters there. In the case of sale of the State's holdings in companies marketing cotton, oilseeds or selected seeds or companies that process sugar beet and cane, fruit and vegetables, or engage in cotton ginning, priority is given to agricultural cooperatives. In such cases, the procedure followed is limited competitive bidding.¹³² The Ministry responsible for effecting transfers, an Interministerial Commission composed of five members (Sales Commission) and an Evaluation Body supervise the transactions.

¹³¹ Decree No. 2-90-577 of 16 October 1990 implementing Article 7 of Law No. 39-89 authorizing the transfer of State enterprises to the private sector, as amended and supplemented by Decree No. 2-99-125 of 14 May 1999.

¹³² Decree No. 2-90-402 of 16 October 1990 based on the authority provided by Article Five of Law No. 39-89 authorizing the transfer of State enterprises to the private sector, as amended and supplemented by Law No. 35-98, enacted by Dahir No. 1-99-132 of 13 May 1999.

(iv) **Protection of intellectual property rights**

(a) Overview

148. Morocco is a member of the World Intellectual Property Organization (WIPO). It is party to the following conventions or arrangements: Paris Convention for the Protection of Industrial Property; Berne Convention for the Protection of Literary and Artistic Works; Universal Copyright Convention; Patent Cooperation Treaty (PCT)¹³³; Madrid Agreement Concerning the International Registration of Marks and its Protocol; Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks; Hague Agreement Concerning the International Deposit of Industrial Designs; Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite; and the Nairobi Treaty on the Protection of the Olympic Symbol. Morocco also participates as an observer at the International Union for the Protection of New Varieties of Plants (UPOV).

149. Since the last review of its trade policy, Morocco has thoroughly revised its intellectual property legislation and adopted three new laws on copyright and neighbouring rights (Law No. 2-00)¹³⁴; new plant varieties (Law No. 9-94); and the protection of industrial property¹³⁵, which will enter into force six months after publication of the implementing texts.¹³⁶

150. In 2000, the Moroccan Industrial and Commercial Property Office (OMPIC) was created by amalgamating the previous office and the Central Commercial Register.¹³⁷ Copyright and neighbouring rights are administered by the Moroccan Copyright Bureau (BMDA), under the supervision of the Minister responsible for communications¹³⁸, and the protection of new plant varieties by the Ministry of Agriculture and Rural Development.

151. The most commonly encountered violations of intellectual property rights in Morocco are counterfeiting, piracy of musical and audiovisual tapes, trademarks, and industrial designs. Parallel imports are not permitted.

(b) Industrial property rights

152. While awaiting the adoption of the draft decree implementing Law No. 17-97, industrial property rights are still regulated by the Dahir of 23 June 1916, which gives an exclusive right of exploitation of 20 years for patents, 20 years for trademarks (renewable indefinitely), and 25 years for industrial designs (renewable once). It provides, *inter alia*, for national treatment for foreigners and for civil and penal sanctions against infringements of the rights of holders. The Dahir allows any injured party to have the incriminated objects seized.¹³⁹

¹³³ The PCT entered into force in Morocco on 8 October 1999.

¹³⁴ This Law has been in force since 18 November 2000.

¹³⁵ Dahir No.1-00-91 of 15 February 2000 enacting Law No.17-97 on the protection of industrial property (3 January 2000). A draft implementing decree has been finalized.

¹³⁶ After reviewing it, the TRIPS Council recognized that Moroccan intellectual property legislation was in compliance (June 2001). Other legislative texts contain provisions on the protection of intellectual property: the Law on Pricing Freedom and Competition (2000); the Customs Code (2000); the Commercial Code (1995); the Criminal Code (1962); and the Code of Obligations and Contracts (1913).

¹³⁷ Dahir No.1-00-71 of 15 February 2000 enacting Law No.13-99 creating the Moroccan Industrial and Commercial Property Office, and Decree No.2-99-71 of 9 March 2000 on its implementation.

