



Morocco ❖

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Morocco is a north-western African country, spanning from the Atlantic Ocean, to mountains areas, to the Sahara desert. It is located at the north western tip of the African continent, is bordered at west by the Atlantic Ocean (2934 km of coast) and north by the Mediterranean Sea (510 km of coast), and the east by Algeria and the south by Mauritania.

Morocco is a constitutional monarchy with two legislative houses. According to the Constitution promulgated in 2011, political power in Morocco is to be shared between the hereditary monarch and an elected bicameral parliament, consisting of the House of Councilors and the House of Representatives. A prime minister (head of the government) heads the cabinet, which constitutes the executive.

With the 2011 constitutional reforms, the King of Morocco still retains some executive powers whereas those of the prime minister have been enlarged.

Economy

Morocco has capitalised on its proximity to Europe and relatively low labour costs to build a diverse, open, market-oriented economy. In the 1980s Morocco was a heavily indebted country before pursuing austerity measures and pro-market reforms, overseen by the IMF. Since taking the throne in 1999, King MOHAMMED VI has presided over a stable economy marked by steady growth, low inflation, and gradually falling unemployment, although a poor harvest and economic difficulties in Europe contributed to an economic slowdown in 2012.

Industrial development strategies and infrastructure improvements – most visibly illustrated by a new port and free trade zone near Tangier – are improving Morocco’s competitiveness. Morocco also seeks to expand its renewable energy capacity with a goal of making renewable 40 percent of electricity output by 2020. Key sectors of the economy include agriculture, tourism, phosphates, textiles, apparel, and subcomponents.

PROFILE

Population:	32.52 million***
GDP (Current US\$):	95.98 billion**
Per Capita Income: (Current US\$)	2,950 (Atlas method)*** 4,384 (at PPP)**
Surface Area:	801.6 thousand sq. km
Life Expectancy:	72.4 years**
Literacy (%):	56 (of ages 15 and above)**
HDI Rank:	130**

Sources:
- World Bank Development Indicators Database, World Bank, 2012
- Human Development Report Statistics, UNDP, 2011
(**) For the year 2011
(***) For the year 2012

To boost exports, Morocco entered into a bilateral Free Trade Agreement with the US in 2006 and an Advanced Status agreement with the European Union in 2008. Despite Morocco’s economic progress, the country suffers from high unemployment, poverty, and illiteracy, particularly in rural areas. In 2011 and 2012, high prices on fuel – which is subsidised and almost entirely imported – strained the government’s budget and widened the country’s current account deficit. Key economic challenges for Morocco include fighting corruption and reforming the education system, the judiciary, and the government’s costly subsidy programme.

Competition Evolution and Environment

Regarding the environment of competition regime in Morocco, it is important to underline the efforts made by the country in order to enhance a climate of competitiveness and business. Morocco tried to learn from international best practices and also from the relationship with its economic partners.

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Among the dynamic measures taken by Morocco is the establishment of the Moroccan Investment Development Agency (AMDI) in February 2009 with an objective to attract foreign direct investments (FDIs), and to minimise the obstacle to investments and the creation of an Inter-Ministerial Committee for Improving the Business Climate (CNEA) in September 2009 whose role is to coordinate between different ministries and departments and to enhance the transparency of administrative procedures and to create regional investment centers to serve as decentralised one-stop shops.

Also measures have been taken for the enhancement of Moroccan economy and companies such as the simplification of the corporate tax system, the implementation of an adequate institutional framework which has as an objective to establish an appropriate distribution of the roles between the public and private sectors. The State, while proceeding to a revision of the public management, withdraws gradually from activities of production of trade goods and services insured by the bodies placed under its supervision so as to be able to dedicate itself to the missions of regulation, supervision, control and penalty of the possible overtaking.

Modifications of legal and institutional framework have been undertaken by the Moroccan government in order to enhance the climate of competitiveness in the market. Several legislative and statutory texts aimed at the strengthening of the good economic governance have been launched in the circuit of approval, in particular the reform of the decree on procurement contracts, the reform of the law on the freedom of the prices and competition and the project of law concerning the National Authority of Righteousness, the Prevention and Fight against corruption.

The strengthening of the power of the Competition Council and its means of action are also among the legal measure on which the government is involved in order to ensure an efficient competition framework for all economic actors and also to guarantee the satisfaction of consumers.

Finally, Morocco gained several places in the world classification concerning the ease of the business and on the competitiveness of its economy.

It is important to remind, in this respect, that Morocco was considered as a better world reformer in the 2012 report "Doing Business" developed by the World Bank. With a significant jump of 21 places, Morocco indeed raised itself on the 94th position, which places it in front of big countries as Brazil, Argentina, India, Indonesia or Russia.

On account of the considerable efforts made by Morocco in order to enhance the procedure of investment and developing a multilingual and qualified human resources, good results in the telecommunication sector and the

efficient strategy prepared by decision makers, Morocco entered the club of recognised destinations worldwide offshoring, particularly in the Francophone world. Thus, the destination Morocco is systematically considered in the majority of offshoring decisions and leading players have confidence in Morocco.

