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**MOROCCO**



# **OECD Investment Policy Reviews Morocco 2010**



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## Foreword

*I*n November 2009, Morocco became the 42nd adherent to the OECD Declaration on International Investment and Multinational Enterprises in recognition of the country's progress in investment policy reforms aimed at enhancing its international competitiveness and integration into the world economy.

As an adherent to the Declaration, Morocco commits to providing national treatment to foreign investors and to promoting responsible business conduct. The country in turn benefits from similar assurance from other adhering governments to treat Moroccan investors abroad fairly and to encourage their multinational enterprises operating in Morocco to contribute to economic, social and environmental progress. Implementation of the Declaration also requires establishing by Morocco of a National Contact Point responsible for promoting observance of the OECD Guidelines for Multinational Enterprises, an integral part of the OECD Declaration. As an adherent, Morocco will participate in the work of the OECD Investment Committee.

This publication is based on the report supporting the OECD Investment Committee in the process of Morocco's adherence to the OECD Declaration. The examination took place in October 2009 at OECD headquarters in Paris in the presence of the Moroccan delegation led by Mr. Nizar Baraka, Minister-Delegate to the Prime Minister in charge of General and Economic Affairs.

The report was prepared by Blanka Kalinova, Senior Economist in the Investment Division headed by Pierre Poret in the OECD Directorate for Financial and Enterprises Affairs (DAF), in close co-operation with the Moroccan authorities.



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## Executive Summary

Since the 1990s Morocco has been pursuing reforms that call for liberalising the economy through the progressive withdrawal of the state from economic activities, a broad programme of privatisation, and more openness to the outside world. The private sector and international investment are playing an essential role in this process, not only contributing financial resources but also helping to enhance the country's competitiveness and facilitate its integration into the world economy. The Moroccan authorities have made great efforts to put in place an institutional, legal, economic and financial arsenal that is up to the task of creating a favourable investment climate. Morocco's intention to adhere to the OECD Declaration on International Investment and Multinational Enterprises represents one of the objectives of the reform, confirming the country's commitments to promote an open and transparent investment regime and responsible business conduct.

The reforms undertaken by Morocco have stimulated the growth of its economy and encouraged its diversification and modernisation. Between 2003 and 2008, GDP rose on average by 5.1% a year and inflation remained under control, averaging less than 2% a year. In 2008, the unemployment rate was below 10% and the poverty level declined. Despite the structural trade deficit, the current account on the balance of payments remained in surplus between 2001 and 2006 but recorded a deficit in 2008 due to current crisis. Until recently, the stock of external public debt has diminished. Foreign direct investment (FDI) inflows have risen since 2000, reaching a record level of USD 2.8 billion in 2007, up by 16% from the previous year. In recent years FDI has taken on a greater role in the domestic economy: in 2007, annual FDI inflows represented nearly 18% of gross fixed capital formation, and 5% of GDP. With nearly 70% of the FDI stock, France and Spain are the two main foreign investors in Morocco. In sectoral terms, telecommunications and manufacturing dominate (27% and 20% respectively of the end-2007 FDI stock), but some categories of services such as tourism and banking are now also becoming important targets for FDI.

In 2009, the government expects growth to be maintained at 5.3%, thanks primarily to good performance of agriculture and the strength of domestic demand. The fallout from the world economic recession has been nevertheless felt in other sectors, especially those depending on external

demand. FDI flows which already declined in 2008 (-13%) have continued to contract in 2009: during the first half of 2009, they dropped by almost 60% compared to the same period of the previous year. Faced with a world economic context that is clearly less favourable, and with fewer opportunities for privatisation, Morocco will need to step up its efforts to attract new investments and encourage reinvestment by investors already established in the country (see Chapter 1).

The fact that FDI was growing until recently reflects the significant progress that Morocco has made in improving investment conditions, especially by enhancing the transparency and predictability of policies and regulations governing investment. The main outcome here has been the adoption, in the framework of the free trade agreement concluded with the United States, of an approach that leaves all sectors free of restrictions except for those specified in a negative list. This move resulted in the establishment of the list of exceptions to National Treatment instrument notified by Morocco within the process of adhering to the OECD Declaration on International Investment and Multinational Enterprises (see Chapter 2).

Morocco places limits on foreign investment in the capital of air and maritime transport companies and maritime fisheries. Another important restriction notified by Morocco relates to foreign investors' access to the ownership of land used for farming. According to the authorities, the impact of this measure is in practice attenuated by the fact that foreigners may arrange leases for up to 99 years for agricultural lands. This has allowed a significant presence of foreign investors in this sector based on concessions agreements of agricultural land managed previously by public entities. The government is examining the possibility of abolishing this restriction as part of the agricultural modernisation programme. Moroccan nationality is required to establish a practice in architectural services and the reciprocity and residence requirements apply in accounting services. Among other measures affecting FDI that Morocco has notified for transparency with respect to the instrument of the OECD Declaration is the requirement to include Moroccan nationals on the boards of directors in certain sectors (maritime transport, audiovisual services, the governing bodies of private higher education institutions, and medical biology analysis laboratories). In the banking sector, Morocco has reserved a discretionary right to limit controlling foreign shareholding in the capital of major Moroccan banks under certain international agreements. However, Morocco has never exercised this right in practice and has decided not to ask to lodge an exception to National Treatment instrument for the purpose of the OECD Declaration in this sector.

Based on the OECD FDI regulatory restrictiveness index, the average level of Morocco's restrictions in nine sectors covered by this index is comparable with the average of 41 countries that adhere to the OECD Declaration on

International Investment and Multinational Enterprises, due mainly to its restrictions applied in certain professional services.

Morocco does not currently apply any regulatory discrimination against FDI motivated by essential national security interests or public order. Agreements can be negotiated case-by-case with the State for investment projects related to national defence or technologies of military application.

Other measures notified by Morocco under the National Treatment instrument's transparency provisions relate to sectors in which there are public or private monopolies or concession arrangements. Several sectors remain under public monopoly, managed either directly by public institutions (phosphate production, rail transport, some postal services, acceptance of savings through the national savings bank, airport services) or by the municipalities (wholesale distribution of fruit and vegetables, fish, slaughterhouses). There are two private monopolies in Morocco, tobacco production, which will remain a private monopoly until 2010, and the wholesale distribution of ethyl alcohol. Several activities that were traditionally run by government are now open to private domestic or foreign operators, under the delegated management or concession arrangements generally subject to tendering procedures. This is the case, for example, with water and electricity distribution, construction and operation of motorways, and the management of non-hazardous wastes.

Morocco is party to several free-trade agreements (FTAs) concluded with the United States, the European Union, the European Free Trade Association (EFTA), Turkey and several Arab countries, and it is now negotiating a new agreement with the European Union. The FTA with the United States, which came into force in January 2006, contains a specific chapter on investment, which lists existing exceptions to National Treatment instrument and to market access in different sectors based on a negative list approach. After concluding the Association Agreement with the European Union, which came into effect in March 2000, Morocco is now negotiating a new agreement on liberalisation of trade in services based on a positive list approach. The other FTAs, particularly those with the Arab countries, cover trade in goods and do not include preferential treatment for investment.

Morocco applies the reciprocity principle for some professions, which are open only to the nationals of a State with which Morocco has signed a bilateral convention for recognition of diplomas, in particular for the medical profession, authorised translators, and legal experts. To the extent this reciprocity principle affects the exercise of these professions by individuals and not by companies these provisions are not taken into account in the list of exceptions pursuant to the National Treatment instrument of the OECD Declaration. On the other hand, the conditions for establishing architects'

offices (Moroccan nationality or authorisation granted in light of the sector's needs) and accounting firms (reciprocity) constitute exceptions to National Treatment instrument.

Morocco has concluded 61 bilateral investment treaties (BIT) protecting investors after establishment, 25 of them with countries that adhere to the OECD Declaration on International Investment and Multinational Enterprises. The BITs signed by Morocco contain a broad definition of investment and grant investors national treatment, the most-favoured-nation clause, and fair and equitable treatment. They also guarantee full currency convertibility for capital transactions, free transfer of profits, and free repatriation of invested capital. Morocco is a member of the International Centre for Settlement of Investment Disputes (ICSID) and is party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Morocco is ready to fulfil the commitments resulting from the Guidelines for Multinational Enterprises, in particular to establish a National Contact Point (NCP) within the recently-instituted Investment Development Agency (AMDI). AMDI's new responsibilities, and its close co-operation with the private sector, should ensure that the Moroccan NCP can operate in accordance with the criteria of accessibility, visibility, transparency and accountability. In pursuit of its efforts to make its investment regime more transparent and uniform, Morocco considers to be able to fulfil commitments under the instrument on conflicting requirements, which invites adherents to avoid and minimise the imposition of conflicting requirements on multinational enterprises. In particular, recent progress in improving transparency and rationalising investment incentives should allow Morocco to co-operate effectively with other countries adhering to the Declaration in this field, with due regard to their interests as the relevant instrument provides.

As shown in the examination of Morocco's investment policies under the OECD Policy Framework for Investment (see Chapter 3), the authorities have adopted a series of laws or amendments needed to improve the investment climate. Progress has been made on the transparency front and in business access to information, as well as in reducing the time and cost of administrative procedures. The authorities are now finalising a major reform of the investment promotion system. The new investment promotion agency AMDI will be a focal point for intra-governmental co-ordination in preparing, implementing and evaluating investment strategy, in close association with all stakeholders. The 16 regional investment centres created in 2002 retain their role of assisting and supporting investment projects at the local level. The business climate has also benefited from new laws in other fields, especially government procurement and trade facilitation.

The government has indicated that it is participating actively, and in close co-operation with the Confederation of Moroccan Enterprises (CGEM), in initiatives to ensure responsible corporate behaviour in line with internationally recognised principles regarding labour rights, human rights, environmental protection, and combating corruption.



## Chapter 1

### **The Role of Foreign Direct Investment in Morocco's Economic Development**

*Until recently, foreign direct investment (FDI) in Morocco was growing significantly, reflecting the country's solid economic performance and its ambitious privatisation programme. As a result, FDI has taken a greater role in the domestic economy and its geographical and sectoral structures have diversified. Faced with world economic crisis, Morocco has, however, seen its FDI inflows shrinking in 2008-2009. The entry of foreign investors has a positive impact on employment and labour skills and facilitates the expansion and internationalisation of Moroccan enterprises in which foreigners have shareholding interests.*

## 1. Principal trends in foreign direct investment

Until recently, Morocco was attracting growing volumes of FDI, thanks mainly to its favourable economic performance. From 2003 to 2008, the growth rate averaged 5.1% a year, compared to an annual average of 3.3% in 1999-2002. Progress with macroeconomic stabilisation, including a balanced budget, control over inflation, a current account surplus, and a declining external public debt, all helped to improve the country's international position and competitiveness. At the same time, most social indicators improved: unemployment dropped and the poverty rate declined from 15.3% in 2001 to below 9% in 2008. There has also been progress with economic diversification and modernisation, with a view to reducing the national economy's vulnerability to fluctuating agricultural production: in fact, manufacturing was until recently growing faster than the economy as a whole, and the financial sector is now more solid and capable of responding more effectively to the needs of economic agents.

Despite an unfavourable world economic context, the government retains its forecasts of overall growth in 2009 (5.3%), reflecting the strong performance of agriculture and dynamic domestic demand. The world economic crisis has nevertheless repercussions on activity in other sectors. The main risks of a widespread economic slowdown lie in the contraction of external demand for goods and services and the decline in financial transfers by Moroccans living abroad, which represent nearly 9% of GDP.

To sustain the national economy, the government is focusing its efforts on stimulating domestic demand and activity in the sectors hardest hit by the crisis, such as textiles and tourism. It is also accelerating investment in infrastructure (roads, railways, the Port of Tangier), the social area (housing and urban development), and the promotion of sustainable development (energy policy, water). The authorities are also pursuing sectoral programmes, particularly in manufacturing and energy, supported by initiatives in education and vocational training. Thanks to these measures, the pace of investment should be sustained in 2009 (up by 7.8% in total and public investment up by 16%).<sup>1</sup> Regulatory reforms are still on the agenda as well: the central anticorruption body was established in 2008 and a national business climate committee will be created to co-ordinate and step up government efforts in these areas (see Chapter 3).



Morocco's solid economic performance during this decade and its ambitious privatisation programme have attracted high volumes of FDI. Fluctuations in FDI flows between 2000 and 2005 reflected essentially the opportunities offered by the privatisation programme. From 2005 to 2007, annual flows were more balanced and showed an upward trend, reaching a record USD 2.8 billion at the end of 2007, up by 16% from the previous year (see Figure 1.1). FDI represents the bulk of international investment coming into Morocco, averaging around two-thirds of the total, while portfolio investment accounts for 5% and the rest consists of other investments, essentially commercial loans.

In 2007, the FDI stock consisted of investments in telecommunications (27%), followed by manufacturing (20%) and banking and insurance (11%). In the last few years, tourism and real estate have begun to attract FDI (see Figure 1.2). France and Spain have been the principal investors in Morocco, accounting respectively for 50% and 17% of the FDI stock at the end of 2007. Other OECD countries represent 22% of the FDI stock in Morocco, while Arab countries have only a marginal share (5%) (see Figure 1.3).

#### **Box 1.1. Foreign direct investment statistics for Morocco**

The Foreign Exchange Office (*Office des changes*, [www.oc.gov.ma](http://www.oc.gov.ma)) is the principal source of international investment statistics for Morocco. It publishes regular data on investment flows in the context of the balance of payments, and on investment stocks in its annual report on the external financial position.

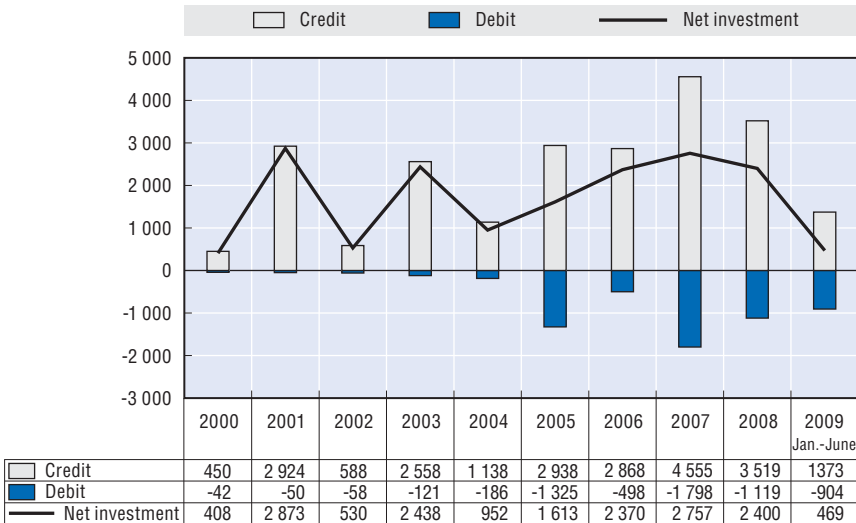
Inward and outward flows and stocks of international investment are presented in accordance with the recommendations in the *IMF Balance of Payments Manual*, namely: i) foreign direct investment (FDI); ii) portfolio investment; and iii) other investment. Consistent with the OECD Benchmark Definition of Foreign Direct Investment, Moroccan statistics on incoming and outgoing flows and stocks also indicate the source and destination, by country and by economic activity.

Following the international standards established by the OECD and the IMF, this document refers to statistics on inward and outward FDI flows presented on a net basis, taking into account new investments after deducting disinvestment (by non-residents) and repayment of inter-company loans during the period considered.

The annual reports of the Exchange Office on the international investment position (the latest available report is for the year 2007) provide data on foreign investment stocks in Morocco and Moroccan stocks held abroad, and indicate their distribution by partner country and by sectors.

Figure 1.1. **FDI inflows to Morocco, 2000-2009**

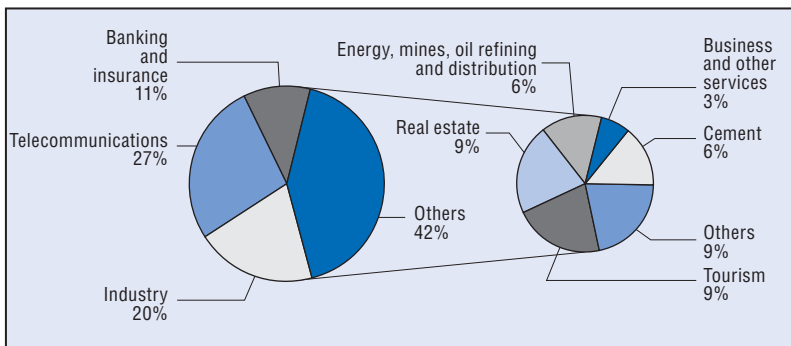
USD millions



Source: Exchange Office of Morocco, Balance of Payments 2008 and 2009 (preliminary).

Figure 1.2. **Stocks of inward FDI in Morocco, 2007**

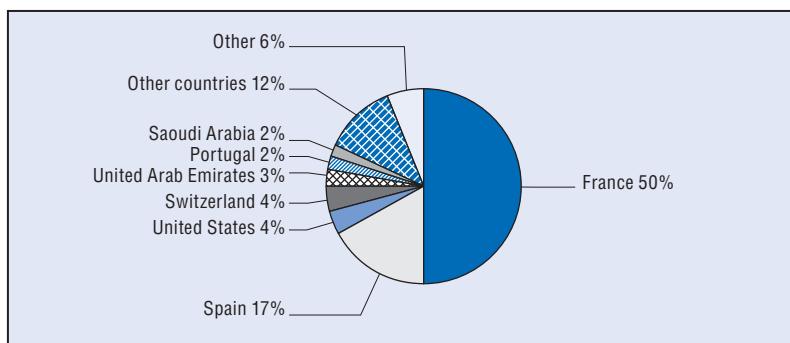
By industry sectors



Source: Foreign Exchange Office of Morocco, Global External Position 2007.

Since 2008 Morocco, like the rest of the world, has seen a shrinkage of its FDI inflows, which declined by nearly 13% in 2008. While FDI retreated in most sectors, and particularly in tourism and transport, some industries have been spared: this is particularly the case with real estate and banking, which accounted for two-thirds of FDI inflows in 2008 (see Annex B, Table B.2). In geographic terms, France remained the most important investor in Morocco in 2008 (37% of inflows), followed by the United Arab Emirates (18%) and Spain

Figure 1.3. **Stocks of inward FDI in Morocco, 2007**  
By partner country



Source: Foreign Exchange Office of Morocco, *Global External Position 2007*.

(9%). Available statistics indicate that net FDI fell further in 2009: during the first half of 2009, net inflows were nearly 60% lower than in the same period in 2008. According to the Moroccan authorities, the pace and the number of conventions signed by the State and investors have not diminished significantly but their implementation has been often postponed due to financing problems.

In the last few years Morocco has become more active as a foreign investor. The stock of Morocco's foreign direct investments abroad doubled between 2004 and 2007, rising from USD 600 million in 2004 to USD 1.3 billion at the end of 2007. In 2008, however, there was a sharp cutback in outward Moroccan FDI (USD 380 million). At 27% of the total, France remained the principal destination for Moroccan investment abroad; in sectoral terms, Moroccan investments went primarily to telecommunications and finance (nearly 60% of the stock at the end of 2007).

## 2. Foreign investor participation in privatisation programmes

The privatisation programme was launched by Law 39-89 of 11 April 1990, which authorised the transfer of public enterprises to the private sector. Since the first privatisation deal in 1993, a total of 47 companies and 26 hotels have been transferred to private hands, at a price exceeding MAD 100 billion (approximately USD 12 billion). Beyond their financial impact in terms of budgetary revenues, these privatisations have sparked liberalisation in several sectors, with significant benefits for employment, productivity, and service quality. The involvement of large foreign companies in several operations has allowed strengthening the competitive position of the firms concerned, by facilitating their access to new markets.

