

## Traditional industry and crafts as an investment framework

### الصناعة التقليدية والحرف كإطار للاستثمار

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### **Abstract:**

The Traditional Industry and Crafts Law is one of the laws that is of great importance given its connection to the heritage of peoples, their customs and traditions, and investing in it would affect the national economy of countries, which is what the Algerian state has taken by establishing policies that provide the appropriate atmosphere to encourage and promote such products.

Which leads us to raise the problem related to how the law of traditional industry and crafts can serve as a basis for the alliance? What is the role of the Algerian state in this field?

**Keywords:** industry, traditional, crafts, investment .

الملخص:

قانون الصناعة التقليدية والحرف من القوانين التي لها أهمية كبيرة بالنظر لارتباطه بتراث الشعوب وعاداتهم وتقاليدهم، والاستثمار فيه من شأنه التأثير على الاقتصاد الوطني للدول وهو ما أخذت به الدولة الجزائرية من خلال وضع السياسات التي توفر الجو المناسب لتشجيع وترقية مثل تلك المنتجات؛ مما يدفعنا إلى طرح الإشكالية المتعلقة بكيفية يمكن أن تكون الصناعة التقليدية والحرف كإطار للاستثمار؟ وما دور الدولة الجزائرية في هذا المجال؟

الكلمات المفتاحية: صناعة، تقليدية، الحرف، الاستثمار.

### **Introduction:**

The issue of traditional industries and crafts is one of the topics to which many countries pay special attention for several reasons, including

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preserving the cultural heritage of those societies, protecting it from extinction, and passing it on to future generations, as well as spreading the culture of those countries by introducing it to the world as a sign to distinguish it from other countries, which has an impact. On the second world, which is the economic consideration linked directly or indirectly with tourism, whether internal or external, thus creating a large economic movement, which positively affects the purchasing capabilities of members of society, as well as diversifying sources of income for the public treasury.

It is noted in this area that the Algerian state paid special attention to this issue, by including it in the government's plan, and the Prime Minister was keen to pay attention to this issue, invest in it, and encourage it to make it a source of income in hard currency for the state treasury, thus diversifying incomes. Accordingly, a special plan was developed that works to the efforts and involvement of most sectors to achieve this goal constitute a special kind of alliance. Which leads us to pose the following problem: How can traditional industry and crafts serve as a framework for investment? What is the role of the Algerian state in this field?

### **I. Definition of traditional industry and crafts**

In this axis, we discuss the most important definitions presented on the topic of traditional industry and crafts, and accordingly we have studied in both the international and domestic field, that is, the state.

#### **1.1. Definition of traditional industry and crafts at the international level:**

International law plays an important role in giving and clarifying concepts given the field in which these points are discussed, through conferences and agreements concluded in various fields, including traditional industries and crafts, and this is what we will explain in the following points.

##### **1.1.1- Definition of the United Nations Conference on Trade and Development (UNUCED)**

The term hand-produced products is applied to all units produced with the help of simple tools or means and all equipment used by the craftsman, which in large part contains hand work or with the help of men, while traditional craft products are distinguished from their handmade counterparts by the following:

-The traditional or artistic character that reflects the characteristics and traditions of the producing country.

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-Products of craftsmen who often practice their work at home<sup>1</sup>.

### **1.1.2- Definition of the United Nations Trade and Development Organization (UNISCO) and the World Trade Center (CCI)**

This was at the symposium (Crafts and the Global Market) held on October 8, 1997 in Manila, the Philippines. Traditional crafts as <sup>2</sup>“Craft products mean products made by craftsmen, either exclusively by hand or with the help of manual or mechanical tools, provided that the contribution constitutes The largest part of the final product is handmade by the craftsman; these products are produced without specifying the quantity and using raw materials taken from sustainable natural resources and derive their special nature from their distinct characteristics that can be utilitarian, aesthetic, artistic, creative, cultural, decorative, symbolic and important that reflect an ideological point of view. And social, and this is what makes it play a social, cultural and economic role.”

### **1.1.3- Definition of the United Nations Industrial Development Organization (UNIDO)**

This organization divided handicrafts into four sections, according to the target market, as follows<sup>3</sup>:

**-Beautiful traditional crafts;** its products express ethnic characteristics and traditional heritage, as they have a unique character, are produced alone, and are classified as works of art. Their products are also displayed in museums and art galleries, and are purchased by antiquities collectors.