¹³⁸ Decree No.2-64-406 of 8 March 1965 creating the Moroccan Copyright Bureau.

¹³⁹ WTO (1996).

153. Law No. 17-97 (not yet in force) provides for a system for the protection of industrial property rights, and a term of 20 years for patents. Any infringement of such rights is subject to civil or penal sanctions ranging from civil proceedings with a view to terminating the illegal acts and the payment of damages, to a term of imprisonment of two months to two years, and a fine of DH 50,000 to DH 500,000. If the offence is repeated, the penalties may be doubled and the term of imprisonment may be up to five years if the infringement affects national defence. The commercial courts have sole competence to hear proceedings resulting from application of the law (with the exception of administrative decisions). Their rulings may be the subject of an appeal to the Commercial Court of Appeal, whose decisions in turn may be the subject of a final appeal to the Supreme Court.¹⁴⁰ Administrative tribunals have the competence to hear cases brought against the authorities.

154. Compulsory licences may be requested three years after the issue of a patent or four years after an application has been filed if the owner has not started to work the invention, has not marketed the product, or has not worked or marketed the patent in Morocco for over three years. Ex officio licences to work patents concerning the manufacture of medicines may be issued at the request of the public health authority, when necessary.¹⁴¹

155. Registration confers ownership of a trademark (or service mark) and it remains valid for a period of ten years, renewable indefinitely. The holder of a trademark may lose his rights if he does not make “proper” use of the mark for a continuous period of five years. The term of protection for a layout-design of an integrated circuit is ten years; the term for industrial designs is five years, renewable twice. Regarding the protection of trade names, the Law refers back to the provisions in Law No. 15-95 (Commercial Code).¹⁴² Law No. 17-97 also prohibits the use of false or misleading indications concerning the origin of a product or service, the identity of the producer, manufacturer or seller, and also punishes use of a false or misleading appellation of origin or its imitation. Table III.5 shows the number and breakdown of applications for industrial property titles in 2001.

156. Law No. 17-97 also provides sanctions (civil proceedings for the purpose of terminating unfair acts and for damages) for unfair competition, defined as any competitive act contrary to honest practices in the industrial or commercial sphere (Article 184). Customs officers may seize any counterfeit goods solely on the basis of a judicial order (at the request of the right holder), except in the case of products bearing a portrait of the King.

157. The protection of undisclosed information is guaranteed by various legislative texts such as the general rules governing the civil service, the Code of Criminal Procedure, and the Code of Obligations and Contracts, as well as Laws No. 41-80 (on the creation and organization of bailiffs), No. 1-93-162 (on organization of the practice of the profession of attorney), and No. 17-97 on the protection of industrial property. The latter (as already mentioned, it has not yet entered into force) imposes sanctions for any disclosure of information concerning an invention and the penalties include fines of up to DH 500,000 and a term of imprisonment of up to two years.

¹⁴⁰ Law No.53-95 creating the commercial courts (Articles 18-25).

¹⁴¹ This applies when the public health interest so requires, for example, when supplies of medicines on the Moroccan market are insufficient or when the quality of medicines is inadequate or prices are excessively high.

¹⁴² The Central Commercial Register approves the sign or name chosen by the trader or commercial company. It issues a negative certificate indicating that the sign or name requested did not previously exist, and this gives the holder the exclusive right to use the name or sign for one year. The practical use of a sign or name is obligatorily subject to the issue of a negative certificate (Articles 42 and 45 of the Commercial Code). The holder of a certificate may, however, lose the protection if he is not entered in the Commercial Register within a period of one year (Article 74 of the Commercial Code) or does not make practical use of the sign or name for a period of three years (Article 73 of Commercial Code).