The framework law establishes three methods of privatisation: through the financial market (Casablanca Stock Exchange), through calls for tender, and through direct transfer. Tendering is the most widely used method (accounting for nearly 50% of revenues), followed by direct award (30%) and stock exchange offerings (20%).<sup>2</sup> The framework law creates two independent bodies to oversee the transfer of public enterprises to the private sector: the Transfers Commission (*Commission des transferts*) and the Evaluation Agency (*Organisme d'évaluation*), which are responsible for monitoring the purchaser's contractual commitments regarding investments and employment safeguards during the term set in the transfer contract, which is generally between 5 and 10 years. Monitoring is done by means of on-site visits and regular reports that assess the state of progress of the investment programmes. This global approach, which also involves measures of support to the private sector and the business environment, resulted in an improvement in Morocco's standing with international rating agencies in 2005. Also, its performance in terms of the number of transactions completed and the amount of revenues generated by privatisations has been among the best in the region.<sup>3</sup>

Foreign investors participating in the privatisation process have shown the greatest interest in telecommunications, tourism, energy and financial services. At the end of 2007, privatisation had yielded cumulative revenues from foreign investors amounting to nearly MAD 70 billion (some USD 8.5 billion), of which 60% came from France (primarily from Vivendi Universal's investment in Maroc Telecom) and Franco-Spanish sources (purchase by Altadis, subsidiary of Imperial Tobacco, of 80% of *Compagnie régie des tabacs*), 14% from Spain, and nearly 6% from Saudi Arabia. Over that time, the sector breakdown shifted considerably: after a period (1994-1997) when banking dominated the picture, telecommunications accounted for the majority share of FDI under the privatisation programme between 1999 and 2003. Companies that have played a significant role in privatisation operations include Vivendi, Altadis, Holderbank, Dragofina, Corral, Renault, Total, Morgan Stanley and BNP-Paribas.

In 2008, the Moroccan banking sector comprised eighteen banks, five publicly owned, seven subsidiaries of foreign banks (see Table 1.1) and six private banks with a majority Moroccan ownership. The banks owned in majority by foreign investors represented in 2008 21.4% of the Moroccan banking sector's capital, 20.9% of deposits and 24.4% of distributed credits in Morocco.<sup>4</sup>

The process of privatising Maroc Telecom was conducted in several stages, and the principal foreign partner (Vivendi) now holds the majority (53%) of its capital. Thanks to the new regulatory system and introduction of competition in mobile telephony, supervised by the independent National Telecommunications Regulation Agency, privatisation of telecommunications

Table 1.1. **Foreign-owned banks in Morocco**

Financial institution	Foreign shareholding interest
BMCI	BNP Paribas : 63.9% of capital : Axa Assurances Maroc : 10.04% of capital
CDM	Crédit Agricole : 52.62% of capital.
Attijariwafa Bank	Total foreign capital: 25.43% of which Santusa Holding SA (14.55%), Caja de Madrid (3.42%), Axa Assurances Maroc (2.9%) Unicredito Italiano (2.06%), HSBC (1.90%), FININVST (1.44%) and miscellaneous foreign shareholders (1.91%)
SGMB	Société Générale : 53.1% of capital
BMCE	Total foreign capital: 23.01% of which CIC (15.04%), Caja de Ahorros del Mediterraneo (5%), Banco Espirito Santo (2.78%), Union Bancaire Privée (0.2%)
CIH	CGEM Maroc: 23.5% through Massira Capital Management owned by CDG (65%) and CGEM (35%).
CFM	Axa Assurance Maroc: 12% of capital

Source: Direction of analysis and financial forecasts, Ministry of Economy and Finance.

has considerably boosted investment (which tripled in value from 1998 to 2007) and improved services. Thus, the number of fixed telephone subscribers more than doubled between 2006 and 2008, while the mobile telephony penetration rate rose by more than 73% in 2008. The Internet connections reached 760 0000 subscribers in 2008, i.e. an increase by almost 10%. Since the beginning of this decade, Maroc Telecom has engaged in several takeovers and equity investments abroad.<sup>5</sup>

In 2005, the government launched a programme of progressive liberalisation in several key sectors. It began by adapting the institutional framework and strengthening the management and governance capacities of public enterprises in order to make them more viable and profitable before preparing them for sale. This approach involved, first, separating the regulatory from the operating function, defining the public service (costs and financing) and transforming public enterprises into corporations (*sociétés anonymes*) so they could operate on an equal footing with private competitors. This approach was applied in the case of rail transport and port activities, in particular. In the rail sector, the transformation of the public enterprise (*Office national de chemins de fer*) into a company (*Société marocaine de chemins de fer*) in 2010 will open the way for the the State-SMCF concession arrangement<sup>6</sup>. For port activities, Law 15-02 of 5 December 2005 created a regulatory authority (*Agence nationale des ports*) and an operator (*Société d'exploitation des ports*) which will compete with other operators and can enter into consortia of concessionaires as it did with the multi-use terminal in the Port of Tangiers.

According to the Moroccan authorities, the main contributions of privatisation can be summarised as follows:

- international integration of certain sectors, thanks to the policy of opening them to international investors and the deliberate choice of strategic partners with worldwide interests;
- lower budgetary transfers to public enterprises;
- substantial new budgetary revenues available for use in financing investments in social and infrastructure works;
- increased investment in restructuring and modernising the privatised firms, thanks in particular to foreign capital inflows in key and leading-edge sectors;
- creation of new jobs and the development of new skills;
- a boost to the Casablanca stock exchange through the listing of large privatised enterprises in various sectors.

Another significant reform has seen the introduction of concession agreements in selected sectors where the State wants to attract private operators, national or foreign, while retaining its prerogatives as regulator and guarantor of public service. Law 54-05 of 16 March 2006 on delegated management of public services governs the contracts signed by public institutions and local governments or their consortia, specifying the forms and procedures for awarding concessions and fixing the rights and obligations of the concessionaire over the long term.

The legal framework in place seeks to ensure equitable sharing of risks in public-private partnership projects and to give visibility and security to national and foreign investors interested in delegated management of public services and facilities. It is intended to send a strong signal about Morocco's policy of economic openness and its willingness to respect the principles of transparency in awarding delegated management contracts, and to strike a fair balance between the delegating authority and the concessionaire. As indicated in the list of measures notified by Morocco under the National Treatment Transparency instrument, the main sectors concerned by the concession regime are: power generation, drinking water distribution, irrigation and sanitation, and the motorways network. At the regional level, concessions have been introduced for waste collection, urban transport, and public lighting.

### **3. Foreign direct investment in Morocco from a comparative perspective**

With more than USD 2 billion in annual inflows since 2006, Morocco is an important destination for FDI on a world scale, and it managed to maintain its

position in 2008, when FDI was in general decline (see Annex B, Table B.1). Among Morocco's 7700 industrial firms in 2007, nearly 2 500 of them had foreign shareholders representing more than 20% of their total capital; the chemical industry accounts for the largest share of FDI in the industry sector (42%).<sup>7</sup>

The rising FDI inflows recorded by Morocco have increased the weight of FDI in the country's GDP and in its total investment. From 1996 to 2004, FDI represented less than 2% of GDP and 6% of gross fixed capital formation on an average annual basis. These ratios increased steadily to 5.2% of GDP and nearly 18% of investment in 2007, placing Morocco ahead of the averages for the Middle East and North Africa region (which were 3% for GDP and 12% for gross fixed capital formation in 2007). However, they remain below the ratios posted by some regional partners, for example Egypt and Jordan.<sup>8</sup>

The positive impact of foreign investment on employment and labour skills is especially apparent in services. Morocco has become the principal French-speaking offshore services centre, in which 35 000 people are now employed, and it expects its position in the segment to improve further to offer 100 000 jobs by the year 2013.<sup>9</sup> Foreign investment also plays an important role in industrial diversification and the growth of higher value-added manufacturing. Thus, for example, Morocco has been attracting R&D activities in the electronics (*ST Microélectronique*) and automotive sectors (*Matra Automobile Engineering*). In aeronautics, foreign investors (*e.g.* EADS Maroc Aviation) have sparked the development of new activities, trades and skills supported by the newly created Moroccan Institute of Aeronautics Skills (*Institut des métiers de l'aéronautique*).

The arrival of foreign investors has also encouraged and facilitated the expansion and internationalisation of Moroccan enterprises in which foreigners have shareholding interests, particularly in banking and telecommunications. Having formerly concentrated essentially on the domestic market, several big corporations have been seizing opportunities abroad, primarily in Africa: Maroc Telecom has acquired significant equity stakes in Mauritania, Burkina Faso, Gabon and Mali, while in the banking sector BMCE Bank and Attijariwafabank have expanded their business in Algeria, Senegal and Tunisia.

## Notes

1. In the first half of 2009, the Investment Commission approved 16 capital projects for a total value of nearly MAD 22 billion, which should generate 9 500 jobs, primarily in distribution, tourism, electronics, mining and transport.
2. *Trade Policy Review of the Kingdom of Morocco*, WTO June 2009, page 68.

3. Over the period 1990-2006, the proceeds from privatisation represented on average 6.2% of the Moroccan government's revenues, nearly double the average for countries of the MEDA region (Algeria, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia and Turkey). Cf. Céline Kauffmann, Lucia Wegner: *Privatisation in the MEDA Region: where do we stand?* Development Centre Working paper No. 261, July 2007.
4. Central Bank of the Kingdom of Morocco, Report on the control of credit companies, 2009.
5. Analysis of quarterly developments in fixe and mobile telecommunications and internet; *Agence nationale de régulation des télécommunications*, 31 March 2009.
6. The concession agreement covering the period of 50 years will concern existing and future railroad infrastructure and its exploitation. Only the part covering the extension of the railroad network will be open to competition.
7. *Economic and Financial Report 2007*; Ministry of Economy and Finance, 2008.
8. *MENA 2008 Economic Development and Prospects: Regional Integration for Global Competitiveness*, World Bank, 2008.
9. Morocco did not appear in the 2006 list of offshore destinations ranked by the A.T. Kearney consulting firm. In 2009, however, it stood in 30th position among the most competitive offshore destinations. Cf. the 2009 A. T. Kearney *Global Service Location Index*; *The shifting geography of offshoring* available at: [www.atkearney.com](http://www.atkearney.com).



## Chapter 2

### **Morocco's Adherence to the OECD Declaration on International Investment and Multinational Enterprises and Related Decisions and Recommendations**

*Morocco has achieved significant progress in liberalizing its investment regime making it more transparent and predictable. By consolidating these liberalization moves in the form of international undertakings, Morocco's adherence to the OECD Declaration to International Investment and Multinational Enterprises represents a further stage in its reform process. Consistent with the provisions of the OECD Declaration, Morocco has notified its existing FDI restrictions under the National Treatment instrument. Morocco is also ready to fulfill the commitments resulting from the Guidelines for Multinational Enterprises, which are an integral part of the OECD Declaration, notably to establish its National Contact Point within the recently-instituted Investment Development Agency.*

The principal stages in the process of reforms to liberalise the Moroccan investment regime can be summarised as follows: the introduction in 1992 of the convertibility regime for foreign investors for their investment operations, profits transfers and the outcome of their liquidated investments; the launch in 1993 of the privatisation programme; the adoption in 1995 of the Investment Charter; and the establishment of the negative list of restrictions on FDI under the free trade agreement (FTA) with the United States, which came into force in January 2006. Other economic activities have been opened to private capital since 2005, in particular the banking, insurance, telecommunications and audiovisual sectors, considerably expanding the opportunities for foreign investment in Morocco. By consolidating these liberalisation moves in the form of international undertakings, Morocco's adherence to the OECD Declaration can be seen as a further stage in this process of reforms initiated in the 1990s. Based on the OECD FDI regulatory restrictiveness index, which covers nine sectors, Morocco's average is comparable with one of 41 countries that adhere to the OECD Declaration (see Annex E).

### 1. Exceptions to National Treatment instrument notified by Morocco

Framework Law 18-95 of 3 October 1995, constituting the Investment Charter, makes no distinction between national and foreign investments, thus implicitly recognising the principle of non-discrimination without explicitly referring to it. An important step in bringing transparency to investment policy was taken with the establishment of the list of FDI restrictions within the FTA with United States. Consistent with the provisions of the OECD Declaration, Morocco has now notified its existing FDI restrictions under the National Treatment instrument (see Annex A).

Morocco prohibits foreign investors from acquiring agricultural lands. This restriction is motivated essentially by the concern to protect the farming sector, which represents 14% of GDP and employs 42% of the country's labour force. The Moroccan authorities consider, however, that this restriction is in fact of modest impact, as foreign investors can take out 99-year leases for the pursuit of agricultural activities. The participation of foreign investors in management of agricultural land is in fact far from being negligible. Moreover, the decree banning ownership of farmland by foreigners, which dates

from 1975, is currently under examination for possible elimination, in light of the anticipated contribution of foreign investment to agricultural development and modernisation, as called for in the “Green Morocco Plan” (see Chapter 3, Box 3.2).

The restrictions on foreign ownership apply to air and maritime transport and maritime fishing. In maritime transport, a vessel must be 75% Moroccan-owned (in the case of individuals) in order to fly the Moroccan flag; for vessels owned by corporations or in partnerships, this condition is deemed fulfilled if the majority of members of the board of directors or the supervisory board are Moroccan citizens.<sup>1</sup> As well, the chair of the board, the managing director or the delegated administrator of these companies must be Moroccan nationals.

Foreign investment in air transport companies is limited to 49% of their capital. A maritime fishery license will be issued only for Moroccan-flagged vessels subject to the same ownership conditions as maritime transport, or to foreign vessels chartered by Moroccan individuals or companies.<sup>2</sup>

The Moroccan banking law 34-03 of March 2006 governing banks and finance companies, stipulates (Article 67) that the consent of the *Bank Al Maghrib* (the central bank) is required for an individual or company to own or transfer, directly or indirectly, an interest in the capital of a lending institution if that interest amounts to at least 10%, 20% or 30% of corporate capital or of voting rights in the assembly of shareholders. There is no discrimination in applying the criteria for assessing the quality and competences of the investor. Beyond these general considerations, Morocco has reserved in its WTO/GATS schedule of commitments the right in the process of approving licenses to restrict foreign shareholdings in major Moroccan banks if they would result in a controlling interest within the meaning of the banking law.<sup>3</sup> However, Morocco has never exercised this right in practice and has decided not to ask to lodge an exception to National Treatment instrument for the purpose of the OECD Declaration in this sector.

For purposes of the FTA with the United States, Morocco defined a “major Moroccan bank” as a bank: i) of which the assets, deposits or credits granted represent at least 12%, respectively, of at least two of the following three factors, respectively: total assets, total deposits, or total credits of the entire Moroccan banking system; and ii) that is controlled by Moroccan nationals or enterprises controlled by Moroccan nationals. The Moroccan authorities have confirmed that, even if this provision is not specified in other agreements, they have no intention of defining a “major bank” in a manner that would disadvantage countries adhering to the Declaration other than the United States.

In the insurance sector, Morocco has not notified any exceptions to the National Treatment instrument. The current provisions of the Insurance Code

concern insurance intermediaries (insurance agents and brokers), and require that shareholdings of foreign individuals must be less than 50% (or 51% for Americans, by virtue of the FTA with the United States). However, these thresholds do not apply to companies under Moroccan law, even if they are foreign-controlled, consistent with the scope of application of the OECD National Treatment instrument. The pursuit of insurance and reinsurance activities is subject to licensing by the Ministry of Finance, on a non-discriminatory basis. Institutions must have their corporate headquarters in Morocco, their capital must amount to at least USD 50 million, and their insurance plans are subject to *ex ante* and *ex post* review by the government.

Moroccan nationality is required to set up an architect's office in Morocco, but a license may be granted for foreign architects to establish themselves taking into account the needs of the sector. Because setting up a firm is one of the permitted ways of providing architecture services, this provision is an exception to National Treatment within the meaning of the OECD instrument. In the case of accounting and audit firms, at least 75% of their shares or corporate rights must be held by members of the Moroccan College of Accountants (*Ordre des Experts-Comptables du Maroc*). To become a member of that College, a foreigner must be a national of a State with which Morocco has signed an agreement authorising nationals of the two countries to exercise their profession in each other's territories, and must be a permanent resident of Morocco. This reciprocity condition is an exception to National Treatment instrument.

Morocco regulates certain professions<sup>4</sup> by reserving their exercise to its nationals. This is the case in particular for tourist guides and lawyers, notaries and *adouls* (traditional notaries), physicians, and engineers-topographers. Because tourist guides currently exercise their profession either for their own account as independent professionals, or as employees of travel agencies, the prohibition for foreigners is not included in the list of exceptions under the OECD National Treatment instrument. A draft bill, now in preparation, would reform this profession, and open the possibility for establishing tourist guide companies. The government anticipates that this new law will authorise foreign shareholdings in such companies.

In certain other professions, exercise is conditional on recognition of diplomas, membership in a professional organisation (such as the College of Physicians), the residency obligation, or election of domicile with a Moroccan professional. For legal experts, lawyers or physicians, one of the conditions is that the foreign professional comes from a country that has signed a bilateral agreement authorising nationals of each State to exercise their profession in the territory of the other State. To the extent these restrictions apply to individuals, they are not covered by the OECD National Treatment instrument, which takes into account only discriminations against established firms.

According to the decree of February 2007 on government procurement, firms established in Morocco enjoy a 15% price preference when tendering for works and related studies. When a bid is submitted by a consortium of national and foreign firms, the preference applies to the portion represented by the national firms in the consortium's total bid. Given that this preferential treatment applies to all firms established in Morocco, including those that are foreign-controlled, this measure is not an exception to the OECD National Treatment instrument.

Morocco is a party to bilateral and regional negotiations to speed the process of trade and FDI liberalisation. Under the FTA with the United States, Morocco has inventoried its FDI restrictions on the basis of the negative list that specifies exceptions to national treatment and restrictions on market access in individual sectors. This initiative was an essential step in making Morocco's investment regime more transparent, with beneficial effects for all foreign investors. Similarly, Morocco's commitments under that agreement, in particular those in Chapter 10 (Investment) relating to transparency, access to information and dialogue with investors, are in line with international standards and have thus allowed Morocco to adopt good practices in all these fields, gradually extending their application to its relations with foreign investors from other countries.

The other existing FTAs, mainly those with Arab countries, concern the dismantling of customs tariffs on certain products: they do not cover services and they do not contain any preferential treatment for investments. This is also the case with the recent Kuwait Declaration, adopted in January 2009, which stresses the promotion of inter-Arab investments. The principle of reciprocity is observed in bilateral conventions on mutual recognition of diplomas in certain professions listed above (architects, physicians and lawyers), which are open to nationals of a State with which Morocco has signed such a convention. As indicated earlier, this principle applies to exercise as independent professionals and does not fall within the scope of the OECD National Treatment instrument.

Negotiations with the European Union, which began at the Sixth Euromed Trade Ministerial Conference in Lisbon in October 2007, are now being pursued bilaterally with all the countries concerned, namely Egypt, Jordan, Lebanon, Morocco and Tunisia. In 2008 Morocco and the EU agreed on the scope and modalities of their negotiations, which will deal with market access restrictions and national treatment and the four modes of service provision,<sup>5</sup> on the basis of a positive list of concessions. To prepare for these negotiations, the Moroccan authorities launched consultations in 2009 with representatives of the sectors concerned, in particular construction services, engineering, real estate, tourism and distribution.

## 2. Measures notified by Morocco for transparency

### 2.1. Measures based on public order and essential security considerations

Morocco does not currently apply any discriminatory measure against FDI based on public order and essential security interests. Agreements may be negotiated case-by-case with the State for investment projects related to national defence or to technologies of military application.

### 2.2. Measures applied to all sectors

Pursuant to the Labour Code (Article 516), the recruitment of a foreign employee is subject to authorisation by the Minister of Employment and Vocational Training (Department of Employment), in the form of an endorsement stamp affixed to the person's work contract. In line with the decree of the Minister of Employment of 9 February 2005, to obtain the authorisation to hire a foreign worker an employer must submit an attestation from the National Agency for the Promotion of Employment and Skills (ANAPEC) certifying that no national fits the requirements for the job offered. However, to encourage foreign investment in Morocco, that same decree exempted certain categories of foreign employees from the ANAPEC certification requirement: presidents/general directors, managers, partners and authorised representatives of companies as well as employees seconded for a specified period to foreign firms that have been awarded public procurement contracts, or to the subsidiaries of those firms. These provisions do not need to be included in the list of measures notified by Morocco under the OECD National Treatment instrument's transparency provisions.

### 2.3. Sectoral measures and corporate organisation

There are several categories of regulated activities and services that require a license issued in advance by the sectoral oversight authorities: these categories include telecommunications, banking and insurance, audiovisual services, and press agencies. As the conditions for obtaining these licenses and authorisations are identical for national and foreign operators, these measures are not included among those notified by Morocco for transparency.

However, Moroccan nationality is required for corporate executives and/or board members in the following sectors: maritime transport (the majority of board members), fisheries (the president and a majority of board members), the audiovisual sector (at least one board member) and private higher education (the academic director). In addition, ship crew members must be Moroccans.

