

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.