Morocco develops many near shore center in the main axe of country with all the necessary infrastructures.

Morocco was elected by the European Association of Offshoring (EOA) as the best offshoring destination for the year 2012.¹ This award recognises the attractiveness of Morocco as a platform perfectly suited for outsourcing administrative services and IT services for European companies seeking competitive alternatives in terms of costs and quality of service. Morocco beat five other shortlisted for the privilege destinations namely: South Africa, Romania, Serbia, Slovakia and Egypt.

With 52.000 jobs and 7,6 billion dirhams of turnover at the end of 2011, the sector of the Moroccan offshoring stands out as the most accomplished programme among the sectorial policies of the plan. By 2015, Morocco expects 100.000 jobs in the sector of the offshoring, of which 70.000 would be assets in call centers.

Competition Framework

The main legal instrument introducing the rules of the competition in Morocco is the law 06-99 on the freedom of the prices and the competition promulgated by Dahir on July 06, 2000. It defines measures governing the freedom of the prices and organising a free-market economy. It also defines the rules of protection of competition in order to stimulate the economic efficiency and improve the well-being of the consumers. It also aims at assuring the transparency and the loyalty in the business connections.

The policy of competition in Morocco is implemented by two competent institutions:

- The Directorate of Competition and Prices (DCP): within the Ministry of Corporate Affairs and Governance. Its powers are defined by decree. This department is the organ in charge of inquiries related to collusion agreements and abuse of dominant position, in order to combine proofs, as well as authorisation of the projects of economic concentration and the elaboration of market studies.
- The Competition Council is the other institution. It is a consultative organ which has no decision-making power or power to apply penalties. It has consultative attributions for the purposes of advice/recommendations.

In practice, any competition case administered by the DCP should be submitted to the Council for opinion before any final decision is adopted.

There is now a project of amendment of the current law in order to give power of decision to the Competition Council and also to give it the status of Competition Authority.

Since its reactivation in August 2009, the Competition Council has started a large campaign designed to promote competition rules, give some opinions and studies about the market. Also the Competition Council developed platforms of cooperation for the purpose of sharing of know-how and the development of skills.

Until now the Competition Council give its opinion regarding some request related the transport sector, the maritime piloting and the schoolbook.

Sectoreal Regulatory Framework

In order to pursue an efficient strategy of economic development, Morocco creates many regulatory bodies for several economic sectors. Morocco makes the choice to institutionalise specialised and independent authorities for juridical regulation of the exercise of public freedom and fundamental rights and for economic regulation in harmony with international trends.

Financial

On 1993, Morocco reviewed the status of Bank Al Maghrib, an institution in charge notably: to implement monetary policy instruments, to control the activity of credit institutions and similar bodies, to advise the Government on financial issues; and to take part in the negotiation and implementation of international financial agreements. The strategy followed on Moroccan banking system enhanced significantly competition between different bank inside Morocco but also outside especially in Africa where Moroccan banks are operating and investing, such as in Senegal, Cameroon, Congo etc.

The year 1993 was also the year of creation of the Ethical Council of Securities (CDVM Conseil déontologique des valeurs mobilières) which is the regulatory authority for financial markets.

Telecommunications

On 1997, the National Regulatory Agency of telecommunication (ANRT: Agence Nationale de Réglementation des Télécommunications) was created. This body is in charge of the regulation of the telecommunications market, the safeguard of competition and also the treatment of anticompetitive practices and the guarantee of fair competition.

It takes many decisions related to the settlement of disputes between operators and also some anticompetitive behaviours (see the annex 1 concerning samples of decision taken on competition issues). Its functioning has had direct result on economy and in contribution to the growth of the national GDP. This fact is recognised by the benchmarking done by EMERG² for 2012 (Euro Mediterranean

Regulatory Group) which believes that regulation in Morocco is well developed because of the fact that it is quite close to the European regulation: “As then, the countries with a model of regulation that is closest to the European model are Morocco, Turkey and Jordan.”

ANRT also takes many actions in order to safeguard the interest of customers through many *ex ante* tools and *ex post* decisions.³

On 2002, the High Authority for Audio-visual Communication (HACA) was established under the Dahir n°1-02-212 of August 31, 2002. It is an independent administrative body responsible for regulating the audio-visual communications sector. Its main mission is to ensure the the principles of pluralism and freedom of speech and compliances to the fundamental civil values and the laws.

With respect to the UN Convention against Corruption, Morocco established in 2007 an organ to coordinate, oversee and ensure the follow-up of the implementation of the prevention policies of the corruption, to collect and to spread the information in this domain.

On 2009, the National Commission of control of the personal data protection (CNDP), was established by the law 09-08 to ensure proper treatment of personal data.

Finally, and after a long process, the high council of consummation was created on 2011. This council has notably in charge to advise the legislative and executive powers on the questions interesting the consumer; to propose the orientations to strengthen the government action in the field of the consumer protection. We will give more information about the consumer protection levers on the next section.

Consumer Protection Framework

In the year 2011 the promulgation of the law n°31-08 laid down measures for protection of the consumer. by Dahir of February 18th, 2011. It is a consecration of a long-term process since 1999.