## 2.4. Monopolies and concessions

Monopolies and concessions must be notified under the OECD Declaration's National Treatment instrument within transparency measures. Monopolies can take two forms: i) a public monopoly, run by State or managed by local governments; ii) a monopoly exercised under an exclusive license granted to a private operator. In Morocco, the following activities are State monopolies:

- phosphate exploration and exploitation, operated by the *Office chérifien des phosphates*, which became a limited company in 2008;
- rail transport (merchandise freight and passenger transport) is operated by the *Office national des chemins de fer* (ONCF) which will become in 2010 a limited company with a capital owned by 100% by the State;
- airport management: *Office national des aéroports* (ONDA);
- postal services: domestic and international mail service, collection of savings through the national savings bank, the *Caisse d'épargne nationale*. (The monopole does not apply to express deliveries from third countries to Morocco or from Morocco to third countries and for letters and parcels weighting more than 1 kg);

Several activities that are still State monopolies have been delegated to the municipalities (*communes*):

- wholesale distribution of fruits and vegetables;
- wholesale distribution of fish;
- slaughterhouses and slaughtering operations.

Two activities fall under the category of private monopolies:

- tobacco production and wholesale distribution of manufactured tobacco products has been a monopoly of the *Régie des tabacs*, which was privatised in 2003 to become Altadis, subsidiary of Imperial Tobacco. This private monopoly will remain in force until 2010.
- marketing of ethyl alcohol is a State monopoly exercised by the *Service autonome des alcools* of the Department of Trade and Industry; the *Société de transformation des mélasses du Gharb* (SOTRAMEG) has been delegated the management of this monopoly for 15 years.

Activities in the electricity and water sectors as well as non-hazardous waste management may be let under concession on the basis of competitive tendering and the conditions established in the contract specifications. For electricity production, the *Office national de l'électricité* (ONE) accounted for 55% of output in 2008, and private concessionaires<sup>6</sup> 45%. Electricity is distributed by ONE, seven municipal utilities, and three delegated companies that are subsidiaries of *Lyonnaise des Eaux* and *Veolia Environnement*. Drinking water

production is the exclusive preserve of the *Office national de l'eau potable* (ONEP), while water and sanitation distribution services are provided in part by the ONEP and in part by public utilities and the concessionaires who also handle power distribution. Municipal street-cleaning services and non-hazardous rubbish collection are managed by the municipalities either directly or through concessions.

The decrees of 1992 and 1993 provided for the construction and operation of motorways in Morocco through concessions. Following several international calls for tender that failed to attract responses (Casa-El jadida – Jorf Lasfar and Tetouan-Fnideq), the *Société nationale des autoroutes du Maroc* is now the only concessionaire for the entire network.

Reforms now underway are intended to open other sectors to competition, in stages, by allowing other operators to participate in certain activities, especially in the transport area. In air transport, the “Open Sky” agreements signed with the United States and more recently with the European Union call for progressive liberalisation, including the right of companies from those countries to operate in Morocco. In other sectors, reforms have generally begun by transforming public enterprises into corporations, as was done for transport (with creation of the *Société marocaine des chemins de fer*) or, as for port activities, by separating the regulatory function (*Agence nationale des ports*) from commercial operations (*Société d'exploitation des ports*).

### 3. Morocco's adherence to the OECD Guidelines for Multinational Enterprises

#### 3.1. General principles

Morocco has subscribed to the international instruments cited in the Guidelines, such as the United Nations Conventions on Human Rights and those of the International Labour Organisation (ILO). Morocco has signed on to the ILO Declaration on Fundamental Principles and Rights at Work of June 1998 and has ratified seven of the fundamental conventions,<sup>7</sup> with the exception of Convention 87 on trade union freedom, virtually all the provisions of which have been incorporated into the labour code (Part III). Morocco has also signed and ratified the principal international conventions and protocols on sustainable development and better environmental management, including the Montreal Protocol on Substances that Deplete the Ozone Layer and the Kyoto Protocol to the United Nations Convention on Climate Change (see Annex D).



### **3.2. Rights and duties of the public and private sectors**

Morocco seeks to promote the business integrity and public-private partnership through various means with a view to clarifying the respective rights and duties of public and private sectors and ensuring their medium-term stability. The authorities are particularly concerned to bring greater transparency to the decision-making process, by publishing procedural manuals for various services, simplifying administrative procedures and making them available online, and improving procedures for awarding and implementing public procurement contracts. The authorities are however aware that the climate of trust between government and the private sector depends on further reform to the judicial system, in order to make the administration of justice more independent and effective.

### **3.3. Promotion of sound corporate governance**

In March 2008 Morocco adopted a Code of Good Practices in Corporate Governance, developed through consultation and dialogue between the public and private sectors under the aegis of the National Commission on Good Corporate Governance (CNGE), chaired jointly by the Confederation of Moroccan Enterprises (CGEM) and the Ministry of Economic and General Affairs. The main stakeholders participated in this work, both on the government side (ministries of economic affairs and finance, justice, and public sector modernisation; the Securities Ethics Council, the National Agency for Small and Medium-Sized Enterprises) and on the private side such as the Stock Exchange, the Moroccan Banking Association (*Groupement professionnel des banques du Maroc*), Young Business Leaders Centre (*Centre des jeunes dirigeants*), the Federation of Moroccan Chambers of Commerce, Industry and Services, and the College of Accountants.

Morocco's corporate governance code<sup>8</sup> is based on international best practices, in particular the OECD Principles of Corporate Governance.<sup>9</sup> This compilation of guidelines and recommendations, complementary to existing legislation, is addressed to all businesses interested in enhancing their performance and their value in a sustainable manner. The code is a work in progress and will be adapted in light of changes in the business climate and practices, nationally and internationally.

In December 2008, the corporate governance code was supplemented by a specific code on the governance of SMEs and family-owned enterprises, which establishes guidelines and recommendations that will allow such firms to adopt a set of rules and good practices in keeping with their socioeconomic circumstances. Other codes of good governance are expected to be launched during 2010 for credit institutions and public enterprises.

A number of awareness and communication campaigns have been conducted at the national and regional level to prepare various categories of businesses for their new responsibilities and the new benchmark standards for corporate governance. The National Commission on Good Corporate Governance (CNGE) is currently implementing a strategy to encourage higher education institutions to include corporate governance modules in their curricula. The Commission created in June 2009 a National Institute for Administrators (*Institut national des administrateurs*) in public-private partnership to promote good corporate governance practices within boards of directors and to enhance their professionalism. The main mission of the new Institute is to provide training, information and necessary expertise to directors and members of boards to allow them to fulfil their duties with more efficiency, responsibility and integrity.

Good governance codes have also been adopted for other sectors and activities, based on international conventions and recommendations, for example: the Pact for Integrity and Public Commitment in the Construction Industry; the Good Entrepreneurship Charter of the *Centre des jeunes dirigeants d'entreprises*; The Ethic Code of Microcredit Institutions; and the Supervisory Board Members' Charter.

### **3.4. Promoting corporate social responsibility**

In December 2006, the CGEM adopted a Social Responsibility Charter based on international conventions concerning fundamental human rights, protection of the environment, good governance and fair competition. Firms signing on to this Charter undertake to defend and promote the universal principles of social responsibility in their day-to-day practices, to respect human rights, to make permanent improvements in labour and working conditions and occupational relations, to protect the environment, to prevent corruption, to obey the rules of competition, to strengthen transparency in corporate governance, to take account of customers' and consumers' interests, and to promote social responsibility among their suppliers and subcontractors.

The CGEM awards a "Corporate Social Responsibility Label" to firms that undertake to observe these principles. Several agencies have joined with the CGEM to promote the label, including the Customs and Indirect Taxation Administration, the National Social Security Fund, the *Crédit agricole du Maroc*, the *Groupe banques populaires*, the *Banque marocaine pour le commerce et l'industrie* and the General Directorate of Taxation. These partners grant specific advantages and special treatment to firms awarded the Label, for example preferential rates for certain services, simplified procedures, less stringent controls, and personalised handling of their files. Among the first firms to be awarded the label are ERAMEDIC (import and distribution of

medical equipment), Lafarge Maroc (cement), Stokvis Nord-Afrique (distribution of technical materials), *Chantiers et Ateliers du Maroc* (ship repairs) and GFI Maroc (new technologies and services).

### **3.5. Promoting corporate financial responsibility**

In a move to modernise the financial reporting framework and consolidate financial and accounting records and enhance their transparency and visibility, as well as to encourage a climate of trust between investors, shareholders and public partners, the National Accounting Council (CNC) has established several frames of reference, including: the General Accounting Standardisation Code (CGNC), the chart of accounts for mutual funds (undertakings for collective investments in transferable securities – OPCVM), the chart of accounts for insurance companies, the chart of accounts for co-operatives, accounting standards for mortgage securitisation, and the chart of accounts for the real estate sector.

The principal laws and regulations governing the accounts consolidation framework in Morocco are Law 52-01 modifying and supplementing the dahir on Law 1-93-211 of 21 September 1993 concerning the Stock Exchange, Opinion 5 of the National Accounting Council on consolidated accounts, adopted in May 2005, and Law 38-05 on consolidated accounts of public establishments and enterprises, which came into force in June 2008. The competent authorities are working to align the country's practices progressively with the International Financial Reporting Standards (IFRS).

### **3.6. National Contact Point**

In order to promote the Guidelines for Multinational Enterprises, which are an integral part of the OECD Declaration, and to encourage their observance, Morocco will establish its National Contact Point (NCP) within the new Moroccan Investment Development Agency (AMDI). AMDI's new responsibilities, and its close co-operation with the private sector, should ensure that the Moroccan NCP can operate in accordance with the criteria of accessibility, visibility, transparency and accountability.

## **4. Conflicting requirements**

Morocco accepts the commitments under has this instrument, which is part of the Declaration on International Investment and Multinational Enterprises and calls on adhering countries to avoid or minimise the imposition of conflicting requirements on multinational enterprises by governments and to take into account the general considerations and practical approaches annexed to the Declaration. The Moroccan authorities believe that the best way to do this is to continue to enhance transparency and

to unify the investment regime, while maintaining ongoing dialogue with investors.

## 5. International investment incentives and disincentives

This instrument, which is also part of the Declaration, encourages adhering countries to strengthen their co-operation on measures affecting FDI, and to make them as transparent as possible. The 1995 Investment Charter eliminated nationality conditions for the granting of investment advantages and incentives. In agriculture, financial assistance, investment bonuses and tax incentives are granted without distinction to foreign and national investors. Thus, for example, foreign investors may receive investment bonuses to outfit agricultural operations with new equipment for upgrading farm products (packaging, conservation, storage) and to promote exports. Foreign investors are also eligible for the tax exemptions that national investors enjoy until 2013, namely exemption from all direct taxes on farm income, minimum import duties, and VAT exemption for most farming products and materials.

An important contribution to transparency in investment incentives and disincentives was the installation in 2005 of a system for evaluating all tax measures, including exemptions and incentives applicable to investments. The goal is to make these measures more transparent and to assess their impact on the national budget. Annual reports on tax expenditures have produced useful results, and the number of tax exemptions has diminished, thereby reducing the adverse impact on budgetary revenues (see Chapter 3).

### Notes

1. It should be noted that, as an exception to this provision, vessels that have Tangiers as their home port and engage in deep-sea navigation, grand cabotage, or fishing on the high seas may acquire Moroccan nationality if they meet the following conditions: i) they have Tangiers as their port of registry; ii) they call at Tangiers at least once every six months; iii) they belong to individuals resident in Morocco or to companies headquartered in Tangiers, or with a subsidiary headquartered in that port.
2. Road freight was liberalised by Law 16-99. The national transport and logistics company (*Société nationale de transport et logistique*) was formed in 2003. Companies offering road transport services must by law be Moroccan entities.
3. According to Article 36 of the banking law, control of a credit institution means: i) the holding, direct or indirect, of a shareholding interest that confers the majority of voting rights in shareholders' assemblies, or ii) the power to dispose of the majority of voting rights by virtue of an agreement with other partners or shareholders, or iii) the exercise, jointly with a limited number of partners or shareholders, of powers of administration, direction or oversight; or iv) the exercise by virtue of legislative, statutory or contractual provisions, of powers of

- administration, direction or oversight; or v) the effective power to determine, through voting rights, the decisions taken in the shareholders' assemblies.
4. The General Secretariat of Government is responsible for regulating professional services.
  5. With respect to trade in services, an OECD study attempted to measure the degree of restrictions in the four service supply modes in Egypt, Jordan and Morocco, in finance (banking and insurance), telecommunications (fixed and mobile) and transport (maritime and air), based on the trade restrictiveness index (TRI) methodology. According to those estimates, using information available in 2007, the score for Morocco was higher than that for Egypt and Jordan in finance (bank and insurance) and maritime transport, but it was the lowest of the three countries for telecommunications. As for air transport, Morocco's index was lower than that of Egypt and slightly higher than of Jordan. See Mohamed Ali Marouani, Laura Munro: *Assessing barriers to trade in services in the MENA region*, OECD Trade Policy Working Paper, No. 2008/84.
  6. The concessionaires for electricity production are currently: JLEC (100%-owned Moroccan subsidiary of the Emirate group TAQA) ; *Énergie électrique de Tahaddart* (of which Siemens and ENDESA are the principal shareholders) and CED (100%-owned subsidiary of THEOLIA). The three companies delegated to distribute electricity and water are: LYDEC (subsidiary of the *Lyonnaise des Eaux* group), REDAL and AMENDIS (subsidiaries of *Veolia Environnement*).
  7. These are the conventions concerning freedom of association and the right to bargain collectively, forced or compulsory labour, the worst forms of child labour, and discrimination in respect of employment and occupation.
  8. The *Code of Good Practices in Corporate Governance* is available at the website of the *Confédération Générale des Entreprises du Maroc*: [www.cgem.ma](http://www.cgem.ma) and at the website of the Ministry of General and Economic Affairs: [www.affaires-generales.gov.ma](http://www.affaires-generales.gov.ma).
  9. The *OECD Principles of Corporate Governance* are available at: [www.oecd.org/daf/affairesdesentreprises/principes/texte](http://www.oecd.org/daf/affairesdesentreprises/principes/texte).



## Chapter 3

### Morocco's Policy Framework for Investment

*As shown in the examination of Morocco's investment policies under in the OECD Policy Framework for Investment, the authorities have adopted a series of laws and various regulatory and institutional mechanisms needed to improve the investment climate, including in the areas of trade and competition policies and infrastructure developments. The new Moroccan Investment Development Agency will be a focal point for setting up investment promotion strategy in close association with the private sector. The government has also undertaken several initiatives to ensure responsible business conduct in line with internationally recognized principles regarding labour rights, human rights, environmental protection and combating corruption.*

This chapter examines Morocco's investment policy in light of the OECD Policy Framework for Investment (PFI). It does not address all the policy areas covered by the Framework (see Box 3.1) but focuses on investment policies and investment promotion and facilitation, highlighting only some other aspects that affect investment conditions such as trade policy, responsible business conduct, human resource policy and infrastructure development.

### Box 3.1. The OECD Policy Framework for Investment

The objective of the *Framework* is to mobilise private investment in support of stable economic growth and sustainable development, contributing in this way to the prosperity of countries and their citizens and to combating poverty. The framework was developed within the OECD by the representatives of nearly 60 countries, including Morocco, and poses a list of key questions that should be examined by any government seeking to create a favourable investment climate.

The *Framework* is not prescriptive. On the contrary, it is a flexible instrument that allows countries to evaluate their progress and identify priorities for action in ten policy areas: i) investment policy, ii) investment promotion and facilitation, iii) trade policy, iv) competition policy, v) tax policy, vi) corporate governance, vii) policies for promoting responsible business conduct, viii) human resource development, ix) infrastructure and financial sector development, and x) public governance. Three principles apply throughout the framework: policy coherence, transparency in policy formulation and implementation of policies, and regular evaluation of the impact of existing and proposed policies.

By encouraging a structured process for formulating and implementing policies at all levels of government, the *Framework* can be used in various ways, including for self-evaluations, peer reviews, regional co-operation, and multilateral discussions.

## 1. Investment policy

The quality of investment policies directly influences the decisions of all investors, be they small or large, domestic or foreign. Transparency, property protection and non-discrimination are investment policy principles that underpin efforts to create a sound investment environment for all.



### **1.1. Transparency and accessibility of the legislative and regulatory framework**

What steps has the government taken to ensure that the laws and regulations dealing with investments and investors, including SMEs, and their implementation and enforcement are clear, transparent, readily accessible and do not impose unnecessary burdens?

Accessibility and transparency are important from the outset, when new laws and measures are being prepared. For this reason, the Moroccan authorities have developed consultation procedures in which draft laws are posted online, inviting opinions and reactions from the public and interested parties and allowing them to monitor the process of parliamentary adoption. Once they are adopted, the laws are published in the *Official Gazette* in Arabic and in French; they are made publicly available in paper format and they can be consulted free of charge via Internet at the website of the government department concerned, as well as that of the General Secretariat of Government ([www.sgg.gov.ma](http://www.sgg.gov.ma)).

The web portal ([www.mcinet.gov.ma](http://www.mcinet.gov.ma)) created under the *e-government* programme is designed to make information better accessible to all users. The site includes a list of regulated activities for which prior authorisation is necessary, specifying the appropriate references in laws and regulations and, for some sectors, the procedures applicable to foreign investors. If the government does not respond to a request within 60 days authorisation is deemed granted.

The National Agency for the Promotion of SMEs (ANPME), created in 2002, is responsible for improving access to information and communication tools for this category of firms. Information on the legal, financial and promotional instruments adopted by the government in favour of SMEs can be found on its website ([www.anpme.ma](http://www.anpme.ma)).

## 1.2. Property rights

What steps has the government taken towards the progressive establishment of timely, secure and effective methods of ownership registration for land and other forms of property?

Land and property ownership rights are recorded in Morocco by the *Agence nationale de la conservation foncière, du cadastre et de la cartographie* (National Land Conservation, Survey and Cartography Agency), which strives to maintain a well-defined and secure ownership regime and to make registration procedures more effective, swift and reliable. The agency has increased the overall number of sectors where registration may be done free of charge, in order to cover areas of high economic potential. It has also initiated some major projects for recording government-owned lands, particularly in the forestry area, and local government domains and religious properties (*habous*).

The Agency currently has 142 branches distributed throughout the country, in order to provide locally tailored service. To increase public awareness of the property registration system and its services, the Agency conducts regular communication campaigns in the cities and in the countryside. It has been introducing new management methods to reduce registration times and to standardise the processing of applications, in particular:

- it applies the “first-come, first-served” rule for registration applications;
- it gives public notice of time limits, required documentation, and applicable charges for each service;
- it has fixed a deadline for processing applications following receipt, and reports this to users;
- it has introduced a special system of publication in the *Official Gazette*, thus significantly speeding up notification periods;
- it has standardised procedures and created a portal “*e-foncier*” where ownership titles can be consulted online;
- it has computerised its services and rationalised the property, survey and mapping databases so as to improve the processing of applications and enhance data security.

Parliament is currently debating the update of legislation governing property registration, which dates from 1913. This reform would simplify and shorten registration procedures, while generalising registration through the

possibility of opening mandatory registration zones and reinforcing guarantees by penalising abusive objections and nuisances. These provisions, which are essential for encouraging new investment and the upkeep of existing investments, should also have a positive impact on foreign investors, who are allowed to own property in Morocco with the exception of farmland (see Chapter 2).

Morocco needs to pursue its efforts in this field, with a view in particular to improving application and implementation of existing provisions for recording land titles and property rights. The World Bank estimates that the number of procedures required (8), the time they take (47 days) and their cost (around 5% of property value) were still higher in Morocco in 2008 than in many other countries, including some in the Middle East and North Africa (MENA).<sup>1</sup>

### **1.3. Intellectual property rights**

Has the government implemented laws and regulations for the protection of intellectual property rights and effective enforcement mechanisms? Does the level of protection and encourage innovation and investment by domestic and foreign firms? What steps has the government taken to develop strategies, policies and programmes to meet the intellectual property needs of SMEs?

Law 17-97 of 15 February 2000, which came into force on 18 December 2004, governs industrial and intellectual property in Morocco, in particular technical creations, invention patents, industrial designs and models, and distinctive signs (trademarks, corporate names, trade names, appellations of origin and geographical indications). In February 2006, this law was supplemented and amended by Law 31-05, which introduced new provisions such as the system for opposing trademarks, border measures for suspected counterfeit goods, and creation of a national registry of geographic indications and appellations of origin.