Table III.5
Number and breakdown of applications for industrial property titles, 2001

	Number of applications	Trend in comparison with 2000	Major sectors (percentage of total applications)
Patents (applications by residents)	333 (122)	34 per cent ^a (17 per cent)	Medicine and hygiene (24 per cent) Chemical industries (19 per cent) Miscellaneous industries (17 per cent)
Industrial designs	569	18 per cent	Chemicals and related industries (49 per cent) Textiles and leather, electrical industry (17 per cent) Electronics industry (11 per cent)
Trademarks (applications by residents)	4,049 (2,944)	5 per cent (14 per cent)	Services (25 per cent) Agro-food industry (23 per cent) Chemical and related industries (21 per cent) Textiles (10 per cent)
Trade names and signs	38,119	1 per cent	Electrical and electronic industries (10 per cent) Services (39 per cent) ^b Trade (32 per cent) ^b Industry (14 per cent) ^b Building and public works (13 per cent) ^b

^a This increase coincides with the entry into force of Chapter II of the PCT for Morocco in May 2001.

^b The sectoral breakdown shows the distribution of negative certificates granted.

Source: OMPIC (undated).

(c) New varieties of plants

158. In 1997, Morocco enacted a law on a system of protection for new varieties of plants through the granting of certificates (Law No. 9-94).¹⁴³ Protection covers the reproductive and propagating materials, packaging, sale, import, export and possession, and has a minimum term of 20 years for major crops, and a minimum of 25 years for fruit and vine species. The Law provides for compulsory licences if, at the expiry of a period of three years after the issue of a certificate or four years as of the date of filing an application, the product has not been exploited, bred, or marketed in sufficient quantities or if there has been no exploitation or marketing for over three years.

159. The Law provides civil and penal sanctions for any infringement of the rights of holders of new plant variety certificates ranging from civil proceedings with a view to damages to a fine of DH 3,000 to DH 30,000. If the offence is repeated, a term of imprisonment of two months to one year may be imposed. Civil judicial proceedings are heard by the courts of first instance. Appeals may be lodged against the latter's rulings and, in the last instance, the parties may seek cassation before the Supreme Court.

(d) Copyright and related rights

160. Law No. 2-00 protects literary and artistic works including written works, computer programs, musical, dramatic or choreographic works, audiovisual works, works of fine art, architectural and photographic works, works of applied art, and the expressions of folklore, designs for creations of the clothing industry, and databases. Protection is conferred on the author for his lifetime and 50 years after his death. The Law also guarantees the author, in addition to his economic rights, perpetual, imprescriptible and inalienable moral rights, the right to claim authorship of his work, to remain anonymous or use a pseudonym, and in general to oppose any infringement of his work that would be prejudicial to his honour or reputation. Regarding neighbouring rights, the Law guarantees their protection for 50 years in the case of performances and phonograms, and 25 years for broadcasts.

¹⁴³ The implementing Decree (Decree No.2-01-2324) for this Law was adopted on 12 March 2002.

161. Infringements of copyright are subject to civil penalties such as the payment of damages and destruction of the unlawful copies and material used for the illegal reproduction. Criminal penalties may be ordered in the form of a fine of up to DH 20,000 and a term of imprisonment of up to two years.¹⁴⁴ If the offence is repeated, the penalties may be multiplied by three. Civil judicial proceedings are heard by the courts of first instance. An appeal may be lodged against their rulings. In the last instance, the parties to the dispute may seek cassation by the Supreme Court.

162. Foreign works benefit from the protection afforded by Articles 66 and 68. Pursuant to Article 60, the Law entrusts the Moroccan Copyright Bureau with the protection and exploitation of copyright and neighbouring rights. It administers the interests of a number of foreign copyright societies within the Kingdom of Morocco under conventions or agreements, observing international conventions such as the Berne Convention, the Universal Copyright Convention, and the WTO TRIPS Agreement.

¹⁴⁴ WTO documents IP/Q/MAR/1, IP/Q2/MAR/1, IP/Q3/MAR/1, IP/Q4/MAR/1 of 8 January 2002.