

Algeria



Issue and background

In December 2008, the Algerian Prime Minister issued instructions towards the State institutions to introduce foreign investment and foreign exchange restrictions. The EEA's principal concerns relate to:

1. Algerian ownership requirement

The instructions indicate that "all foreign investment in Algeria, under the provision of a foreign investor to do this investment alone or an approach to the establishment of a partnership, should lead to a distribution of share capital in which the national holding should constitute the majority shareholder".

For all sectors, including the express sector, this is a step backwards compared to today's situation where foreign investors can have a majority or 100% owned subsidiaries in Algeria.

2. Restrictions on foreign exchange and remittances

The instructions restrict foreign exchange and thus remittances of hard currency: "any negotiation related to foreign investments, whether direct or in partnership, must include a clause providing that the project in question will result in a positive foreign exchange surplus balance in favour of Algeria for the entire duration/life of its existence".

This is also a step backwards compared to today's situation where agents and owned entities alike are free to remit profit and reimbursement of costs back to their parent organizations or principals.

Legal status

EU and Algeria signed an Association Agreement in 2002, which entered into force in 2005. The EEA believes that many provisions in this agreement will be breached if the new investment rules would come into force.

The articles we believe these new rules could breach are:

- Article 32 on commercial presence and trade in Services
- Article 54 on the promotion and protection of investments
- Article 37.1. relating to restrictions on EU operators
- Article 39 relating to the free movement of capital

Recent developments:

The European Express Association presented its concerns to the European Commission in February 2009.

EC Head of delegation in Algiers met with the Trade Minister on 16 February 2009 and stated that these developments do not conform with provisions laid out in the Association Agreement between Algeria and the European Union.

The Algerian government maintains that Algeria is fully in conformity with Association Agreement rules but it needs to rebalance the trade partnership that has developed too much in favour of the EU.

Next steps:

European Services Forum to meet with the European Commission on 13 May to discuss how to proceed further.

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