The new law is part of the framework of commitments accepted by Morocco under the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the FTA with the United States, which contains provisions on extending protection for patents and trade secrets, the system for settling disputes over domain names on the Internet, and the introduction of transparent procedures for registration and renewal of trademarks. With these recent revisions, Moroccan legislation now includes most of the appropriate notions and regulations such as protection for drug patents,

compulsory licensing, *licences d'office* (exceptional patent waivers for government use), creation of an employees' invention regime, layout designs for integrated circuits, service marks, certification marks, the possibility of filing opposition to registration of a mark with the National Office for the Protection of Intellectual Property, protection for sound and smell marks, provision for electronic registration of marks, and the reinforcement of border measures.

When it comes to copyright and related rights, the Moroccan authorities have also revised existing provisions. For literary and artistic works, Law 2-00 of 15 February 2000 introduced amendments to combat acts of piracy, consistent with international agreements and treaties including TRIPS and the WIPO treaties on copyright and performances and phonograms. The 2006 revision expanded the role of the Moroccan Copyright Office (*Bureau marocain du droit d'auteur* – BMDA), giving it the rights of protection and exploitation with respect to copyright and related rights and authorising it to take legal action in case of violations of the law. For example, reproductions and re-editions of works in electronic format now enjoy ownership right protection for up to 70 years after the death of the author, as opposed to 50 years previously.

New provisions have been introduced to strengthen border measures, permitting action, upon request or *ex officio*, to prohibit the export, import or transit of goods suspected of being counterfeit or pirated. Legal protection against circumventing technological measures has been stepped up and protective measures and civil and criminal penalties for any violation of a protected right have been strengthened. A limited liability regime has been instituted for the providers of digital network services.

Morocco has introduced a law on plant varieties, using a *sui generis* system tailored to its circumstances: Law 9-94 of 21 January 1997 on plant breeding grants protection for a minimum of 20 years for field crop species such as cereals, and 25 years for tree species.

On the institutional front, the Intellectual Property Office has been merged with the Central Business Registry to create the Moroccan Office for Intellectual and Commercial Property (*Office marocain de la propriété industrielle et commerciale* – OMPIC) which is responsible for enforcing international and domestic legislation. The OMPIC has developed a number of online services designed to facilitate information queries and searches. Those services ([www.ompic.org.ma](http://www.ompic.org.ma)) were awarded the national prize for electronic administration in 2005 and in 2006, in recognition of their best quality services.

Morocco is a member of the World Intellectual Property Organization (WIPO) and it is signatory to the Berne Convention for the Protection of

Literary and Artistic Works and the Paris Convention for the Protection of Industrial Property. It has also adhered to the principle international treaties offering investors the opportunity to register intellectual property rights, namely the Madrid Agreement (for trademarks), the Hague Agreement (industrial designs and models) and the Patent Cooperation Treaty.

The steps taken by Morocco to ensure the conformity of legislation should be accompanied by efforts to enforce it, especially with respect to counterfeiting. In this context, there is a need for campaigns targeting the biggest producers and importers of counterfeit goods as well as action plans against piracy.

#### **1.4. Contract enforcement system**

Is the system of contract enforcement effective and widely accessible to all investors?

The Moroccan system of contract enforcement is considered similar to that used in civil-law countries of the OECD, with certain aspects inspired by common-law systems. Morocco has gradually been establishing administrative and commercial tribunals, in addition to the ordinary courts. These different jurisdictions fall under the control of the Supreme Court, which oversees the functioning of the justice system, including its business law aspects.

The creation of commercial courts and specialised judicial bodies responsible for ruling on business disputes has helped produce swifter and more effective settlement of cases under way. The Moroccan authorities are nevertheless aware of shortcomings in the judicial system and the need to reduce the time taken to process cases.<sup>2</sup> Following a detailed analysis of the current situation, the Ministry of Justice has announced reforms to increase staffing of the justice system, to create new tribunals and appeal courts, and to promote training in order to reduce the time now taken in processing cases and to reinforce mechanisms for the execution of judgments.

### 1.5. Dispute settlement

What alternative systems of dispute settlement has the government established to ensure the widest possible scope of protection at a reasonable cost?

The 1995 Investment Charter made no provision for systematic resort to arbitration in investment disputes. Before a dispute is submitted to the Administrative Tribunal of Rabat or to international arbitration, friendly settlement may be attempted at the local or central level. Generally speaking, it is the regional investment centres that serve as the interface for receiving investors' grievances and transmitting them to the local administration concerned. In the absence of a friendly settlement, the complaint is examined by the regional investment commission. However, if no solution can be found locally, the investor's complaint will be sent to the Investment Commission chaired by the Prime Minister.

Arbitration procedures in general are regulated by the Code of Civil Procedure, as amended and supplemented by Law 08-05 of 30 November 2007, which includes a chapter on international arbitration, mediation and conciliation. While drawing on the model international arbitration law of 21 June 1985 of the United Nations Commission for International Trade Law (UNCITRAL), the Moroccan law contains some unique features. It defines international arbitration and sets out the conditions for resort to it, such as the foreign element, recognises international arbitral awards, and makes them enforceable. If the arbitration is conducted abroad and if the parties have provided for application of Moroccan procedural law, the case must be referred to the president of the Tribunal of Commerce of Rabat. The arbitral award is enforceable. The 2007 reform to the code of civil procedure extended the jurisdiction of the commercial courts to the enforcement of arbitral awards accompanied by a document of *exequatur*, both for domestic and international arbitration.

Law 08-05 also regulates resort to arbitration for disputes involving the State, public institutions or local governments. Before promulgation of the new law, there was no provision for resort to arbitration in disputes involving claims against the State. Currently, any claim involving money may be submitted to arbitration, except for unilateral acts or those relating to tax law enforcement, which are not covered by these new provisions. In the framework of a public service concession contract, Law 54-04 of 2006 on delegated management of public services establishes the principle of

arbitration for disputes between the delegating authority and the delegated company, or between the latter and the consumer.

Conventional mediation is one of the major contributions of Law 08-05. The parties to a dispute may include in the contract a provision for resort to mediation before any action is taken through the courts. Under the new provisions, and when the contract so provides, no legal action can be taken before the issue has been put to a mediator. If mediation is successful, it will result in a definitive act of agreement (*acte de transaction*) that is binding on both parties. If mediation fails (*acte de non-transaction*) the parties are free to pursue the matter through the courts.

Since 1998 Morocco has had a private arbitration court, which replaced the arbitration chamber. Other arbitral bodies have been created within the chambers of commerce, industry and services, in particular the Arbitration and Mediation Centres of Casablanca, Rabat, Tangiers and Meknes as well as the Tribunal Atlantic of Agadir created in partnership with the Chamber of Commerce, Industry and Services of Canaries Islands and the arbitration tribunal founded in partnership with the Chamber of Commerce, Industry and Services of Andalusia (Spain).

### 1.6. Expropriation procedures

Does the government maintain a policy of timely, adequate, and effective compensation for expropriation also consistent with its obligations under international law? What explicit and well-defined limits on the ability to expropriate has the government established? What independent channels exist for reviewing the exercise of this power or for contesting it?

The Moroccan Constitution (Article 15) stipulates that expropriation may be undertaken only in the cases and in the manner prescribed by law. The Constitution specifies that rights under international law may be limited if “the economic and social development of the nation” so demands, and it makes no other reference to the principle of non-discrimination or the payment of fair, equitable and effective compensation.

Law 7-81 of May 1982 on property expropriation for public use and temporary occupancy allows expropriation to the benefit not only of the State and local governments but also other “legal persons under public and private law or individuals to whom the public powers have delegated their rights to undertake works or operations declared of public interest” (Article 3). Article 20 of that law defines the rules for determining the amount of compensation, specifying that it must reflect the real value of the

expropriated property in light of its effective use as determined by an appraisal on the day the expropriation is announced.

Given the current provisions of the Constitution and the expropriation law, the principal protection for foreign investors is within the bilateral investment promotion and protection agreements that Morocco has signed and ratified, and which follow international standards in this field. In effect, those agreements provide that expropriation must be done in the public interest, without discrimination, and must give rise to prompt, adequate and effective compensation (see below).

### **1.7. The non-discrimination principle**

Has the government taken steps to establish non-discrimination as a general principle underpinning laws and regulations governing investment? In the exercise of its right to regulate and to deliver public services, does the government have mechanisms in place to ensure transparency of remaining discriminatory restrictions on international investment and to periodically review their costs against their intended public purpose? Has the government reviewed restrictions affecting the free transfer of capital and profits and their effect on attracting international investment?

An important limitation on the principle of non-discrimination was eliminated in 1983 with repeal of the decree on “Moroccanisation”, which banned foreigners from numerous activities. The principal text currently in force concerning investment is the framework law 18-95 of October 1995, constituting the Investment Charter. The Charter implicitly embraces the principle of non-discrimination, for it applies both to domestic and foreign investment, but it does not make any explicit reference to the principle. A draft investment code under consideration would create a general framework for investment, both domestic and foreign. This new code would enshrine the principle of non-discrimination in Moroccan legislation and unite within a single text the principal provisions relating to guarantees for foreign investors (such as national treatment, compensation for expropriation and resort to international arbitration) and the specific advantages granted by the State.

FDI restrictions due to the existence of exchange controls, which have been particularly harmful to foreign investors, have been eliminated through regulations of the Foreign Exchange Office and the provisions of the Investment Charter. The Foreign Exchange Office’s Circular 1589 of 15 September 1992 instituted a convertibility regime in favour of foreign investors. That regime allows foreign investors to conduct their investment



operations in Morocco freely and to transfer the revenues generated by those investments as well as the proceeds of their disposal or liquidation, without limitation as to amount or duration, provided the required Moroccan taxes and fees have been paid. Transferable investment income includes dividends or shares in profits distributed by Moroccan companies, the profits of the Moroccan branches of foreign companies, and rental income and interest on loans. Foreigners who have resident status may transfer their profits, wages, salaries, pensions and professional fees.

Amounts received from abroad must be deposited in an account in foreign currency or in convertible dirhams (MAD) so as to keep them convertible in favour of foreign investors. That account can be used to make investment transactions in Morocco and it guarantees the transfer of the proceeds of that investment as well as repatriation of the proceeds and capital gain from any resale. Moroccan banks may lend local currency to non-resident foreigners to finance the purchase or construction of residences in Morocco.

The 1995 Charter guarantees free transfer of funds (Article 16) and gives foreign investors “the freedom to transfer profits and capital for persons who make investments in foreign currency” (Article 15). Morocco accepted Article VIII of the Articles of Agreement of the International Monetary Fund on 21 January 1993.

### **1.8. Investment promotion and protection agreements**

Are investment policy authorities working with their counterparts in other economies to expand international treaties on the promotion and protection of investment? Has the government reviewed existing international treaties and commitments periodically to determine whether their provisions create a more attractive environment for investment? What measures exist to ensure effective compliance with the country's commitments under its international investment agreements?

Given the nature of the current legislative provisions governing expropriation (see above), the main guarantees for foreign investors in Morocco are to be found in the bilateral investment agreements on promotion and protection of investments (BIT). Morocco has negotiated 61 BITs (Annex C), which places it in second position, after Egypt, among countries of Africa and the Arab world. Twenty-five of these BITs have been signed with countries adhering to the OECD Declaration on International Investment and Multinational Enterprises.

The BITs concluded by Morocco have evolved apace with changes in the domestic legislative and institutional framework, and in line with the new international obligations that Morocco has accepted concerning investment promotion and protection. The principal provisions included in the BITs concluded recently by Morocco, and which are common to BITs in general, include:

- A broader definition of investment, which embraces direct investment, portfolio investment, intellectual property rights and business concessions conferred by law or under contract. Thanks to this broad definition, all categories of investment enjoy comprehensive legal protection.
- National treatment and most-favoured-nation (MFN) provisions for investors and their investments.
- Investments may be expropriated only on grounds of public utility and as a result of a judicial decision. Expropriation must be done on a non-discriminatory basis and must give rise to payment of prompt and adequate compensation.
- Freedom to transfer investments, investment returns and compensation (for expropriation or losses resulting from exceptional situations).
- Protection of creditor's rights through a provision that allows the suspension of transfers in case of bankruptcy and insolvency of the investor, or violations of labour laws.
- Resort to domestic tribunals or international arbitration, at the investor's election, for the settlement of disputes between the investor and the host country.
- In the case of international arbitration, the ability of the investor to choose between the International Centre for Settlement of Investment Disputes (ICSID) or an *ad hoc* tribunal established in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).
- Extension of the scope of application of an agreement that now applies to investments made before or after its entry into force.

For entry into force, international treaties are subject to the same procedure as the adoption of a law or regulation, i.e. presentation via the General Secretariat of Government to Parliament for discussion, vote and adoption by the two chambers, and ratification followed by publication in the *Official Gazette*. In the case of bilateral treaties, entry into force of the BIT requires ratification by both signatory states, which must exchange their instruments of ratification. This procedure has been finalised for 42 BITs concluded by Morocco.

To encourage foreign investment and strengthen its economic relations with its partners, Morocco has also concluded double taxation treaties with some 50 countries, and 28 of those treaties are currently in force (Annex C). Their provisions draw heavily on the OECD model tax conventions and are designed to i) eliminate or alleviate international double taxation of income and capital and ii) afford guarantees to foreign investors.

### 1.9. Ratification of international arbitration instruments

Has the government ratified and implemented binding international arbitration instruments for the settlement of investment disputes?

Morocco has adhered to the principal international arbitration instruments: on 7 June 1959 it ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and on 10 June 1967 it adhered to the Washington Convention instituting the International Centre for Settlement of Investment Disputes between States and nationals of other States. The bilateral agreements on promotion and protection of investments concluded by Morocco provide for ICSID arbitration.

Morocco has been involved in three disputes before the ICSID. In the first two cases (*Holiday Inns S.A. and others v. Kingdom of Morocco* ; ICSID Case N° ARB/72/1 and *Salini Costruttori S.p.A. and Italstrade S.p.A. v. Kingdom of Morocco* ; ICSID Case N° ARB/00/4), the two parties reached an agreement, while in the third case (*Consortium R.F.C.C. v. Kingdom of Morocco* ; ICSID Case N° ARB/00/6), the ICSID arbitral award rendered on 22 December 2003 in favour of Morocco was confirmed in January 2006 by an *ad hoc* tribunal, which rejected the investor's appeal for annulment.

## 2. Investment promotion and facilitation

Investment promotion and facilitation measures, including incentives, can be effective instruments for attracting investment, provided they are intended to correct market failures and are designed to enhance a country's investment framework.

### 2.1. Investment promotion strategy

Does the government have a strategy for developing a sound, broad-based business environment and within this strategy, what role is given to investment promotion and facilitation measures?

The starting point for the Moroccan authorities' strategy concerning investment and the business climate remains the consolidation of the macroeconomic situation and the public finances, together with a programme of structural reforms to foster strong and sustainable growth, based on promising, high value-added sectors. This investment promotion strategy concerns all categories of investors, domestic and foreign, and all types of investments, large, moderate and small. Apart from implementing an appropriate legal framework, documented above, the FDI promotion policy has two main components: a sectoral strategy and a regional strategy.

The sectoral strategy is based on partnership between the State and the private sector and stresses participation of foreign investors. It is intended to create new growth clusters comprising several activities and functions in sectors where Morocco hopes to exploit its comparative advantages (the "Emergence Plan") or to develop its capacities in new activities ("National Pact for Industrial Emergence"). This instrument is supplemented by several sectoral programmes involving plans for new technologies (*Contrat Progrès 2006-2012*), tourism (*Plan Azur*), agriculture (*Plan Maroc Vert*, the "Green Morocco Plan"), *Maroc Numeric 2013*, *Halieutis* for fisheries and commercial activities (*Plan Rawaj 2020*). These various sectoral plans include quantified objectives and indicate the order of priorities, especially for enhancing business competitiveness and establishing the necessary infrastructure (Box 3.2).

The regional investment promotion strategy is currently focused on specific geographic zones that benefit from a special tax regime, in particular the export free zones in the port of Tangiers and in 20 prefectures and provinces (see section 2.5 below). The regional plans seek to improve competitiveness by creating platforms offering basic infrastructure, services and equipment for different types of activities, for example training and research centres. Sites and activities are identified in light of the region's potential, for example fishing industries (Agadir), foodstuff industries (Meknes region), chemical industries (the Jorf Lasfar cluster) and offshoring services (the Oujda-Fès-Marrakech cluster). These programmes are co-ordinated by the economic and social development agencies created in the principal zones concerned (North, South and Eastern). They are carried out in co-operation between the central government and the regional and local authorities and in partnership with the private sector, primarily the chambers of commerce and business associations.

### Box 3.2. Sectoral development plans

*Plan Émergence* (2005) identifies six industrial sectors with high growth potential: offshoring services, automotive, aeronautics, electronics, foodstuffs, including sea products, and craft industry. The strategy stresses infrastructure and training facilities and calls for the progressive establishment of integrated industrial clusters that will function as diversified platforms serving one or several activities and grouping a number of functions such as industrial and commercial activities, training and research centres, basic services, and housing for employees as needed.

*Pacte National pour l'Émergence Industrielle* (2009) is intended to increase the weight of manufacturing output in the national economy (currently 16% of GDP and 13% of employment) and its contribution to exports and job creation (300 000 new permanent jobs to be created). In addition to offshoring, automotive and aeronautics, textile-leather industries and foodstuffs, the main sectors targeted are biotechnology, nanotechnology and microelectronics. During the life of the Pact (2009 to 2015) the State and the private sector are committed to investing 12.4 billion and 50 billion MAD respectively, in industrial development. The Pact places particular importance on the contribution of FDI and on workforce training in order to enhance the country's international competitiveness. It also institutes a steering, monitoring and evaluation mechanism.

*Contrat Progrès 2006-2012* aims at doubling turnover in the new information and communication technology sector (NICT) by 2012. A new national plan for NICT (the *IMPACT* plan) is now in preparation to develop the software industry, to make local NICT incubators more competitive, to improve computer security, and to enhance the use of NICT by SMEs.

*Plan Azur* promotes tourism, which is regarded as one of the drivers of the country's economic and social development, with the goal of boosting the number of tourist to 10 million by 2010. Given current crisis, the implementation of this objective has been recently postponed by several years. The "*Plan Azur*" concerns large-scale seaside resort projects, construction of tourist complexes, and development of rural and ecological tourism. A new "*Vision 2020*" now in preparation will expand this effort to new geographic zones and other branches of tourism activities.

*Plan Maroc Vert* (2008) focuses on the economic and social development of agriculture, in particular projects for conversion, diversification and intensification with a view to increasing agricultural GDP from USD 10 billion currently to nearly USD 14 billion.

*Plan Rawaj 2020* targets the development of commercial networks, shopping centres, local businesses and wholesale markets.

*Plan National pour l'Énergie* (2009) calls for investments amounting to USD 10 billion over the next seven years in projects involving public-private partnerships designed to double electricity production capacity, develop renewable energy sources, and encourage co-operation in nuclear energy.

## 2.2. Investment promotion agency

Has the government established an investment promotion agency (IPA)? To what extent has the structure, mission, and legal status of the IPA been informed by and benchmarked against international practices? Is the IPA adequately funded and is its performance in terms of attracting investment regularly reviewed? What indicators have been established for monitoring the performance of the agency?

The Moroccan authorities are completing work on a major reform that will rationalise and make more effective the institutional framework for investment promotion and facilitation. The principal bodies responsible at the national level for investment promotion are the Investment Commission and the Moroccan Investment Development Agency (*Agence marocaine de développement des investissements* – AMDI), established in February 2009, which among other functions will take over the principal duties of the Investment Directorate. The 16 regional investment centres (*Centres régionaux d'investissement* – CRI) retain their role as “one-stop shops” for supporting investment projects at the local level. It is important that the new investment promotion and facilitation mechanism become operational rapidly so that it can give effective support to Morocco's efforts to attract the FDI needed for its development in the currently difficult world economic setting.

The Investment Commission, chaired by the Prime Minister, has as permanent members several ministries, including the ministries of the interior, the economy and finance and industry, and those responsible for territorial development, the environment, and tourism, as well as the Minister delegated to the Prime Minister in charge of General and Economic Affairs. The commission has three main tasks:

- to approve investment agreements and contracts notably where the amount is MAD 200 million or higher and which link the State to the investors (see below);
- to give a ruling on investment disputes that require a decision by the Prime Minister;
- to implement measures in favour of investments.