Clauses protecting the interests of the Moroccan consumer are scattered in several legal texts such as code of obligations and contracts (DOC), the commercial law, the law on the freedom of the prices (prizes) and competition etc. However, the fact remains that the Moroccan legislation was delayed as compared with other countries such as the US where such a framework existed since 1960s; in France(since 1978), in Algeria (since 1989), etc.

The law n°31-08, come into effect in April, 2011, is a law of 206 articles which has for the following main purposes:

- to assure the information for the consumer;
- to assure consumer protection with regard to clauses contained in the consumer contracts;

- to detail the procedures related to the compensation and to the repair of the damages affecting the consumer; and
- to assure the representation and the defense of the interests of the consumers through the associations of consumers.

The law protects the interests of the consumer in their relation to the suppliers, which are generally marked by an imbalance in terms of rights and duties between the contracting parties where the consumer is often at the mercy of the supplier.

The law requires suppliers to present all the information necessary for the consumer to make a rational choice on the product or the service offered. The price has to be inclusive of all taxes and the supplier has to inform the consumer about the terms of the contract.

Article 15 of the law lays down without ambiguity: “ *In contracts concluded between the supplier and the consumer, is considered as unfair any clause which has for object or for effect to create, to the detriment of the consumer, a significant imbalance between the rights and duties of the parties to the contract*”.

The legislation quotes a number of clauses which can be considered as unfair like those granting discretionary and excessive powers to the detriment of the legitimate rights of the consumer.

The law n°31-08 also brought additions to the existing regulations regarding advertising. It specified in particular the conditions of information to be respected regarding advertising as well as the obligations of the supplier for advertisements by e-mail.

This law also has the merit to bring a legal frame of distance contracts with a precision of the rights and duties of the parties. These precisions are due to the increase of the transactions by internet.

Door-to-door selling is also clarified and its conditions are specified.

Further, the law addresses the phenomena of debts. Besides property loans, consumer credits are massively mediated and, therefore, a chapter deals with conditions of validity of the consumer credit and home loan, their contents and right to withdraw as well as grace period granted to the consumer in case of incapacity to repay.

The role of consumers' associations according to this law is to assure the information, the defense and the promotion of the interests of the consumer.

Regarding the law, are not qualified as an association of consumer's protection, those, which members are having an activity profit-seeking, or perceiving grants and subsidies on behalf of companies supplying goods and services to the consumers or those making the commercial advertising for the services and the goods intended for the consumption, that having activities other than the consumer protection and that pursuing a purpose with political character. The purpose of the law is to have a neutral association of consumer's protection.

Concluding Observations

While it is true that Morocco deployed considerable efforts to raise itself to the level of developing economies and meet the needs of foreign partners; that Morocco followed a strategy of an open economy and took measures to encourage the entrance of the foreign investments, the fact remains that obstacles persist.

Of the several obstacles the lack of internal encouragement of the economy and the initiatives of national entrepreneurship, the handicap of the educational system; the heaviness of the legal system, the problems related to the compensation system, the corruption, the administrative obstacles, are the main ones.

The educational system is another obstacle in the development of an effective economy as the Moroccan educational system is archaic, of inferior quality and unsuitable for the needs for the society. It is only recently that the Moroccan government became aware of the scale of the problem of the education in Morocco.

The Moroccan fiscal system must be revised to be more adapted in the context of the country and help to support the growth and to avoid the injustices and to take into account informal business.

Finally, it would be necessary to establish observatory centers on the national level which lists the existing problems on various sectors and help to develop a strategy of good economic governance neutral from the political aspects and which could help Morocco to cope with the economic crisis.

Annex I : Examples of Ex post Decision on Competition Aspect (Telecom Sector)

Examples of competition complaints settled by ANRT:

- 11/10/2006 : complaint about fixe retail offer of the incumbent operator
- 16/03/2007 : complaint for abuse of dominance of the incumbent operator
- 27/04/2009 : complaint about anticompetitive practice in offshore zone against the new entrant
- 22/06/2010 : complaint about the mobile service agreement

Example of abuse of dominance in telecommunication solved by the National Regulatory Agency of Telecommunication:

- 2004: referral of the new entrant Médi Telecom about the refusal of the Incumbent to offer colocation ;
- The incumbent Maroc Telecom refuse to offer colocation in the site requested by the new entrant : argument not enough space/ technically unfeasible.
- Investigation of the ANRT

Decision of ANRT:

- all new entrant have right to benefit from colocation as an important condition for interconnection;
- The incumbent have to offer alternative solution if the physical colocation is impossible: virtual interconnection (in span) (The operator links with the network of the incumbent operator in a point situated in the public place).

Endnotes

- 1 <http://www.medz-sourcing.com/>
- 2 www.emergonline.org
- 3 <http://www.itu.int/ITU-D/arb/COE/2012/ICT-CompetitionPolicies/finaldoc/list-of-doc.html> (The role of ANRT in safeguarding competition /Mrs. Amina El Fatih)

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