**-Traditional crafts;** these are crafts that use traditional methods and whose products are handcrafted using traditional raw materials and technology. The difference between them and fine traditional crafts is that the craftsmen resort to the assistance of designers to help them adjust the product according to market requirements, while ensuring that the ethnic characteristics and historical background appear and are preserved. It can also be To be produced in large quantities.

**-Commercial trade crafts;** Its products are traditionally made, adapted to the needs and tastes of the market, highly fashionable and intended for

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<sup>1</sup> Sherifa Siddiqui, Improving Algerian traditional carpet exports by applying the international marketing approach, Master's in Economics, University of Algiers, 2002, p 9.

<sup>2</sup> UNISCO, culture, creativity, art and design, 09-23-2009, p9.

<sup>3</sup>Jalila Ben Al-Amoudi, Strategy for the Development of the Traditional Industry and Crafts Sector in Algeria, Master's in Economics, Ouargla University, 2012, p 28.

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foreign buyers, produced in large quantities using a greater number and type of media and displayed in dedicated stores and shops.

**-Manufactured crafts;** It concerns all traditional industry models reproduced using automatic machines, which are produced in larger sizes and their producers may not adhere to the traditional character of the product<sup>1</sup>.

### **1.1.4- D Definition of the European Union (UE)**

In 2001, the European Commission proposed an economic and statistical methodology dedicated to small enterprises and enterprises of an artisanal nature in the European Union. 6 This methodology came after a survey of the common elements used in determining each member country's definition of this type of enterprise. The result was that there were four common basic factors on which I relied. In formulating a statistical definition of the craft establishment, it allows determining its number in a homogeneous manner, as well as collecting comparable data in all countries concerned, which are:

**-The legal status of the institution;** According to the standard, a craft enterprise is defined as an individual enterprise, a partnership, or a partnership.

**-The profession practiced within the institution;** Reference is made to the International Classification of Occupations in determining the professions of a craft nature and classified in the seventh group therein.

**-Economic activities of enterprises;** According to him, a craft institution is defined as an institution whose economic activity falls within a specific sector defined as a craft.

**-Number of employees;** The founder considered craftsmanship to be an establishment that employs less than 50 workers.

### **1.1.5- Definition of the World Council for Traditional Industry and Crafts:**

It was divided it into four groups:

**-Creations of an artistic nature;** This concerns activities whose products have a creative content and whose production requires high skills and techniques.

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<sup>1</sup> UNIDO, creative industries and micro and small scale enterprise development a contribution to poverty, VIENNA Austria, 2005, p 30.

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**-Folk and folklore arts;** Its products reflect expressions inspired by local and national traditions and cultures, and require a high degree of skill and handcrafted techniques.

**-traditional handicraft;** It includes workshops that produce products of an authentic traditional nature that are handmade, but in large quantities. In the event that these workshops expand until division of labor is reached, their products are then not considered materials for traditional industries, but rather manufactured products that carry a local taste and are directed to the broad market.

**-Industrial production;** It concerns all models of traditional industries or materials reproduced by automatic machines in large quantities.

### **1.2. Definition of traditional industry and crafts according to Algerian law:**

Before the issuance of Order No. 96-01 dated January 10, 1996 specifying the rules governing traditional industry and crafts and their application texts, there was no clear and explicit definition of this sector of activity, and with its issuance, Article 5 of it stipulated that<sup>1</sup> “traditional industry and crafts are every production activity.” Or performing a service that is dominated by manual labor and is practiced mainly and permanently, in a stable, mobile or occasional form, and individually or within a traditional industry and crafts cooperative or a traditional industry and crafts enterprise.”

Thus, traditional industry and crafts can be classified according to the main activity practiced into:

- Traditional industry and traditional artistic industry.
- Traditional craftsmanship for producing materials.
- Traditional craftsmanship for the production of services.

As for traditional industry and traditional artistic industry; It is every craft that is dominated by manual labor and in which the craftsman sometimes uses machines to make utilitarian and/or decorative objects of an artistic nature. It has an artistic character that allows the transfer of an ancient skill and is divided according to the function of its products into two types:

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<sup>1</sup>Ministry of Small and Medium Enterprises, Code of Legal and Application Texts for the Traditional Industry and Crafts Sector, Order No. 96-01 dated 19 Shaban 1446 AH corresponding to January 10, 1996, specifying the rules governing traditional industry and crafts, 2005, p 35.

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-Traditional decorative artistic craftsmanship; It is considered as such when it is characterized by originality, individual character, and creativity, as this industry requires high artistic talents, a long industrial period, and high-quality raw materials, which explains its high prices, while it does not require a division of labor, and the basic function of artistic traditional industry products is mainly the decorative function, so it reflects the totality of related expressions with the traditions, cultures and rituals of any country.