From the time of its creation in 1998 until June 2009, the Commission had approved a total of 471 projects representing cumulative investment of more than MAD 300 billion and creating nearly 190 000 jobs. Since the beginning of 2009, the Commission has been particularly active in implementing the government's strategy in support of economic activity: during the first half

of 2009 it approved 42 projects for a value of MAD 42 billion, representing a total investment higher than that for the entire year 2008.<sup>3</sup>

Pursuant to Law 41-08 of 30 November 2007, the Investment Directorate has been transformed into the Moroccan Investment Development Agency (AMDI), which is under the responsibility of the Ministry of Industry, Trade and New Technologies. Its objective is to establish a reception and guidance structure for investors and a body for co-operation and co-ordination in promotional activities both in Morocco and abroad (Box 3.3). The new AMDI has thus taken over most of the functions of the Investment Directorate, including its role as the secretariat to the Investment Commission. The AMDI will be responsible for proposing to the government an investment development plan in industry, commerce and new technologies, based on studies that will have identified potential zones of installation. The agency will also be responsible for prospecting and canvassing potential investors and instituting the measures necessary to carry out development projects in the activity zones, by negotiating specific contracts with the State for each project.

The Agency is organised so as to involve all stakeholders in its activities in order to ensure co-ordination and consistency of investment promotion efforts. The Board of Directors is chaired by the Prime Minister or the authority designed by him, concretely the Minister of Industry, Trade and New Technologies. The Board comprises representatives of the public and private sectors coming for instance from the Confederation of Moroccan Enterprises (CGEM). Its costs, including personnel and foreign representation expenses, will be paid by the State. Having received the State contribution (MAD 330 million for the period 2009 to 2012), and with the recent appointment of its Director General, the Board of the AMDI has held its first meeting in July 2009 and initiated its work on the Agency's action plan.

As a part of the commitments within the OECD Declaration on International Investment and Multinational Enterprises, the Moroccan authorities will establish the National Contact Point (NCP) within the AMDI to promote the Guidelines for Multinational Enterprises, which are an integral part of the Declaration. Given the AMDI's mission to work in synergy with the private sector and other stakeholders, the Agency should be apt to fulfil this new additional task and ensure that the Moroccan NCP operates in accordance with the criteria of accessibility, visibility, transparency and accountability. In particular, the AMDI plans to create a specific email address for the NCP and submit the annual report on the NCP's activities.

At the regional level, Regional Investment Centres (*Centres régionaux d'investissement* – CRI) were instituted in 2002 in 16 regions, operating under the responsibility of the Ministry of the Interior to ensure a better co-ordination of their activities with local authorities. CRIs serve as “one-stop

### Box 3.3. Principal functions of the Moroccan Investment Development Agency (AMDI)

1. To undertake promotion and communication activities to publicize investment opportunities in Morocco and to work with the government authorities to organize investment promotion events (shows, seminars, conferences, fairs, and information sessions in Morocco and abroad). The agency will have representative offices abroad to carry out these tasks.
2. To identify Morocco's comparative advantages and ensure their development, by commissioning specific studies and monitoring policies and measures adopted by other countries in order to assess Morocco's international position.
3. To define performance indicators relating to investments, to produce and analyze these indicators, and to publish the results of those analyses on a regular basis.
4. To provide reliable information to investors by developing FDI promotion tools such as brochures, websites and CDs. To this end, the agency will establish and keep current a database on investments in Morocco.
5. To provide assistance and follow-up to foreign investors as necessary to optimize conditions for carrying out their projects.

shops" in support of investment projects where the amount involved is below MAD 200 million. The CRIs also serve as the resort of first instance for handling investor disputes and they may propose friendly solutions before the National Investment Commission becomes involved. The two main functions of the CRIs have not changed with the creation of AMDI. They provide:

- A business window offering assistance and information to investors as needed for their operations in the region concerned. For investment projects below MAD 200 million, they help complete the administrative formalities necessary for authorisation and implementation. For investments in excess of that amount, the CRI's may examine draft contracts to be concluded with the State at the national level.
- A business window offering assistance to any person interested in creating an enterprise. The CRIs provide a single form for creating the business and complete the necessary formalities with the competent authorities in order to obtain the documents and certifications needed to set up a company.

Regional investment commissions, with the CRIs as their secretariat, have been established in every region. They issue rulings on applications for transfer or lease of agricultural lands belonging to the State. There may also be



asked to review investment projects planned for coastal areas not covered by urban development plans.

Experience in many countries shows the importance of endowing investment promotion agencies with sufficient financial and human resources, and subjecting them to regular performance evaluations. If it is to fulfil its functions effectively and establish its credibility with the private sector, the new agency will have to be seen as a politically neutral body that at the same time enjoys access to government. As Morocco has several instances for promoting and facilitating investments, it is necessary to define clearly the responsibilities of all the existing bodies, for example with respect to dispute settlement.

### **2.3. Rationalising administrative procedures**

How has the government sought to streamline administrative procedures to quicken and to reduce the cost of establishing a new investment? In its capacity as a facilitator for investors, does the IPA take full advantage of information on the problems encountered from established investors?

The government has given priority to simplifying administrative procedures relating to investment. The government programme seeks to improve the processing of information within government and facilitate access to its services for users, whether they be investors or ordinary citizens. The main objective is to reduce costs to users, improve the quality of service rendered, and shorten processing times. Apart from the information function, online services and websites of public service administrations also fulfil an interactive function by allowing users to communicate with government and conduct their administrative procedures online.

The National Committee for Investment Procedures (*Comité national de simplification des procédures relatives à l'investissement* – CNPI) was created in 2006 via a circular issued by the Prime Minister. It comprises representatives of the various government departments concerned, and has the role of identifying, simplifying and harmonising investment procedures. The CNPI has prepared an Investment Procedures Manual for projects undertaken by national and foreign operators alike. The manual is available online in Arabic, French and English ([www.manueldesprocedures.com](http://www.manueldesprocedures.com)) and also through a voice server and by fax for investors in remote areas without Internet access. The manual explains the administrative formalities needed to carry out an investment project and provides access to the various forms that must be completed and submitted to different departments. This initiative

has served to harmonise procedures affecting various sectors and used by various agencies and regions, and in this way to reduce processing times considerably. It has brought a significant improvement to Morocco's results in this field.<sup>4</sup>

An information system, called "e-invest", has been designed to facilitate the processing of investment project applications. It is currently being tested in selected pilot regions and, once up and running, it should allow the CRIs and the government departments concerned with the different procedures to share information via Internet on a particular application and thus facilitate procedural follow-up.

The programme for "Improving the Business Climate in Morocco", undertaken in co-operation with the United States Agency for International Development (USAID) and in consultation between the private and public sectors, had a particularly broad scope of action, covering the legal and regulatory framework for investment policies, the judicial system, the financial sector and tax regulations. The main conclusions from that programme stress the need for further streamlining of investment procedures and suggest, in particular, giving the CRIs more resources, instituting standardised application of investment procedures across regions, and encouraging information sharing among departments in order to reduce transaction costs, especially for private investors. The programme also calls for a study of the effects of tax incentives and other investment promotion measures and their sectoral and regional allocation.<sup>5</sup>

In November 2008 a new project to simplify administrative formalities in general was launched with World Bank assistance, in order to reduce institutional roadblocks to investment. The goal is to inventory all regulations and administrative formalities applicable to the private sector and systematically to eliminate those that have no legal basis or no economic or social justification. The next goal is to develop a central registry accessible via Internet that will contain all the formalities necessary for initiating and pursuing investment projects, both for businesses and for individuals. A number of initiatives of this kind have already been completed or are under way, including those for government procurement ([www.marche-public.ma](http://www.marche-public.ma)), custom services (BADR system), social services (a system for electronic declaration and payment of social contributions), industrial property (e-OMPIC), and tax services (a system for electronic declaration and payment of VAT and corporate taxes). For individuals, the government portal ([www.service-public.ma](http://www.service-public.ma)) centralises most of the information on administrative formalities, including those for starting a business.

## 2.4. Dialogue with investors

To what extent does the IPA promote and maintain dialogue mechanisms with investors? Does the government consult with the IPA on matters having an impact on investment?

Public-private consultation procedures were initially worked out in the course of preparation for international trade negotiations. In the domestic context, some draft laws presented by the executive have also been examined in concert with the parties concerned, in particular the business associations. This procedure was recently reinforced by an obligation for the government to publish draft bills on the Internet and to allow interested parties to submit comments on them.

Consultations between the authorities and the private sector are now becoming general practice. The 2008 Moroccan Corporate Governance Code was the result of broad consultation between the private and public sectors involving all corporate governance stakeholders in Morocco. In the investment area, the existing bodies, notably the Investment Directorate and the CRIs, have maintained regular dialogue with investors in an effort to appreciate the problems they face. The private sector should be associated with the work and decision-making of the new Moroccan Investment Development Agency, as its Board of Directors includes representatives of the chambers of commerce.

Under the *Pacte National pour l'Émergence Industrielle*, the government has decided to create a national committee for the business environment in order to co-ordinate its efforts on behalf of investors and to place public-private dialogue in this area on a permanent institutional footing. A decree of the Prime Minister is now in preparation to determine the purposes, prerogatives and resources of this new body.

## 2.5. Investment incentives

What mechanisms has the government established for the evaluation of the costs and benefits of investment incentives, their appropriate duration, their transparency, and their impact on the economic interests of other countries?

According to the 1995 Investment Charter, existing investment incentives are accessible to national and foreign investors without distinction. With its

combined sectoral and geographic approaches, the current incentives system remains rather complicated, however, particularly from the foreign investor's viewpoint. The authorities are planning a progressive narrowing of tax reductions and exemptions now applicable to certain zones and regions in order to equalise corporate and income tax rates for the country as a whole by 2016. In support of their efforts to unify the current mechanism and make it more transparent, the authorities instituted in 2005 a system for evaluating all tax exemptions.

Moroccan and foreign investors may conclude investment contracts or agreements with the Moroccan government under three programmes which apply different eligibility criteria and offer different advantages that in some cases can be cumulative.

- The Investment Charter (Article 17): beneficiary enterprises must invest equal or higher than MAD 200 million or create at least 250 permanent jobs or offer technology transfer or invest in one of 20 underdeveloped provinces or put in place an investment project with environment protection effects. The State contribution may take the form of sharing the expenses of land acquisition, infrastructure and/or occupational training. The advantages may be granted concurrently, but the State share may not exceed 5% of the total investment or 10% if the project is in a rural zone. Between 2003 and January 2009, 24 projects representing an investment of MAD 330 million benefited from this programme, financed by the Investment Promotion Fund.<sup>6</sup>
- The 1990-1999 budget law (Article 7.1): these provisions apply for investment projects of at least MAD 200 million for which the firms concerned have signed an investment agreement with the State. Firms enjoy a customs duty and VAT exemption for the import of capital goods and materials needed for their investment programmes. This exemption runs for 36 months from the beginning of the investment project.
- The Hassan II Fund for Economic and Social Development, created in 2002: eligible investment projects must be covered by a contract signed by the investor, the Ministry of Industry and the Hassan II Fund. They must be for an amount greater than MAD 5 million (including at least MAD 2.5 million in capital goods) and concern the following sectors: automotive and aeronautics industries, production of electronic components, and manufacturing related to nanotechnology, microelectronics and biotechnology. The Fund may contribute to the financing of business premises (up to 30% based on a unit cost of MAD 2 000/m<sup>2</sup>) and the acquisition of new capital goods (10% of the cost net of import duties and taxes).

In geographic terms, several districts enjoy tax privileges. The free zone of the Port of Tangiers, created in 1961, was the first such zone in Morocco. It offers a preferential tax regime whereby operations conducted within the zone as well as the profits or gains earned there are exempt from all taxes. The zone also benefits from a special customs regime.

The export free zone of Tangiers, established in 1994, covers 345 ha. It is served by a large port, and is adjacent to the Tangiers International Airport. The zone offers a special customs regime (with exemption from import duties and taxes and simplified customs procedures) and is free of exchange controls. The tax regime includes exemption from registration and stamp duties for constituting or increasing capital and for land purchases, and a 15-year exemption from VAT on goods, the local business tax (*taxe professionnelle*) and the municipal services tax. There is a holiday from corporate and income taxes for the first five years of operation, after which the corporate tax is 7.5%, and there is the 80% income tax abatement for 20 years.

Firms that have their corporate headquarters or their domicile for tax purposes in the Province of Tangiers and that conduct their activities there pay corporate tax at a rate of 15%, which will rise by 2.5 percentage points a year over the period from 1 January 2011 to 31 December 2015. As well, the income tax rate is reduced to 20% until 31 December 2010, and then rises by two percentage points a year until 31 December 2015. The business tax and habitation tax are both reduced by 50%. Similar measures were introduced in 1998 for companies setting up in 20 prefectures and provinces.<sup>7</sup> After 1 January 2016 the Tangiers zone and the 20 prefectures and provinces will be subject to the general regime and corporate income tax rates will be the same as those in force nationwide.

In 2006, the government decided to establish zones dedicated to offshoring activities.<sup>8</sup> They are to be equipped with appropriate infrastructure and telecommunication facilities and will benefit from income tax and training incentives. The government expects that offshoring activities will amount to MAD 15 billion by 2015 and will create more than 91 000 new jobs.

To standardise and rationalise its fiscal provisions in favour of investments, Morocco was the first country in the region to introduce a system for evaluating existing tax incentives. Tax expenditure reports published since October 2005 survey all measures that represent exceptions to the normal tax legislation in force. In 2008 that report recorded 392 exceptional provisions,<sup>9</sup> compared to 410 in 2007, 405 in 2006 and 337 in 2005. Among the measures reported in 2008, 192 have been evaluated, compared to 178 measures examined in 2007. The 2008 budget eliminated 15 exceptional measures, with

an estimated fiscal impact of some MAD 2.7 billion, or 12% of total tax expenditures in 2007.

With its regular publication of tax expenditure reports evaluating the impact of exceptional measures, Morocco has clearly improved the transparency of its tax incentive system and has taken a significant step towards unifying it. Yet Morocco needs to pursue its tax administration efforts further: judging by available international comparisons, Morocco's performance in terms of the ease of paying taxes and the effectiveness of tax administration, measured by the number of payments, the time required to file returns, and total tax rates expressed as a percentage of profits, is still mediocre not only in a global context but also vis-à-vis other countries of the region.<sup>10</sup>

## 2.6. Measures in favour of SMEs

What measures has the government put in place to address the specific investment obstacles faced by SMEs?

Aware of the socioeconomic importance of SME, the government has made since several years significant efforts to help them to face the challenges of external opening and international competition and seize opportunities of new markets. The *Pacte National pour l'Émergence Industrielle* (PNEI), signed in February 2009 between representatives of the public and private sectors, seeks among other objectives to promote competitiveness and strengthen the productivity of SME by supporting in particular enterprises with strong growth potential.<sup>11</sup>

These different programmes benefit from significant and permanent financing sources made available to the Enterprise Competitiveness Fund (FACE). The 2009 budget law earmarked MAD 600 million for SME modernisation and created a MAD 500 million export promotion fund to help such firms seize opportunities arising from the recent free-trade agreements. The authorities also assist SME to acquire land and facilities required for their activities by covering part of the cost of adapting and outfitting their business premises.

The Central Guarantee Fund (*Caisse Centrale de Garantie*, CCG) is a unique guarantee agency that offers SMEs direct access and hands-on support. The CCG action plan for 2009-2012 calls for several innovations, including introduction of generic products that correspond to the various stages of the SME lifecycle (creation, development, restructuring and functioning), extending the guarantee to cover risk capital, the offer of co-financing products, and a new counselling service. Following the amendment adopted by Cabinet in May 2009, the number of State representatives on the CCG board

will be reduced in favour of the private sector. The CCG action plan also seeks to enhance co-operation with banks in order to improve and speed the processing of loan requests. Finally, the CCG will develop a network of local agencies to make its services more accessible to SMEs.

In light of the current economic situation, the authorities have worked with the private sector to put in place several specific measures to help maintain employment and skills, to support and improve financing conditions for enterprises established in Morocco in the textile-leather industry and automotive equipment industries enabling them to consolidate and diversify their markets. These measures comprise three main components:

- a social component to encourage maintaining jobs in the firms concerned thanks in particular to reimbursements by the State of their mandatory employer contributions;
- a financial component, managed by the CCG, which provides to exporting firms special financing conditions for their working capital and payment facilities granted by the banks;
- a commercial component, which offers preferential conditions for export insurance and financial assistance to exporting firms in their export prospection programmes.

## **2.7. International and regional investment promotion initiatives**

Has the government made use of international and regional initiatives aimed at building investment promotion expertise, such as those offered by the World Bank and other intergovernmental organisations? Has the IPA joined regional and international networks?

The Moroccan authorities participate in a partnership network involving several international agencies that are co-operating to develop investment promotion instruments in line with best international practices. Morocco was one of the founding members of the Euro-Mediterranean ANIMA investment network, which embraces some 20 investment promotion agencies in the region, and in January 2006 it began a two-year stint as chair of the network. The main purpose of the network is to raise awareness among participating governments of the need for a stable, dynamic, transparent and equitable investment framework.

Morocco has been a member of the World Association of Investment Promotion Agencies (WAIPA) since it was founded in 1995. In this context it has sought to promote a coherent vision of South-South co-operation, it has

proposed reactivating the African chapter to support the continent's development more effectively, and it has reopened discussion on instituting an Arab chapter.

Morocco has co-operated actively with the United Nations Conference on Trade and Development (UNCTAD), particularly during its investment policy review published in 2007. That project was an opportunity for Morocco to evaluate its progress in improving the investment climate and to identify the main problems in its legal and institutional framework for promoting and facilitating investment. UNCTAD provided assistance to Morocco in the form of training workshops dealing with FDI statistics and the negotiation of bilateral investment agreements.

#### **Box 3.4. MENA-OECD Investment Programme in support of development**

This programme, launched in 2005, seeks to make the region more attractive for foreign investors and to facilitate the sharing of experience on investment policies among decision-makers in MENA countries and their counterparts in OECD countries. As part of this initiative, Morocco has introduced a national programme of investment policy reforms that included preparation of a list of foreign investment restrictions and development of the Moroccan corporate governance code.

In its second phase (2008-2010) the programme developed in co-operation with the World Bank a methodology to improve Business Climate Development Strategy (BCDS) in the region. Together with Egypt, Morocco is engaged in this programme which involves three successive stages: i) valuation of reforms to boost the business climate: ii) implementation of strategic priorities following consultations with the public and private sectors, and iii) follow-up to the implementation of policies at the national and regional levels.

During these different stages, the BCDS addresses twelve policy dimensions, which are captured by three main fields:

- business operating environment (investment policy, privatisation policy, tax policy and trade policy);
- rule of law (combating corruption, corporate governance, dispute settlement); and
- factors of production (policies relating to infrastructure, human resource development, and financial markets).

Morocco's evaluation was presented at the MENA-OECD Ministerial Meeting which Morocco hosted in November 2009 in Marrakesh.



### 3. Trade policy

Policies relating to trade in goods and services can support more and better quality investment by expanding opportunities to reap scale economies and by facilitating integration into global supply chains, boosting productivity and rates of return on investment.

As a founding member of the WTO (since 1 January 1995), Morocco pursues a trade policy that is compatible with its multilateral commitments and consistent with the fundamental principles of national treatment and the most-favoured-nation clause. The first priority in trade liberalisation is to reform the customs tariff, and in particular to bring the highest customs duties down gradually from 50% to 35% in 2009 and to 25% by 2012. This progressive tariff cutback implemented on a unilateral basis by Morocco aims at reducing the gap between the customs duty levels set up within the existing FTAs and those applied in trade relations with other partner countries. Agricultural products, however, retain high levels of duty (averaging 44.5%) while capital goods enjoy reduced rates of 2.5% and 10%. Morocco has also taken several steps to facilitate trade procedures, with particular regard to simplification, harmonisation and standardisation of import and customs clearance documents. The ongoing computerisation of trade data should lead to establishment of a one-stop shop for foreign trade formalities.

These various measures were recently evaluated by the WTO as part of its regular review of member countries' trade policies, and it has confirmed Morocco's progress in liberalising its trading system and facilitating trade.<sup>12</sup> Morocco's recent initiatives at trade facilitation have significantly reduced the time and cost involved in foreign trade procedures.<sup>13</sup> This has helped improve its international competitiveness and represents an additional advantage for attracting foreign investors to Morocco.

Along with its efforts at multilateral trade liberalisation and its national initiatives to facilitate trade, Morocco has been pursuing an active policy in the area of bilateral and multilateral trade agreements (see Table 3.1). In 2006, countries with which Morocco had FTAs accounted for 61% of its imports and 77% of its exports. A key goal of these agreements is to reduce the factors of political and legal uncertainty and, by ensuring a more stable environment, to help improve the investment climate.

The Association Agreement between Morocco and the European Community is of great importance for the country, as European Union members are its main trading partners. The agreement, which calls for establishing a free trade area for all products by 2012, also contains provisions

Table 3.1. **Free trade agreements (FTAs) signed by Morocco**

Agreement	Signature	Entry into force
Association Agreement EU-Morocco	26 February 1996	1 March 2000
FTA Morocco-European Free Trade Association	19 June 1997	1 December 1999
FTA Morocco-Turkey	7 April 2004	1 January 2006
FTA Morocco-Tunisia	16 March 1999	16 March 1999
FTA Morocco-United Arab Emirates	25 June 2001	11 September 2003
FTA Morocco-Egypt	27 May 1998	29 April 1999
FTA Morocco-Jordan	16 June 1999	21 October 1999
Pan Arab Free Trade Area (PAFTA)	19 February 1997	1 January 1998
FTA Morocco-United States	15 June 2004	1 January 2006
Agadir Agreement: Morocco-Tunisia, Egypt-Jordan	25 April 2004	27 March 2007

Source: World Trade Organisation (WTO).

relating to standards, safeguard measures, intellectual property rights and dispute settlement procedures. The Free Trade Agreement (FTA) between Morocco and the United States stands out from other agreements in its comprehensive scope, both in terms of the sectors covered (manufacturing, services, agriculture) and in terms of the aspects addressed (intellectual property, social and environmental standards, transparency and investment).<sup>14</sup> Morocco has started negotiating similar agreements with other NAFTA countries, notably Canada.

Morocco's integration into the world economy also involves intensifying its regional economic ties. The Pan Arab Free Trade Area (PAFTA) has eliminated all tariff barriers among its members,<sup>15</sup> but persistent non-tariff barriers seem to be affecting development in mutual trade. The essential objective of the 4-party Agadir Agreement between Morocco, Egypt, Jordan and Tunisia, which came into force in March 2007, is to boost trade by applying cumulative rules of origin so as to allow free circulation of goods that carry a Euro-Med certificate of origin, within an economic space of more than 30 countries. This system, which encourages businesses from signatory countries to work together to improve their competitiveness in the European market, should also attract investments to the region.

Morocco has adhered to the Kuwait Declaration adopted on 20 January 2009 at the Arab League summit. Signatory countries undertake to speed their economic integration by giving priority to promoting inter-Arab investments and strengthening the role of Arab financial institutions. To this end, a USD 2 billion Arab Development Fund has been created to help in the financing and implementation of joint Arab projects.

According to the WTO, the fact that Morocco is a party to numerous trade agreements that differ in their liberalisation programme and their rules of origin tends to complicate its trade policy regime and make it less predictable

for foreign operators. The Moroccan authorities emphasise, however, that the MFN principle remains the key element of the country's trade policy and declare to be ready to extend provisions contained in particular in the FTA with the United States to other partner countries. It remains that regional initiatives have so far failed to expand intraregional trade flows significantly. While the limited complementarities of production and trade profiles may explain this situation in part, the region could nevertheless intensify its trade through greater efforts to reduce non-tariff barriers and to upgrade regional infrastructure. Success on these fronts would also open up new opportunities for foreign investors, including investors from within the region.<sup>16</sup>

#### 4. Competition policy

Competition policy favours innovation and contributes to conditions conducive to new investment. Sound competition policy also helped to transmit the wider benefits of investment to society.

The overall competition policy framework in Morocco was established by Law 06-99 on free prices and competition, which came into force on 6 July 2001. That law, which applies to all economic sectors, defines rules for protecting competition with the proclaimed goal of stimulating economic efficiency and improving consumer welfare. It prohibits restrictive practices defined as policies that influence free consumer choice or restrict business relations, as well as any other concerted actions, cartels, anticompetitive agreements or abuses of dominant position. Exceptions to free competition may apply in the case of SMEs and farm product marketing agreements or practices that contribute to "economic progress", as assessed by the Competition Council.

The Prime Minister, the senior government authority for competition policy, has delegated his powers in this field to the Minister for Economic and General Affairs. Breaches of the law on free prices and competition fall within the jurisdiction of the Moroccan courts, and recourses are handled in accordance with ordinary law. According to the Moroccan authorities, the courts have not considered any competition cases since 2002, but administrative decisions have been taken against violations of competition law.

The Competition Council has competence with respect to anticompetitive practices, cartels and abuse of dominant position, economic concentrations, and prices. It is composed of 12 members representing the government (six persons), business circles (three persons) and three persons

selected for their competence in economics, competition law and consumer affairs. In January 2009, the membership and presidency of the Competition Council were renewed.

Several regulatory and supervisory bodies participate in combating anticompetitive practices, especially in the banking sector (the central bank, *Bank Al Maghrib*), insurance (Directorate of Insurance and Social Security), the stock exchange (the Securities Ethics Council), the audiovisual sector (HACA – the senior audiovisual communication authority) and the ports (National Ports Agency). However, only the National Telecommunications Regulatory Agency (ANRT) has an exclusive right to handle competition questions in this sector.

The Moroccan authorities are planning to improve implementation of competition policy. In 2009 the Competition Council is supposed to issue its first annual report on the state of competition in the Moroccan economy. It is stepping up its communication and training activities in an effort to instil a “competition culture” among economic agents and in public opinion. In 2010, the Council’s function, which is now essentially advisory, is to be considerably strengthened by making it an independent authority with decision-making powers. In order to constitute a true regulatory body for competition policy, the Council will need to have adequate financial means and human resources.<sup>17</sup>

Morocco has signed co-operation agreements in the competition area with Tunisia (entered into force 22 February 2008) and Jordan (entered into force 7 March 2008). These two agreements were negotiated within the framework of the Agadir Declaration and provide for co-operation and co-ordination between the competition authorities of the signatory countries. The purpose of such co-operation is to enhance coherence in the enforcement of competition provisions in the two countries, and to prevent restrictions on competition from neutralising the beneficial effects that should flow from trade liberalisation.

## 5. Corporate governance

The degree to which corporations observe basic principles of sound corporate governance is a determinant of investment decisions, influencing the confidence of investors, the cost of capital, the overall functioning of financial markets and ultimately the development of more sustainable sources of financing. The OECD Principles of Corporate Governance indicate the key corporate governance issues that policymakers and others stakeholders should address to promote a sounder environment for investment.

The Moroccan Code of Good Practices in Corporate Governance was adopted in March 2008. It was prepared by a national commission that brought together representatives of the private sector, under the aegis of the Confederation of Moroccan Enterprises (CGEM) and the government, in particular the Ministry of Economic and General Affairs.

Based on the 2004 OECD Principles of Corporate Governance, the Moroccan Code has four chapters: i) responsibilities of the governance body; ii) the rights of shareholders and partners and their equitable treatment; iii) transparency and financial disclosure; and iv) the role of stakeholders and their equitable treatment.

The National Commission on Corporate Governance, which originated the Code, was maintained after the Code was introduced in order to monitor and evaluate corporate commitments. It is pursuing a policy of raising awareness about corporate governance issues among the various stakeholders concerned. To take account of specific situations, the general Code was supplemented in December 2008 by a governance code for SMEs and family enterprises, and other specific codes are planned, addressed in particular to financial institutions and public enterprises (see Chapter 2).

## 6. Policies for promoting responsible business conduct

Public policies promoting recognised concepts and principles for responsible business conduct, such as those recommended in the OECD Guidelines for Multinational Enterprises, help attract investments that contribute to sustainable development. Such policies include: providing an enabling environment which clearly defines respective roles of government and business; promoting dialogue on norms for business conduct; supporting private initiatives for responsible business conduct; and participating in international co-operation in support of responsible business conduct.

### 6.1. Promoting and respecting fundamental labour standards

In June 1998 Morocco adhered to the ILO Declaration on Fundamental Principles and Rights at Work, which are covered by eight conventions relating to forced and compulsory labour, freedom of association, equal pay, elimination of discrimination in employment and occupation, minimum working age, and prohibition on the worst forms of child labour. Morocco has ratified seven of these eight conventions (see Annex D), excepting Convention 87 on trade union freedom, nearly all the provisions of which have however been incorporated into the labour code. A monitoring and promotion mechanism, which is an integral part of the Declaration, is supplied by the

Department of Employment, which submits periodic reports on application of the conventions of the Declaration.

The Labour Code, which came into force in June 2004, contains the fundamental principles of the Declaration:

- freedom of association and collective bargaining, through institutionalisation of social dialogue at the company level and at the national level; measures to protect union officials; creation of tripartite bodies to examine labour relations and social issues; and prohibition on interference in the affairs of labour unions;
- elimination of all forms of forced or compulsory labour, which is now a crime;
- effective abolition of child labour;
- elimination of discrimination in employment and occupation, through a ban on all forms of discrimination, assurance for women's rights to contract employment freely, and a prohibition on any wage discrimination between the sexes for work of equal value.

Prepared in consultation with the social partners, the Code seeks to guarantee the fundamental rights of workers while protecting the interests of businesses and preserving flexibility in the labour market. The Code embodies procedures for collective layoffs subject to authorisation after examination by workers' representatives. It does not however contain any provision concerning the right to strike, although a specific law is under discussion. This draft law, which will establish the conditions for exercising the right to strike, has been consulted with the social partners in the context of the social dialogue. Notwithstanding some improvements, for example the reduction in the number of dismissal-related disputes handled by the courts (less than 25% in 2008 compared to 2003), available international comparison still indicate some rigidities in the Moroccan labour market, notably with respect to the delays and cost associated with hiring and firing workers.<sup>18</sup>

## **6.2. Protecting the environment**

The environmental legislation promulgated in May 2003 comprises the Framework Law of 11-03 on protection and upgrading of the environment, and four specific laws relating to water, environmental impact studies, air pollution, and waste management. A system of financial incentives and tax exemptions has also been introduced to encourage investments in projects to prevent air pollution, to use renewable energies, and to rationalise energy use.

The National Environment Fund and the Industrial Cleanup Fund have been established to encourage investments, offering subsidies of 20% to 40% depending on the type of project. Other incentives are available under the laws

on renewable energies and energy efficiency, managed by the Renewable Energy Development and Energy Efficiency Agency and the Energy Development Fund. More concretely, any investment project which is subject to an investment agreement with the State has to be accompanied by a preliminary study of its environmental impact.

Morocco has signed on to a number of international environment conventions, including the Montreal Protocol on Ozone-Depleting Substances and the Kyoto Protocol to the UN Convention on Climate Change (see Annex D).

### **6.3. Initiatives to encourage responsible corporate behaviour**

The Social Responsibility Charter introduced in December 2006 by the Confederation of Moroccan Enterprises (CGEM) refers to the objectives of sustainable development and commits businesses to assume their social responsibility both in their strategic decisions and in their day-to-day operations. These commitments are detailed in nine articles that require firms:

- to respect human rights;
- to make steady improvements in employment and working conditions and in occupational relations;
- to protect the environment;
- to prevent corruption;
- to respect the rules of healthy competition;
- to reinforce the transparency of corporate governance;
- to respect the interests of customers and consumers;
- to promote social responsibility among suppliers and subcontractors;
- to develop social commitment.

To help promote the Charter, the CGEM has introduced the CGEM label for corporate social responsibility, intended to reward socially responsible firms and win them recognition in the eyes of their public and private institutional partners. The CGEM awards the label on the basis of an assessment by independent experts accredited by it. Apart from public recognition of their commitments the label gives its recipients some advantages with public and private agencies that have signed partnership agreements in this sense with CGEM. In particular, the Customs and Indirect Taxes Administration grants a simplified tariff classification for products usually imported by these firms, or allows them to be cleared upon delivery to site. Firms awarded the label also qualify for simplified control and inspection by the National Social Security Fund, and various exemptions and rate reductions with the “People’s Banks”

(*Groupe des banques populaires*) and the Moroccan Bank for Commerce and Industry (*Banque marocaine pour le commerce et l'industrie*).

The beneficiaries of the label belong among Moroccan and foreign businesses engaged both in industrial activities (medical equipment, cement making, ship repairs) and in services (transport and logistics, telephony and money transfer) (see Chapter 2).

## 7. Human resource development

Human resource development is a prerequisite needed to identify and to seize investment opportunities. Policies that develop and maintain a skilled, adaptable and healthy population and ensure the full and productive deployment of human resources thus support a favourable investment environment.

The Moroccan authorities attach particular importance to the development of human capital and they have put in place an impressive array of programmes, institutions and tax incentives to enhance capacities in education, improve vocational training, and promote employment so as to respond more effectively to the country's social and economic needs and create a better match between training and job opportunities. The principal text in this field is the National Education and Training Charter of 2000, which covers the entire education sector including basic<sup>19</sup> education and vocational training.<sup>20</sup>

There are specific programmes to help young graduates find employment, to adapt the profile of job seekers affected by long-term unemployment, and to offer businesses financial support for job-creating projects. Several sector-specific training programmes have been set up to meet needs in agriculture, craft industries, and information and communication technologies. These programmes also offer direct subsidies to firms in support of their training efforts.

The main institutions responsible for implementing these various labour market and training measures and assessing their impact are the National Employment and Skills Promotion Agency (ANAPEC) and the National Employment Observatory. Training programmes are guided by the Ministry of Education, assisted at the local level by the academic directors and co-ordinators for the sectoral programmes.

These arrangements are supplemented by a system of tax advantages. Private education and vocational training establishments are eligible for reduced rates of income tax (20%) and corporate tax (15%) for the first five



years, and a VAT holiday on equipment purchases during the first 24 months of operation. They do not pay the local business tax and municipal service taxes for premises devoted to instruction and student housing.

These programmes are carried out in partnership between the State and vocational training firms. Since 1996 the State and the business federations have been establishing Inter-Professional Consulting Groupings (*Groupements interprofessionnels d'aide au conseil* – GIAC) to help firms identify their training needs and adopt suitable strategies.<sup>21</sup> The first in-house apprenticeship training centres (*Centres de formation par apprentissage intra-entreprises*, CFA-IE) were created in 2004 in the textiles and hotel sectors to organise recruitment and develop the required skills. There are now 48 of such centres, and their number is expected to reach 150 by 2012. Since 2008 firms have been eligible for a government training grant in emerging industries such as automotive, aeronautics, electronics and offshore services, allowing firms to choose a public or private training provider operating in Morocco or abroad.

The first evaluations of the various vocational training programmes and arrangements show that firms offering training to their employees have increased their turnover and achieved noticeable productivity gains.<sup>22</sup>

Given the level of the country's economic and social development, health policies are part of the human resource development strategy. The government is seeking to improve people's health by reducing maternal and child mortality, conducting mass vaccination programmes, and expanding the provision of quality healthcare throughout the country. The scope of the compulsory health insurance system (*assurance maladie obligatoire* – AMO) has been steadily expanded to cover 10 million people, including artisans, merchants and independent professionals. A medical assistance programme for people with low or irregular incomes was introduced on an experimental basis in 2008, and is to be generalised gradually. As a member of the World Health Organization, Morocco ratified the 2005 International Health Regulations, which call for countries to assess and reinforce their capacities to respond promptly to international public health risks and emergencies.

## 8. Infrastructure development

Sound infrastructure development policies ensure scarce resources are channelled to the most promising projects and address bottlenecks limiting private investment. Effective financial sector policies facilitate enterprises and entrepreneurs to realise their investment ideas within a stable environment.

Recognising that quality infrastructure is an essential factor in a country's attractiveness and competitiveness, the Moroccan authorities are striving to maintain public investments at a level sufficient to meet the country's changing needs. In 2009, the government decided to boost public investment by 18% over the previous year, with a primary focus on transport infrastructure (see Box 3.5), dam building, and tourist accommodation facilities. A new increase in public investment (+20%) is foreseen for 2010.

Privatisation and structural reforms have profoundly transformed some of the country's infrastructure, redefining the State role and giving important prerogatives to the sectoral regulation agencies. This is the case in particular with the National Telecommunications Regulatory Agency (ANRT) which is responsible for application of Law 24-96 on telecommunications, for the functioning and protection of installations by operators, for the maintenance of service to all users, and for the protection and security of information systems. The agency proposes maximum rates for universal service and it reviews technical offers and rates for interconnection. It contributes to

### **Box 3.5. Morocco's principal transport development programmes**

*Motorways.* The programme-contract signed between the State and *Société nationale des autoroutes du Maroc* covering the period 2008-2015 calls for the completion of more than 600 km of missing parts of motorway and the launch of new motorway projects totaling a further 383 km, with a special focus on opening up areas in the north of the country and linking the two major economic centres of Tangiers and Berkane-Nador. The planned investment and construction schedule calls for ensuring access to the highways network for 80% of the rural population by 2015.

*Rail network.* Following the doubling of the Meknès-Fès rail line, completion of the new Taourirt-Nador line, and the connection of the Tangiers-Med Port complex to the national network, the National Railways Office (ONCF) has plans to build 1,500 km of high-speed rail lines by 2035, and to renovate the main railway stations.

*Port infrastructure.* The investment programme calls for completing the Tangiers-Med Port complex and launching a second port, bringing the current capacity of 3.5 million containers to 8 million by 2012. A third phase of infrastructure work for container traffic in the port of Casablanca is also planned.

*Airports.* Investments will focus on upgrading and expanding the Mohammed V Airport at Casablanca, Menara Airport at Marrakesh, and completion of the new Benslimane Airport.

regulatory development in the sector, oversees respect for fair competition, and assists in the settlement of disputes in this field, for example by undertaking inquiries into the risks to free competition posed by planned concentrations.

The water sector is another example of the transformations resulting from the reforms undertaken since 1995, which have established a system of concessions. The strategy in this sector has had to take account of the growing demands that are being placed on available resources, which are limited and unevenly distributed geographically. The first concession contract for water distribution in Casablanca has produced good results: service access and quality have improved considerably and the private operator has made significant investments. Generally speaking, the programme has succeeded in attracting a good deal of investment, especially in the construction of large water storage and piping works in rural areas. International-scale firms have been involved in financing and operating drinking water and sanitation networks in the major cities, as well as farm irrigation systems. The National Drinking Water Office has launched a MAD 17 billion investment programme for the period 2007-2010, essentially in the form of programme-contracts concluded between the State and various water district agencies (*Agences de bassins*) that set out the reciprocal rights and obligations of the contracting parties.

## 9. Public governance

Regulatory quality and public sector integrity are two dimensions of public governance that critically matter for the confidence and decisions of all investors and for reaping the development benefits of investment. While there is no single model for good public governance, there are commonly accepted standards of public governance to assist governments in assuming their roles effectively.

### 9.1. Procurement procedures and the role of public enterprises

As indicated in Chapter 2, the government procurement decree promulgated in February 2007 retains the 15% margin of preference accorded to bids submitted by all enterprises established in Morocco. The new legislation seeks to bring greater transparency to the preparation, award and execution of procurement contracts. One major innovation with respect to the preceding legislation is to extend to at least 40 days the bidding deadlines for contracts that exceed certain thresholds, in order to facilitate participation by foreign firms. The new decree also obliges the government to define its needs

in advance and to select the economically most advantageous bid. The administrative ethics rules have been reinforced to reduce the risks of fraud and corruption. The new mechanism also seeks to encourage competition by introducing the principle of equal treatment for bidders in all phases of procurement and by requiring the contracting authority to provide adequate and equitable information to all competitors via the government procurement website.

There have been several changes to the status of public enterprises, intended to make their governance and management more transparent and to encourage investment, including foreign investment. The first step in this direction was to turn selected public establishments into corporations limited based on Law 17-95 of 17 October 1996 on corporations and Law 20-05 of 19 June 2008 modifying and supplementing that previous law. Since 1 January 2008, a public company can be converted into a corporation with no impact on its fiscal performance when the balance sheet for the last fiscal year of the former establishment is identical to that for the first fiscal year of the new company.

Foreign investment in Moroccan public enterprises is facilitated by Law 39-89, which authorises the transfer of public enterprises to the private sector, and by Law 54-05 of 14 February 2006 on delegated management of public services. Law 69-00 of 19 December 2003 on State financial control of public enterprises has improved governance considerably, particularly with respect to the functioning of these establishments' boards of directors. These provisions seek to guarantee a better balance of powers, by separating the functions of the board president and the director general and clarifying the duties of the board *vis-à-vis* those of the president and the director general. They also reinforce the rights of shareholders and improve oversight mechanisms for companies. A code of good governance specific to public enterprises is expected to be introduced in 2010.