-Traditional use industry; What distinguishes it from its predecessor is that the latter does not require high technical expertise from the craftsman, as the technical designs of its products are usually of a simple, repetitive nature that depends on sequential work and the distribution of tasks in all stages of production, and this is regardless of the craftsmen who produce disposable products and those who work in their homes. The basic function of traditional industrial products is to meet the needs of daily life.

Regarding the traditional craft industry for the production of materials, which is also called the modern utilitarian traditional craft industry, which is “every manufacture of ordinary consumer items that do not have a special artistic character and are directed to families, industry, and agriculture.” This industry is characterized by its reliance on a greater degree of specialization, and that it does not reflect a culture or identity. A specific people, in addition to being widespread in all countries of the world, it is also commonly known as small industries<sup>1</sup>.

With regard to the traditional craft industry of services; It means all the activities practiced by the craftsman that provide a service related to maintenance, repair, or technical restoration.

### **2. Traditional industry and crafts clusters as an investment mechanism:**

Order 96/01 for the Cooperative of Handicrafts and Crafts allocated special provisions in Articles 13 to 19, and the ideas contained in these provisions can be divided into the following:

#### **2.1. Provisions regarding the establishment and management of a traditional industry cooperative**

Article 14 of Order 96/01 stipulates that the purpose of establishing a cooperative of traditional industry and crafts is “... to complete all operations and perform all services that would contribute, directly or

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<sup>1</sup> Mustafa Amqran, Small and Medium Enterprises and their Place in the Economy “The Case of Algeria”, Master’s in Economics, University of Algiers, 2001, p 20.

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indirectly, to the development of traditional activities and crafts, to the promotion of its members, and to the practice of these activities collectively.” ”.

What is noted about the maintenance of this text is its generality through reference to the general objectives represented in:

- Developing traditional activities and crafts.
- Promoting cooperative members.
- Practicing activities collectively.

Within its framework, the cooperative is supposed to be active, without mentioning how it will be achieved or providing a standard within which the extent of its achievement will be measured. This reflects an expansion of the concept of the text that can be extrapolated in light of the general principles stated in Article 2 of the same law, which took the same approach by stipulating that “The State determines, through various arrangements, the conditions for the following:

- Protecting and valuing traditional industry and crafts.
- Improving the framework for the development of traditional industry and crafts.
- Upgrade craftsmen.
- Integrating traditional industry and craft activities into activity areas.

As for the legal form in which such activity should be carried out, it was specified in Article 13 of Order 96/01 by including it among the civil companies formed by persons, which have a permanent capital and are based on the freedom of joining its members, who all have the status of craftsmen.

In order to understand more about this type of company, one should refer to the Civil Code, which regulates this type, Articles 416 to 449, where Article 416 defines it as “...a contract whereby two or more natural or legal persons undertake to contribute to a joint activity by providing a share of the work.” Or money, with the aim of sharing the profit that may be produced, achieving an economy, or achieving an economic goal of mutual benefit. They will also bear the losses that may result from this.”

Accordingly, the Civil Law requires that the partners in this company provide their shares - which could be a sum of money, a share of a business, a property right, a benefit right, or any other real right. It also requires that

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the company contract be in writing, under penalty of invalidity, and that the registration procedures will be fulfilled. To invoke it against others (Articles 417 to 426 of the Civil Code); Drawing attention to the fact that the month in question is the procedure related to registration at the level of the traditional industry registry, in accordance with the text of Article 33 of Order 96/01.

These are procedures that were confirmed through the text of Article 16 of Order 96/01, which stipulated that the cooperative must be established and registered in a notarial contract while fulfilling the legal registration procedures. However, it adds a kind of privacy to the provisions of the civil company by requiring comment on the level of the Chamber of Traditional Industry and Crafts for the place of residence. Cooperative.

As for the management of the company, it is done by appointing one or more delegated partners who undertakes this according to a special provision in the company contract, so that he carries out the management work and actions that fall within the scope of the company's normal activity. In the absence of a special provision regarding the method of management, each partner is considered authorized by the others to manage the company, and is permitted to carry out its work without referring to other partners, and they have the right to object (Articles 427 to 431 of the Civil Code).

It is worth noting that the provisions of Article 428 of the Civil Code permit the company to have multiple directors, in line with the provisions of Decree 97/142, which specifies the methods of registration in the Handicrafts and Crafts Register regarding the necessity of mentioning the titles and names of all directors of the cooperative in the extract.