## **9.2. Anticorruption policy**

Morocco has progressively introduced a legal and institutional framework for combating corruption.<sup>23</sup> The legal framework seeks above all to foster integrity, reduce uncertainty, and improve conditions for all investors. Among the main texts and measures are:

- Law 03-01 of 23 July 2002 on the substantiation of administrative decisions issued by public administrations, local governments, and public establishments.
- Law 78-00 of 3 October 2002 (the "Municipal Charter") and Law 79-00 of 3 October 2002 on the organisation of prefectures and provinces, which reinforce transparency and protection of the public interest by prohibiting

local elected officials from acting on behalf of private interests, either personally or as an agent, for their spouse or next of kin, under penalty of revocation and liability for prosecution.

- The 2004 update of the criminal code, which increases fines and prison penalties for corruption and removes all criminal liability for whistleblowers, under specified conditions.
- Law 79-03 of 15 September 2004 amends the criminal code and abolishes the Special Court of Justice, as well as strengthens measures for the recovery of misappropriated funds.
- The law of 16 March 2006 on delegated management of public services also includes provisions to guarantee the transparency of delegated management contracts for services and public works let by local governments and public establishments.
- The law of 3 May 2007 on money laundering, which also covers corruption, bribery, influence peddling and misappropriation of public and private property. It institutes an internal mechanism of oversight, detection and surveillance, which includes the reporting of suspicious transactions to the Financial Intelligence Unit responsible for ordering any inquiry or investigation.
- The law of 3 November 2008 on asset disclosure should allow the competent agencies to monitor and control declarations more effectively and to impose appropriate penalties for non-observance.
- The draft law on the general statute of the civil service, now before the lower house of parliament and under discussion with the unions, provides for greater transparency in recruitment and re-assignment systems.

In addition to the competent judicial authorities, several agencies are responsible for overseeing more specifically the enforcement and monitoring of anticorruption laws and regulations:

- the Central Anticorruption Body (*Instance centrale de prévention de la corruption*), instituted in 2008, which must report to the competent judicial authority any fact of which becomes aware in the exercise of its duties that arouses suspicion of an act of corruption punishable by law;
- the “*Diwan al Madhalim*” mediator reinforces the institutional provisions for safeguarding the interests of the citizens and protecting their rights; it also contributes to disseminating an ethical culture in the civil service;
- the Judicial Agency of the Kingdom has had its role reinforced in terms of monitoring certain cases of misappropriation or waste of public funds;
- the abolition of the Special Court of Justice and the transfer of its responsibilities to the ordinary appeal courts has reinforced the conditions

for a fair trial and for dealing firmly with cases involving the misappropriation or waste of public funds;

- the regional audit courts (*Cours régionales des comptes*) are supposed to oversee and assess the accounting and management regularity of officials who have financial, budgetary or accounting responsibilities at the decentralised level;
- the High Court of Justice rules on matters involving ministers.

The recently-created Central Anticorruption Body should allow for concerted action by the State, associations and unions and ensure the evaluation and monitoring of laws and regulations to suppress corruption and promote business integrity. The new body held its first general assembly in January 2009, when it elected the members of its executive committee.

Morocco ratified the United Nations Convention against Corruption on 9 May 2007, declaring its intention to comply with its provisions. Morocco currently chairs the working group on integrity in the civil service instituted under the initiative on good governance for development in MENA countries sponsored by the OECD and the United Nations Development Programme (UNDP). A number of initiatives have recently been undertaken in this context, including presentation of case studies for simplifying and dematerialising anticorruption procedures, and a technical seminar on public workforce measurement and planning.

## Notes

1. Cf. *Doing Business in the Arab World 2009*, World Bank and International Finance Corporation, 2008.
2. The World Bank ranks Morocco seventh among the 20 MENA countries with respect to the ease of enforcing contracts. The average time taken for the courts to handle cases was 615 days in 2008. Cf. *Doing Business in the Arab World 2009*, World Bank and International Finance Corporation, 2008.
3. Information supplied to the OECD Secretariat by the AMDI.
4. According to the World Bank survey “*Doing Business*”, rating 10 aspects of countries’ investment performance, Morocco did best for the “starting a business” indicator, with six procedures taking 12 days to complete. Morocco ranked 62nd among 181 countries worldwide, and took 7th place among the 20 countries of MENA. Cf. *Doing Business in the Arab World 2009*, World Bank/International Finance Corporation, 2008.
5. The conclusions of this programme are available at: [www.climatdesaffaires.ma](http://www.climatdesaffaires.ma).
6. From the sectoral viewpoint, the main beneficiaries have been the textile industry (42% of the total), followed by metalworking and cement production (more than 20% each).
7. The provinces concerned are: Al Hoceima, Berkane, Boujdour, Chefchaouen, Es-semara, Fahs-Bni-Makada, Guelmim, Jerada, Laâyoune, Larache, Nador,

Oued-Ed-Dahab, Oujda-Angad, Tanger-Assilah, Tan-Tan, Taounate, Taourirt, Tata, Taza and Tétouan.

8. Offshoring activities cover i) business process outsourcing (BPO), which comprises general administrative activities and functions and customer relations management, and ii) information technology outsourcing (ITO).
9. In 2008, the breakdown of exceptional tax measures by tax category was as follows: measures relating to indirect taxes accounted for 60% of the total (VAT 34.7%, registration and stamp duties 22.7%, and domestic consumption taxes and customs duties 2.6%). Measures relating to direct taxes accounted for the remaining 40% (corporate tax 21.9% and income tax 18.1%). In sectoral terms, tax measures affecting health and social security were the largest category (13% of all exceptions), followed by real estate (10%).
10. According to the World Bank "Doing Business" survey, Morocco ranks 119th among the 181 countries surveyed for the "ease of paying taxes" indicator, and 16th among the 20 countries of MENA. Cf. *Doing Business in the Arab World 2009*, World Bank and International Finance Corporation, 2008.
11. Under this *Pacte*, several SME-specific programmes have been initiated. The objective of *Imtiaz* programme is to support each year 50 firms with strong growth potential by granting them a subsidy amounting to 20% of material and immaterial investments based on the specific contract with an obligation for beneficiary firms to cover at least 20% of investment concerned. The *Moussanada* programme will support each year 500 firms through generic programmes apt to improve productivity of all firms such as computer systems, accounting, logistics quality and marketing programmes.
12. *Trade Policy Review of the Kingdom of Morocco*: Report by the WTO Secretariat and Report by the Government, WTO, June 2009.
13. In the World Bank "Doing Business" Survey, Morocco ranks in 64th place worldwide and in eighth position among the 20 MENA countries in terms of the ease of cross-border trade procedures. It takes 14 days to complete import formalities in Morocco, and 18 days for exports. Cf. *Doing Business in the Arab World 2009*, World Bank/International Finance Corporation, 2008.
14. Following entry into force of the FTA in January 2006, the bilateral investment promotion agreement signed with the United States in 1991 was suspended, except for its Articles VI and VII, which will remain in effect for 10 years to cover disputes that arose before the FTA came into force.
15. PAFTA members are Saudi Arabia, the Palestinian Authority, Bahrain, Egypt, United Arab Emirates, Iraq, Libya, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Syria, Sudan, Tunisia and Yemen.
16. *MENA Economic Developments and Prospects: Regional Integration for Global Competitiveness*; World Bank 2008.
17. Questionnaire on the Challenges Facing Young Competition Authorities: Morocco's contribution to the Global Forum on Competition held in February 2009. Cf. OECD document DAF/COMP/GF/WD(2008)52.
18. According to the World Bank "Doing Business" survey, Morocco ranks 168th among 181 countries surveyed, and in last place among the 20 countries of MENA, when it comes to the ease with which workers may be hired and fired. Source: *Doing Business in the Arab World 2009*, World Bank/ International Finance Corporation, 2008.

19. In basic education, the main objective is to raise the enrolment rate, especially for girls. Between 2000 and 2008 the enrolment rate rose from 79% to 94% in the 6-11 years age bracket; from 58% to 75% for 12-14 years; and from 35% to 49% for 15-17 years.
20. Vocational training is currently provided through a network of more than 2 000 establishments, of which over 1 500 are private. In 2008, these establishments trained 280 000 trainees, more than 40% of them girls. The target for coming years is to achieve a considerable increase in the number of graduates from vocational training centres and to diversify the fields of training.
21. The specialised GIACs exist in the textiles/leather, hotel/tourism, fishery, construction, foodstuff, transport/logistics and services sectors. Grants amounting to MAD 90 million have been awarded to these GIACs.
22. According to the first survey conducted in 2006, firms offering training increased their turnover by more than 11% on average and achieved productivity gains of more than 14%. A second survey, covering the period 2008-2009, will assess the impact of training in the textiles and clothing industry.
23. According to the Corruption Perceptions Index 2008 published by Transparency International, Morocco ranks 80th (of 102 countries) with a score of 3.5 out of 10 (10 indicating no corruption). [www.transparency.org](http://www.transparency.org).



## ANNEX A

## Morocco's Exceptions to National Treatment Instrument

### A. Exceptions at the national level

#### **I. Investment by established foreign-controlled enterprises**

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

*Source:*

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

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

*Sources:*

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

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

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

*Sources:*

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

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

Sources:

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

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

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

Sources:

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

Dahir of 15 November 1993 on immigration

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

Source:

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

## **II. Official aids and subsidies**

None.

## **III. Tax obligations**

None.

## **IV. Government purchasing**

None.

## **V. Access to local financing**

None.

## **B. Exceptions at the territorial subdivisions**

None.

## Measures notified by Morocco for transparency

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

#### I. Measures based on public order and essential security considerations

##### a) Investments by established foreign-controlled enterprises

None.

#### II. Other measures reported for transparency

##### a) Corporate organisation

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

*Source:*

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

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

*Source:*

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

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

*Sources:*

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

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

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

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

*Sources:*

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

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

opening, expansion and modification of private higher education establishments

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

Source:

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

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

Sources:

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

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

## **B. Measures reported for transparency by territorial subdivisions**

None.

## **C. Private or mixed (public-private) monopolies**

### **At the national level**

#### **I. Public monopolies**

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

Sources:

Dahir of 16 April 1951 on mining regulation in Morocco

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

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

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

*Sources:*

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

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

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

*Sources:*

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

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

*Sources:*

Dahir of 25 November 1924 on the postal monopoly

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

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

*Sources:*

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

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

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

*Sources:*

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

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

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

## **II. Private monopolies**

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

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

Source:

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

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

Source:

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

### **III. Concessions**

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

Sources:

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

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

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

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

Sources:

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

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

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

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

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

Source:

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

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

Source:

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

## ANNEX B

## Statistical Tables

Table B.1. Foreign direct investment flows of OECD countries and Morocco

USD millions

	Inflows			Outflows			
	2006	2007	2008	2006	2007	2008	
United States	241 961	237 542	325 254	United States	241 244	333 271	317 835
France	71 882	103 886	96 990	France	110 737	169 105	199 963
United Kingdom	148 850	183 412	95 968	Germany	127 287	179 572	156 160
Luxembourg	125 251	186 260	80 373	Japan	50 244	73 545	127 981
Spain	26 903	68 842	65 412	United Kingdom	86 285	275 521	110 407
Belgium	58 926	110 795	59 564	Luxembourg	110 781	250 865	103 931
Australia	27 883	44 326	46 565	Switzerland	75 860	49 677	86 255
Canada	59 765	108 404	44 689	Canada	44 404	59 631	77 626
Sweden	27 261	22 079	40 395	Spain	100 305	138 523	77 168
Germany	57 175	56 415	24 891	Belgium	50 713	93 919	68 146
Japan	-6 503	22 548	24 418	Netherlands	65 211	28 549	53 117
Mexico	19 316	27 278	21 950	Italy	42 091	90 797	43 754
Turkey	20 185	22 046	18 171	Sweden	23 553	37 812	40 189
Switzerland	30 854	49 261	17 407	Australia	23 419	16 804	35 780
Italy	39 261	40 209	16 999	Austria	13 678	33 387	28 159
Poland	19 643	22 733	15 980	Norway	21 321	15 589	28 074
Austria	7 938	29 592	13 525	Denmark	8 447	20 523	27 299
Denmark	2 709	11 851	10 708	Ireland	15 332	20 778	13 202
Czech Republic	5 465	10 446	10 704	Korea	8 127	15 276	12 794
Hungary	7 536	6 096	6 552	Iceland	5 255	12 866	7 018
Greece	5 366	1 918	5 083	Poland	8 862	4 647	3 387
Portugal	10 908	3 056	3 525	Greece	4 169	5 339	2 646
Slovak Republic	4 700	3 269	3 410	Turkey	924	2 106	2 585
<b>Morocco</b>	<b>2 370</b>	<b>2 757</b>	<b>2 400</b>	Portugal	7 143	5 491	2 102
Korea	3 586	1 579	2 200	Czech Republic	1 469	1 621	1 895
New Zealand	7 760	2 494	1 975	Hungary	3 876	3 742	1 637
Norway	6 413	4 435	-95	Finland	4 808	7 656	1 626
Iceland	3 992	3 062	-2 606	Mexico	5 758	8 260	690
Finland	7 656	12 353	-4 192	<b>Morocco</b>	<b>430</b>	<b>611</b>	<b>371</b>
Netherlands	7 454	118 398	-9 063	Slovak Republic	512	384	258
Ireland	-5 545	30 597	-12 278	New Zealand	501	3 234	100

Source: OECD-FDI Database; Exchange Office of Morocco.



**Table B.2. Annual net flows of foreign direct investment to Morocco, by sector**  
Moroccan dirhams (MAD) and USD millions

	2005	2006	2007	2008
Industry	2 367	7 091	1 482	637
Tourism	2 297	7 665	10 900	5 438
Real estate	2 070	3 935	5 429	7 793
Banking	26	1 417	1 119	5 048
Insurance	- 585	1 371	- 32	86
Commerce	- 318	757	- 3 553	- 283
Holding companies	208	136	558	923
Energy and mines	353	57	2 325	1251
Transport	305	- 23	2 728	- 866
Engineering works	144	- 7	514	132
Telecommunications	6 754	- 2400	- 499	- 2 074
Agriculture	6	24	22	- 13
Fishing	4	0	4	- 14
Other services	331	611	1 861	976
Miscellaneous	- 1	102	119	- 3
Total in MAD (millions)	14 663	21 544	22 975	19 036
Total in USD (millions)	1 613	2 370	2 757	2 400

Source: Foreign Exchange Office of Morocco, *Global External Position 2007*, [www.oc.gov.ma](http://www.oc.gov.ma).

**Table B.3. Stock of foreign direct investment in Morocco, by sector, 2004-2007**  
MAD and USD millions

Sector	End 2004	% share	End 2005	% share	End 2006	% share	End 2007	% share
Telecommunica-tions	41 215	25.2	57 208	29.8	7 2 237	28.5	8 0 016	26.9
Industry	42 072	25.7	44 912	23.4	5 4 808	21.6	58 832	19.8
Banking	10 252	6.3	11 985	6.3	22 899	9.0	30 284	10.2
Tourism	5 414	3.3	7 934	4.1	16 805	6.6	28 607	9.6
Real estate	13 745	8.4	15 489	8.1	20 451	8.1	26 367	8.8
Cement	8 316	5.1	9 408	4.9	14 767	5.8	17 664	5.9
Energy and mines	7 681	4.7	9 105	4.7	7 976	3.2	10 303	3.5
Oil refining/ distribution	4 152	2.5	4 595	2.4	7 971	3.2	7 760	2.6
Holding companies	2 868	1.8	3 109	1.6	3 262	1.3	3 916	1.3
Transport	4 07	0.2	659	0.3	662	0.3	3 602	1.2
Engineering works	2 504	1.5	2 494	1.3	2 505	1.0	3 059	1.0
Insurance	4 50	0.3	426	0.2	1 374	0.5	1 820	0.6
Commerce	4 516	2.8	4 048	2.1	4 684	1.9	1 178	0.4
Fisheries	8 97	0.5	902	0.5	901	0.4	900	0.3
Agriculture	4 31	0.3	434	0.2	463	0.2	481	0.2
Studies	1 64	0.1	167	0.1	180	0.1	181	0.1
Other services	4 927	3.0	5 323	2.8	6 193	2.4	9 082	3.0
Miscellaneous	13 383	8.3	13 742	7.2	15 042	5.9	13 781	4.6
Total (mn MAD/%)	163 393	100	191 939	100	253 180	100	297 832	100
Total (mn USD/%)	19 607	100	21 113	100	30 383	100	38 718	100

Source: Foreign Exchange Office of Morocco, *Global External Position 2007*, [www.oc.gov.ma](http://www.oc.gov.ma).

Table B.4. **Stock of foreign direct investment in Morocco, by country, 2004–2007**

MAD millions

	End 2004	% share	End 2005	% share	End 2006	% share	End 2007	% share
France	68 830	42.1	89 232	46.5	125 108	49.4	148 439	49.8
Spain	31 893	19.5	33 890	17.7	44 381	17.5	49 164	16.5
United States	10 285	6.3	10 462	5.4	11 312	4.5	12 610	4.2
Switzerland	6 456	4.0	6 480	3.4	9 023	3.6	11 546	3.9
United Arab Emirates	3 437	2.1	4 429	2.3	5 223	2.1	8 699	2.9
Portugal	7 296	4.5	7 350	3.8	7 351	2.9	7 421	2.5
Saudi Arabia	5 077	3.1	5 550	2.9	6 278	2.5	7 227	2.4
Great Britain	3 790	2.3	4 203	2.2	4 867	1.9	6 904	2.3
Sweden	3 111	1.9	5 067	2.6	6 930	2.7	6 847	2.3
BLEU	1 817	1.1	1 770	0.9	3 940	1.5	6 276	2.1
Netherlands	5 110	3.2	5 307	2.8	5 428	2.1	5 936	2.0
Germany	2 480	1.5	3 516	1.8	4 545	1.8	5 506	1.8
Total (mn MAD/%)	163 393	100	191 939	100	253 180	100	297 832	100

Source: Foreign Exchange Office of Morocco, *Global External Position 2007*, [www.oc.gov.ma](http://www.oc.gov.ma).Table B.5. **Stock of Moroccan direct investment abroad, by sector, 2004–2007**

MAD millions

	End 2004	End 2005	End 2006	End 2007
Telecommunications	442	351	2 835	3 282
Banks and financial institutions	2 983	2 924	2255	2 632
Holding companies	856	645	1507	1613
Cement works	0.4	1 215	1241	1 265
Mining	927	513	522	522
Transport	146	197	280	286
Insurance	–	73	72	257
Information processing	–	7	–	153
Services	56	53	40	101
Agrifood	25	37	60	63
Other sectors	118	143	99	139
Total (in mn MAD)	5 551	6 157	8 910	10 314
Total (in mn USD)	666	676	1 054	1 337

Source: Foreign Exchange Office of Morocco, *Global External Position 2007*, [www.oc.gov.ma](http://www.oc.gov.ma).

Table B.6. **Stock of Moroccan direct investment abroad, by country, 2004-2007**

MAD millions

	End 2004	End 2005	End 2006	End 2007
France	2 023	1 409	2 505	2 794
Burkina Faso	–	–	2 451	2 499
Egypt	0.4	1 222	1 233	1 257
Spain	197	636	681	732
Great Britain	6	48	125	507
Belgium	335	339	358	398
India	346	346	353	353
Gabon	26	25	25	323
Mauritania	407	355	310	312
Senegal	132	130	227	294
United States	238	357	328	262
Luxembourg	–	–	–	224
Mali	71	69	102	104
Total (millions MAD)	5 551	6 157	8 910	10 314

Source: Foreign Exchange Office of Morocco, *Global External Position 2007*, [www.oc.gov.ma](http://www.oc.gov.ma).Table B.7. **USD/MAD exchange rates**

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Annual average exchange rate	0.09	0.09	0.09	0.10	0.11	0.11	0.11	0.12	0.13
End-of-year exchange-rate	0.09	0.09	0.10	0.11	0.12	0.11	0.12	0.13	0.12

Source: IMF, *International Financial Statistics*.

## ANNEX C

## Bilateral Investment Promotion and Protection Agreements and Double-taxation Treaties Concluded by Morocco

Table C.1. **Bilateral investment promotion and protection agreements concluded by Morocco**

	Date of signature	Entry into force
<b>AFRICA</b>		
Central African Republic	26/09/2006	
Benin	15/06/2004	
Burkina Faso	08/02/2007	
Cameroon	24/01/2007	
Egypt	14/05/1997	01/07/1998
Gabon	21/06/2004	
Gambia	20/02/2006	
Equatorial Guinea	05/07/2005	
Republic of Guinea (Conakry)	02/05/2002	
Libya	02/11/2000	20/10/2001
Mauritania	13/06/2000	20/10/2003
Senegal	15/11/2006	
Sudan	23/02/1999	04/07/2002
Chad	04/12/1997	
Tunisia	28/01/1994	01/04/1999
<b>AMERICA</b>		
Argentina	13/06/1996	19/02/1999
Dominican Republic	23/05/2002	
United States <sup>1</sup>	15/6/2004	01/01/2006
United States <sup>2</sup>	22/07/1985	29/04/1991
El Salvador	21/04/1999	12/04/2002
<b>ASIA AND MIDDLE EAST</b>		
Bahrain	07/04/2000	09/04/2001
China	27/03/1995	28/11/1999
South Korea	27/01/1999	08/05/2001

Table C.1. **Bilateral investment promotion and protection agreements concluded by Morocco (cont.)**

	Date of signature	Entry into force
United Arab Emirates	09/02/1999	01/04/2002
India	13/02/1999	
Malaysia	16/04/2002	23/04/2009
Indonesia	14/03/1997	21/03/2002
Iran	21/01/2001	31/03/2003
Jordan	16/06/1998	07/02/2000
Kuwait	16/02/1999	07/05/2001
Lebanon	03/07/1997	04/03/2000
Oman	08/05/2001	25/02/2003
Pakistan	16/04/2001	
Qatar	20/02/1999	21/05/2001
Syria	23/10/2001	29/03/2003
Yemen	24/02/1997	
<b>EUROPE</b>		
Germany	06/08/2001	12/04/2008
Austria	02/11/1992	01/07/1995
Belgium	14/04/1999	29/05/2002
Bulgaria	22/05/1996	19/02/2000
Croatia	29/09/2004	
Denmark	22/05/2003	
Spain	11/12/1997	13/04/2005
Finland	01/10/2001	06/04/2003
France	13/01/1996	01/04/1999
Great Britain	30/10/1990	14/02/2002
Greece	16/02/1994	28/06/2000
Hungary	12/12/1991	03/02/2000
Italy	18/07/1990	26/04/2000
Netherlands <sup>3</sup>	23/12/1971	27/07/1978
Poland	24/10/1994	03/07/1999
Portugal <sup>3</sup>	17/04/2007	
Romania	28/01/1994	03/02/2000
Sweden	26/09/1990	16/06/2008
Switzerland	17/12/1985	12/04/1991
Czech Republic	11/06/2001	30/01/2003
Turkey	08/04/1997	30/05/2004
BLEU	13/04/1999	29/05/2002
Ukraine	24/12/2001	25/04/2009
Slovakia	14/6/2007	
<b>OTHER</b>		
Arab Maghreb Union (AMU)	23/07/1990	14/07/1993
OPEC	26/11/2001	

1. Free Trade Agreement (FTA) includes a chapter on investment.
2. Agreement suspended following entry into force of the FTA, except for Articles VI and VII, which will remain in effect for 10 years in respect of disputes that arose before entry into force of the FTA.
3. The new APPIs now being finalized will replace the previous agreements.

Source: Direction of Investment, [www.invest.gov.ma](http://www.invest.gov.ma).

Table C.2. **Double-taxation treaties concluded by Morocco**

	Date of signature	Entry into force	Observations
<b>AFRICA</b>			
South Africa			Initialed at Pretoria 28/02/1998
Algeria	25 /01/1990		Ratified by Morocco 28/05/1993
Côte d'Ivoire	20/07/2006		
Egypt	22 /03/1989	28/05/1993	
Gabon	03/06/1999		Ratified by Morocco 15/02/2001
Equatorial Guinea	20/02/2003		
Libya	26/01/1984	01/01/1994	
Senegal	01/03/2002		Ratified by Morocco 21/04/2004
Sudan	23/04/2003		
Tunisia	28/08/1974	26/06/1979	
AMU	23/07/1990		
<b>AMERICA</b>			
Canada	22/12/1975	09/11/1978	
United States	01/08/1977	01/12/1981	
<b>ASIA</b>			
China	27/08/2002		Awaiting ratification
Korea (Republic of)	27/01/1999	16/06/2000	
India	30 /10/1998	30/01/2000	
Indonesia	29/08/1997	30/01/2000	Ratified by Morocco 03/10/2002
Malaysia	02/07/2001		Awaiting ratification
Pakistan	18/05/2006		
Russia	04 /09/1997	20/09/1999	
Singapore	09/01/2007		
Turkey	07/04/2004		Awaiting signature.
<b>EUROPE</b>			
Germany	07/06/1972	08/10/1974	
Austria	27/02/2002		Ratified by Morocco 03/10/2002
Belgium side agreement	04/05/1972 14/02/0983	05/03/1975 12/10/1990	
Bulgaria	22/05/1996	06/12/1999	
Croatia	10/07/2002		Awaiting signature
Denmark	08/05/1984	25/12/1992	
Spain	10/07/1978	16/05/1985	
Finland side agreement	07/04/2006		
France side agreement	29/05/1970 18/08/1989	01/12/1971 01/12/1990	
Great Britain	08 /09/1981	29/11/1990	
Greece	28/03/2007		
Hungary	12/12/1991	20/08/2000	

Table C.2. **Double-taxation treaties concluded by Morocco (cont.)**

	Date of signature	Entry into force	Observations
Italy	07/06/1972	10/03/1983	
Luxembourg	19/12/1980	16/02/1984	
Malta	26/10/2001		Awaiting ratification
Norway	05/05/1972	18/12/1975	
Netherlands	12/08/1977	10/06/1987	
Poland	24/10/1994	22/08/1996	
Portugal	29/09/1997	27/06/2000	
Romania	11/09/1981	30/08/1987	Revision of treaty (02/07/03)
Sweden	30/03/1961	21/08/1961	
Switzerland	31/03/1993	27/07/1995	
Czech Republic	11/06/2001		Ratified by Morocco 03/10/2002
Russia	04/09/1997	20/09/1999	
<b>ARAB COUNTRIES</b>			
Bahrain	07/04/ 2000	10/02/2001	
United Arab Emirates	09 /02/1999	02/07/2000	
Jordan	16/05/2005		
Kuwait	15/06/2002		
Lebanon	20/10/2001	07/08/2003	
Qatar	17/03/2006		
Oman	15/12/2006		Ratified 15/12/2006
Yemen	08/02/2006		

Note: Negotiations are underway with several countries, including: Benin, Ethiopia, Mali, Chad, Argentina, Brazil, Mexico, Bangladesh, Japan, Kazakhstan, Thailand, Turkmenistan, Ukraine, Saudi Arabia and Syria.

## ANNEX D

# *Moroccan Participation in International Organisations and Adherence to International Conventions*

### **a) Participation in international organisations**

World Bank

United Nations Conference on Trade and Development

International Monetary Fund

United Nations

United Nations Educational, Scientific and Cultural Organization

Food and Agriculture Organization of the United Nations

International Labour Organization

World Trade Organization

World Health Organization

World Intellectual Property Organization

### **b) Adherence to international conventions**

#### **Corruption**

United Nations Convention against Corruption

United Nations Convention against Transnational Organized Crime

#### **Environment**

Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal (1999)

Convention on Biological Diversity (1992)



Montreal Protocol on Substances That Deplete the Ozone Layer (1979)  
United Nations Framework Convention on Climate Change (1992)  
Vienna Convention for the Protection of the Ozone Layer (1985)  
Protocol on Biosafety to the Convention on Biological Diversity Cartagena Protocol (2000)  
Kyoto Protocol to the United Nations Framework Convention on Climate Change (1997)  
African Convention on the conservation of nature and natural resources (1968)

### **Human rights**

Universal Declaration of Human Rights (1948)  
International Convention on the Protection of the Rights of all Migrant Workers and Members of their Family (1990)  
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (1984)  
International Covenant on Economic, Social and Cultural Rights (1966)  
International Covenant on Civil and Political Rights (1966)  
Convention on the Rights of the Child (1989)  
International Convention on the Elimination of All Forms of Racial Discrimination (1965)  
Convention on the Political Rights of Women (1952)

### **International investment**

Convention on the Settlement of Investment Disputes between States and Nationals of other States (1967)  
Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)

### **Labour**

Seven conventions of the International Labour Office:  
Convention 29 concerning forced or compulsory labour (1930)  
Convention 98 concerning the application of the principles of the right to organise and to bargain collectively (1949)  
Convention 100 concerning equal pay (1951)  
Convention 105 concerning the abolition of forced labour (1957)

Convention 111 concerning discrimination in respect of employment and occupation (1958)

Convention 138 concerning minimum age for admission to employment (1973)

Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour (1999)

## ANNEX E

## Morocco's FDI Regulatory Restrictiveness Index

This annex presents Morocco's FDI regulatory restrictiveness index, based on the OECD methodology (see Box E.1), and its comparison with 41 countries that adhere to the OECD Declaration on International Investment and Multinational Enterprises.\*

### A cross-sector comparison

Among the sectors covered by the FDI regulatory restrictiveness index, Morocco records its highest scores in two categories of business services (architecture and accounting) and in air and maritime transports (see Figure E.1). In these sectors, Morocco imposes limitations on foreign ownership, which are highly weighted within the FDI index methodology. The country does not apply formal screening and approval procedures in any sector covered by the FDI index. Among other restrictions, the calculations take into consideration the regulations concerning the recruitment of foreign staff even if those are not included in the list of measures notified by Morocco under the OECD National Treatment instrument's transparency provisions (see Chapter 2.2).

\* In 2009, the adherent countries include 30 OECD countries and 11 emerging economies, i.e. Argentina, Brazil, Chile, Egypt, Estonia, Israel, Latvia, Lithuania, Peru, Romania and Slovenia.

### Box E.1. Calculating the FDI Regulatory Restrictiveness Index

The FDI regulatory restrictiveness index is calculated for 9 sectors: i) professional services (including legal, accounting, architectural and engineering services); ii) telecommunications (fixed and mobile); iii) transport (air, road and maritime); iv) finance (including insurance and banking); v) distribution; vi) construction; vii) tourism; viii) electricity and ix) manufacturing.

For each sector, three main categories of restrictions are measured:

- the authorised level of foreign equity holding (0-100 per cent);
- screening and discriminatory notification requirements;
- other restrictions, including limitations on foreign participation in boards of directors, on movement of personnel, and operational restrictions, such as domestic content requirements.

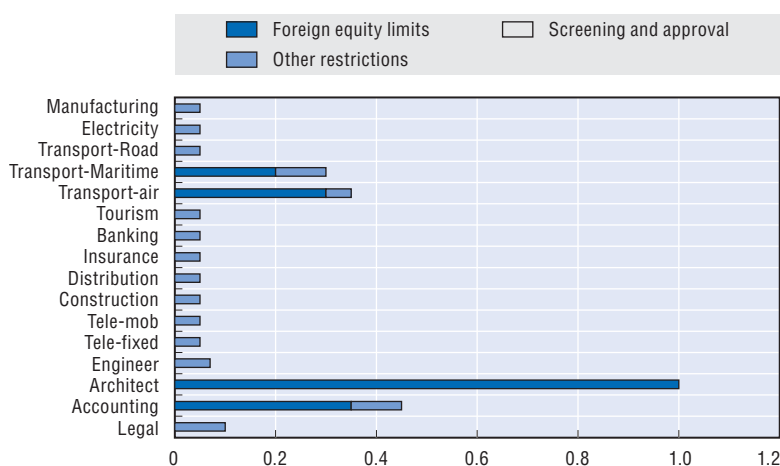
The restrictions are evaluated on a 0-1 scale with “0” corresponding to a completely open sector and “1” to a closed sector. Since a limitation on foreign equity is a decisive barrier, a ban on foreign ownership in a given sector implies a maximum score of 1 as the other restrictions become irrelevant. Market access barriers represented by state-owned monopolies are also scored. The overall restrictiveness index is a weighted average of the sectoral indices, using fixed average FDI and trade shares for weighting individual sectors.

There are a number of important qualifications regarding the reported FDI regulatory restrictiveness scores. The measures are limited to overt regulatory restrictions on FDI and do not capture non-policy institutional or informal restrictions, or policies that may indirectly impinge on FDI, notably economic and social regulations. Nor is the extent of actual enforcement of restrictions factored into the calculations.

The index used in isolation is not an adequate predictor of countries’ FDI attractiveness. Nonetheless, when used in combination with other variables, the index can contribute to explaining variations among countries in attracting FDI.

*Source:* OECD (2007), “OECD’s FDI Regulatory Restrictiveness Index: Revision and Extension to More Economies and Sectors”, *International Investment Perspectives*, Chapter 6.

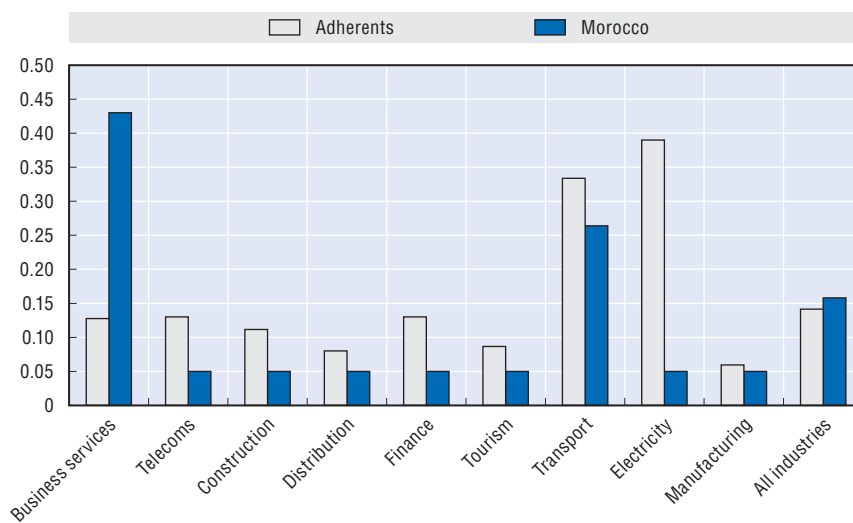
Figure E.1. **Morocco's FDI regulatory index by sectors and types of restrictions**



## A cross-country comparison

Figure E.2 compares Morocco's average FDI restrictiveness index in nine covered sectors with the average score of 41 countries that adhere to the OECD Declaration on International Investment and Multinational Enterprises. It shows that Morocco's total score (0.158) is comparable with the average of 41 adherent countries (0.141), reflecting its restrictive provisions in some categories of business services. In contrast, Morocco records a lower score than the adherent countries' average in other sectors covered by the index, notably electricity. In overall, Morocco's sectoral pattern of restrictions is similar to one observed in most OECD and non-OECD countries with business services and transports being often the most restricted sectors, whereas manufacturing, distribution and construction are usually relatively open to foreign direct investment.

Figure E.2. **FDI regulatory restrictiveness index: Average of Morocco's and adherent countries**



## ANNEX F

## *Summary of the Main Provisions of the OECD Declaration on International Investment and Multinational Enterprises*

Adherence to the OECD Declaration on International Investment and Multinational Enterprises implies acceptance of all its components as well as the related Decisions and Recommendations. The OECD Declaration on International Investment and Multinational Enterprises is a political agreement among adherent countries for co-operation on a wide range of investment issues. The Declaration contains four related elements: the National Treatment instrument, the Guidelines for Multinational Enterprises, an instrument on Incentives and Disincentives to international investment, and an instrument on Conflicting Requirements. It is supplemented by legally binding Council Decisions on implementation procedures and by Recommendations to adherents to encourage pursuit of its objectives, notably with regard to National Treatment instrument.

### **National Treatment**

The National Treatment instrument provides that adherents should, consistent with their needs to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security, accord to enterprises operating in their territories and owned or controlled by nationals of another Member country treatment under their laws, regulations and administrative practices consistent with international law and no less favourable than that accorded in like situations to domestic enterprises.

Under the Third Revised Decision of the Council on National Treatment, adherents to the Declaration must notify the Organisation of all measures constituting exceptions to the National Treatment principle within 60 days of their adoption and of any other measures which have a bearing on this

principle (the so-called “transparency measures”). These measures are periodically reviewed by the Investment Committee, the goal being the gradual removal of measures that do not conform to this principle.

Exceptions to National Treatment fall into five categories: investments by established foreign-controlled companies, official aids and subsidies, tax obligations, access to local bank credit and the capital market, and government procurement.

Transparency measures include measures based on public order and national security interests, restrictions on activities in areas covered by monopolies, public aids and subsidies granted to government-owned enterprises by the state as a share.

The National Treatment instrument is solely concerned with discriminatory measures that apply to established foreign-controlled enterprises.

Areas of existing public, private or mixed monopolies are to be recorded for the purpose of transparency since foreign-controlled and domestic private enterprises are subject to the same restrictions. The undertaking to apply National Treatment instrument comes into force as and when areas previously under monopoly are opened up. In such cases, access to these areas should be provided on a non-discriminatory basis. If restrictions prohibit or impede in any way the participation of foreign-controlled enterprises *vis-à-vis* their domestic counterparts, then these restrictions are to be reported as exceptions to National Treatment instrument. The objective is to ensure access to formerly closed sectors on an equal basis.

The 1991 Review confirmed the understanding reached in 1988 by the Committee on a standstill on National Treatment measures. This understanding provides that adherents should avoid the introduction of new measures and practices, which constitute exceptions to the present National Treatment instrument. Particular attention is to be given to this question in the Committee’s work.

A number of Recommendations of the Council have also been addressed to adherents in the context of earlier horizontal examinations. Most of these recommendations were made to individual countries, but a number of them were of a general character. Concerning investment by established foreign-controlled enterprises, adherents should give priority in removing exceptions where most adherents do not find it necessary to maintain restrictions. In introducing new regulations in the services sectors, adherents should ensure that these measures do not result in the introduction of new exceptions to National Treatment instrument. Adherents should also give particular attention to ensuring that moves towards privatisation result in increasing the investment opportunities of both domestic and foreign-controlled enterprises so as to extend the application of the National Treatment instrument.



In the area of official aids and subsidies, adherents should give priority attention to limiting the scope and application of measures which may have important distorting effects or which may significantly jeopardise the ability of foreign-controlled enterprises to compete on an equal footing with their domestic counterparts.

Finally, with regard to measures motivated by based on public order and essential security interests, adherents are encouraged to practice restraint and to circumscribe them to the areas where public order and essential considerations are predominant. Where motivations are mixed (*e.g.* partly commercial, partly national security), the measures concerned should be covered by exceptions rather than merely recorded for transparency purposes.

## Guidelines for Multinational Enterprises

The Guidelines constitute a set of voluntary recommendations to multinational enterprises in all the major areas of business ethics, including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation. Adhering governments have committed to promote them among multinational enterprises operating in or from their territories.

The instrument's distinctive implementation mechanisms include the operations of National Contact Points (NCP), which are government offices charged with promoting the Guidelines and handling enquiries in the national context. NCPs in different countries shall co-operate if such need arises, on any matter covered by the Guidelines relevant to their activities. NCPs shall also meet annually to share experiences and report to the Investment Committee.

The Investment Committee is responsible for periodically or at the request of an adhering country hold exchange of views on matters covered by the Guidelines and periodically invite the Business and Industry Advisory Committee to the OECD (BIAC), the Trade Union Advisory Committee to the OECD (TUAC) ("the advisory bodies"), other non-governmental organisations to express their views as well as representatives of non-adhering countries on matters covered by the Guidelines.

The Committee shall also be responsible for clarifications of the Guidelines and for exchanging views on the activities of National Contact Points and shall periodically report to the Council on matters related to the Guidelines.

## Incentives and Disincentives

The instrument on Investment Incentives and Disincentives recognises that adherents may be affected by this type of measure and stresses the need to strengthen international co-operation in this area. It first encourages them to make such measures as transparent as possible so that their scale and purpose can be easily determined. The instrument also provides for consultations and review procedures to make co-operation between adherents more effective. A considerable part of the work undertaken in this area is analytical, two studies being undertaken in the 1980s. Adherents may therefore be called upon to participate in studies on trends in and effects of incentives and disincentives on FDI and to provide information on their policies.

## Conflicting Requirements

The instrument on Conflicting Requirements provides that adherents should co-operate with a view to avoiding or minimising the imposition of conflicting requirements on multinational enterprises. In doing so, they shall take into account the general considerations and practical approaches recently annexed to the Declaration. This co-operative approach includes consultations on potential problems and giving due consideration to other country's interests in regulating their own economic affairs.

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