### **2.2. Operator obligations**

The company's management obligations can be extrapolated through Articles 17 and 18 of Order 96/01, which consist of submitting an application for registration of the cooperative attached to the basic law with the regionally competent Chamber of Traditional Industry and Crafts, where it submits an extract from the register. In this regard, Article 3 of Executive Decree No.97/143 stipulated that "The form and content of the professional card for the craftsman, which is extracted from the traditional industry and crafts registry, is determined to be made of light brown cardboard, 10 by 13 centimeters in size, and foldable. This focus is perhaps due to the legislator's desire to protect those dealing with these cooperatives by



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specifying strict formal standards that guarantee the safety of these documents from forgery<sup>1</sup>.

This concerns the manager's obligations at the registration stage. As for the subsequent stages, he is obligated to notify the Chamber of Traditional Industry and Crafts of every change, transfer, or cessation of activity. He must register within 60 days in the Register of Traditional Industry and Crafts, and submit a receipt for that. Concerning the procedures, Article 7 stipulates. Executive Decree No. 97/142 specifies the methods of registration in the registry of traditional industries and crafts, stipulating that the manager must submit a file consisting of the following documents:

- A request clarifying the amendment.
- Extract from the Register of Traditional Industry and Crafts.
- Accreditation to practice legal activities and a license from the lessor in the event of a change in activity.
- The ownership or lease contract, a report proving the existence of the store, and an extract from the tax schedule in the event of transferring the headquarters.
- A death certificate for the deceased craftsman and an official power of attorney that they prepare authorizing the client to continue practicing the activity in the event that exploitation continues after the death of the craftsman. This case is consistent with the provisions of Article 439/2 of the Civil Code, which stipulates that it is permissible to agree that if one of the partners dies, the civil company will continue with His heirs, even if they are minors.

As for the rights and obligations of the partners; Article 15 of Order 96/01 stipulates that the cooperators enjoy equal rights regardless of the value of each one's share in the founding capital, which is consistent with the provision of Article 419 of the Civil Code, which considers the partners' shares to be of equal value. In this case, the cooperator is obligated to participate in The activities of the cooperative, when it subscribes or acquires a share of the capital.

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<sup>1</sup> Fawzia Barsouli, the role of traditional industries in promoting desert tourism, Journal of Economic Development, Shahid Hama Khidr University, Issue 01, 2016, p 17.

### **2.3. Provisions for traditional industry contracting**

Order No. 96/01 devoted special provisions to handicraft enterprises in Articles 20 to 25, and the ideas included in these provisions can be divided into the following:

#### **2.3.1. The legal form of the enterprise**

Article 20 of Order 96/01 considered the traditional industry enterprise to be a commercial enterprise subject to what enterprises are subject to within the provisions of the Commercial Law, as it stipulated that<sup>1</sup> “ Any enterprise formed according to one of the forms stipulated in the Commercial Law and having the following characteristics is considered a traditional industry enterprise:

1 - Practicing a traditional industry activity as specified in Articles 5 and 6 of this order.

2 - Employing an unlimited number of wage workers,

3 - A management supervised by a craftsman or a trained craftsman as specified in Article 10 of this order, or with the participation or employment of at least one other craftsman who undertakes the technical management of the enterprise when its head does not have the capacity of a craftsman”.

Returning to the provisions of the Commercial Law, we find that Article 2 of it has specified the types of contracting, and has considered it a commercial business according to the subject matter. We believe that the following types are the contracting companies concerned due to the possibility of carrying them out within the framework of traditional industry<sup>2</sup>:

-All purchases of movables for resale or after conversion and operation.

-Every contract for production, transformation or repair.

-Every contracting company for supply or services.

-Every enterprise for the exploitation of surface mines, stone quarries, or other earth products

-Every enterprise for the exploitation of public amusement parks or intellectual production.

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<sup>1</sup> Nouria Ait Mohand, silver jewelry industry in the major tribes of the Beni Yeni region - an applied study -, Master's in Economics, Abu Bakr Belkaid University, Tlemcen, 2003, p 55.

<sup>2</sup> Saadia Saidi, The reality of small and medium enterprises in Algeria and the prospects for their development, Master's in Management Sciences, University of Ouargla, 2003, p 44.

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-Every company that sells new goods at public auction.

If Order 96/01 referred to its general rules regarding the traditional industry enterprise and the traditional artistic industry, it specified the craft enterprise for the production of materials and services with a special definition in the text of Article 21 as “every enterprise established according to one of the forms stipulated in the Commercial Law and which has the following characteristics<sup>1</sup>:

1- Practicing the activity of production, transformation, maintenance, repair, or performing services in the field of crafts to produce materials or services as specified in Articles 5 and 6 of this order.

2 - Employing a number of permanent wage workers or craftsmen whose number does not exceed 10. The head of the company and people who have a family relationship with him are not counted. The matter relates to ascendants, descendants and spouses. Professionals are also not counted when their number does not exceed 3 and they are linked to the company by an apprenticeship contract in accordance with the applicable legislation and regulation (Apprenticeship Law). No. 18/01 issued in the Official Gazette No. 13 June 2018).

3- The administration shall be run by a master craftsman or master craftsman, as specified in Article 10 of this order, or with the participation or employment of at least another craftsman who will carry out the technical management of the enterprise when its head does not have the capacity of a craftsman.

The aspect of specificity in this article includes limiting the number of wage workers and capping it at 10 workers only, while Article 10 considered that the employment of an unlimited number of wage workers is the distinctive feature of the traditional industry enterprise. Therefore, we conclude that what is meant by the general provision is the traditional industry enterprise and the traditional artistic industry. As for the rest of the companies related to the production of materials and services, the number of hired workers is limited to 10 only.

Order 96/01 continues to regulate companies related to the production of materials and services, as Article 25 of it provides an exception in which it does not confer the status of a traditional industry and crafts company even

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<sup>1</sup> Assia Shibani, *The Role of Small and Medium Enterprises in Economic Development - The Case of Traditional Industries and Crafts in Algeria* -, Master's in Economics, University of Algiers, 2009, p 20.

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if it meets all these characteristics and conditions. The matter concerns the following companies:

- Agricultural exploitation and marine fishing contracting.
- Commission contracting, agencies and business offices.
- Enterprises whose activity is limited to selling traditional industry products purchased as they are or renting them.
- Contracting companies whose services are characterized by a special intellectual nature.
- Enterprises whose craft activity is occasional or secondary.
- Enterprises that mainly use automated machines for chain production.

### **2.3.2. Establishment and registration**

The establishment and registration of a handicraft enterprise does not differ from the establishment and registration of a cooperative. Article 22 of Order 96/01 stipulates that the legal establishment must be conducted with a notary and that registration be made in the Handicraft and Crafts Register<sup>1</sup>. However, the basis of the difference appears in the following points:

A- Registration deadline: While the legislator in Order 96/01 does not restrict the cooperative to registration dates, it tends to restrict the registration of a traditional industry enterprise to a period of 60 days following its establishment.

B- Registration in the Commercial Register: Order 96/01 exempts the cooperative from registration in the Commercial Register, while Article 23 thereof requires that the enterprise be registered in the Commercial Register in addition to its registration in the Register of Traditional Industry and Crafts.

And the most important that Article 24 obligates the head of the enterprise to notify the Chamber of Traditional Industry and Crafts of every change, transfer or cessation of activity, and to register it within a period of 60 days in the Register of Traditional Industry and Crafts, which are the same provisions contained in the cooperative.

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<sup>1</sup> Nouredine Gastel, Registration System in the Commercial Register and in the Register of Traditional Industry and Crafts - A Comparative Study -, Master of Economics, University of Algiers, 2009, p 17.

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### **Conclusion:**

Interest in traditional industries and crafts as a subject that can play a role in preserving the customs and traditions that characterize the regions of certain countries and which fall within the world heritage protected by international agreements, and in making it a source of income for the state treasury, and this was taken up by the Algerian state through the large legislative movement that This sector in particular was exposed to it and linked it to the issue of tourism, given that the Traditional Industries and Crafts Law would be a subject for alliance in various forms, and this is what was stipulated in Order 96-01.

However, the legal arsenal is often insufficient for the actual and practical regulation of the phenomenon of traditional industries, so providing the appropriate environment for practicing such activities is necessary to spread awareness and truly train those concerned with this sector.

Accordingly, we offer the following recommendations:

- Being convinced of the major economic role that the traditional industry and crafts sector can play and giving it the same importance as other economic sectors.

- Establishing a more encouraging and clearer legal and regulatory framework for the sector's vision that is compatible with current and future transformations and ensuring the continuity of development.

- Qualifying and raising the efficiency of the human staff of the sector's structures in the field of management to ensure the success and proper implementation of established programs and reforms.

- Improving the conditions for practicing craftwork by increasing the opportunities for craftsmen to obtain shops and lands, as well as loans to expand their activities.

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