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Market-Enhancing Laws In Morocco

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INTRODUCTION

Theoretically, market-enhancing laws are expected to lead to higher economic growth by creating an adequate business climate that reduces transaction costs and protects economic actors from abuse and unfair practices. Over the last two decades Morocco has adopted a large number of economic laws. The central objective has been to provide actors (either investors, workers, consumers or public administration) with the legal means and institutions for a market economy. However, economic performance as can be measured by per capita economic growth, or the rate of job-creation, failed very short of expectations. Morocco has not been able to boost domestic investment, neither to effectively attract foreign investment, unemployment increased, and poverty did not show any clear decline.

If laws and regulations are not well conceived or if they are weakly enforced, they can create market distortions, lack of visibility among investors and lead to weak economic performance. To illustrate the extent of the legal reform that took place in Morocco and its impact on economic liberalization of the Moroccan economy over the nineties, four "laws" have been reviewed and analyzed in sections 1 to 4. These are: the "*Privatization law*", the "*Customs code*", the "*Labor code*", and the "*Association agreement with the EU*"¹. Table 1 summarizes the purpose and objective of each one of the four laws chosen for this paper.

The four cases reveal clearly that the process of making-laws is far from being a pure technical process. It is primarily a political process that reflects the strengths of various actors. But it also shows that some actors use their forces more effectively than others².

¹ Except the association agreement with the EU, which is an international treaty, all remaining laws are first debated in consultative bodies. The aim of the debate was either to discuss the draft law ("*Labor code*" case, and "*Customs code*" case) or to examine the opportunity to draft new regulations or laws ("*Privatization of state owned enterprises*" case). The association agreement with the EU case is different. The approval of an international treaty or agreement is examined in the parliament in conformity with article 31 of the constitution. All treaties or agreements are approved at the majority. The same article also stipulates that H.M. the King signs and ratifies the treaties.

² It has been noticed for example that members of parliament are constitutionally granted some margins to affect the law making process, but they don't effectively use these margins.

Table 1: Purpose and objective of the four illustrative cases

Law	Purpose	Objective
Privatization law	Transfer of ownership from public to private sector	Transition from a state-led economy toward a market economy
Association agreement with the EU	Trade liberalization	Transition from protected economy towards an open economy
Customs code	Modernize customs' administration	Reduce customs' clearance, improve responsiveness of Morocco's exporters
Labor code	Modernize professional relationships	Labor regulations that protects workers' rights while allowing for more flexibility for firms

The fifth and sixth sections analyze the effective impact of market enhancing laws adopted in Morocco on ownership (private versus public), trade liberalization, and market discipline. The state portfolio in the economy declined sharply, which is a significant step towards economic liberalization. However, the transfer of ownership from public to private sector tended to be largely driven by fiscal and financial considerations. Some badly managed and fragile companies are kept artificially alive and their rescue has been achieved using public funds. A second issue is related to the frontier between private and public, which is not that clear in Morocco. The confusion may be source of noise for potential investors, either local or foreigner. A third issue is the deficit of governance as illustrated by the lack of transparency and accountability on various affairs.

1. THE PRIVATIZATION LAW

1.1. The "Why" of the Privatization Law

In 1980, a general report dealing with the relationships between the State and public enterprises suggested the formula of "*contacted programs*". The idea is to move toward "*a posteriori control*" of public enterprise in such a way that allows the assessment of its management through a series of economic and financial targets. The issue of the management of state-owned enterprises had been raised in various occasions, and the "*rationalization*" of state enterprises was part of the economic debate.

In 1986, King Hassan II criticized at the opening of the third parliamentary session the management of state enterprises. At the opening of the fourth parliamentary session in

1987, His Majesty the King reminded members of parliament of the problem of state enterprises and urged them to go beyond political considerations in addressing the reform of public enterprises. The reform was embedded in a global framework that takes into account standards of living, regional development, a role for the private sector, and economic openness.

1.2. The Law-Making Process

The debate on the "*privatization law*" in the parliament took place in the "*finance, planning and regional development commission*" on the basis of a draft of the law (or law project) from the Ministry of Finance which emphasized the budget deficit and the need to rationalize the state's involvement in the economy. Two major issues were discussed in the commission: the conformity of the law project with the constitution and its social impact.

The initial law project was very general and referred only to a "*negative list*" of six enterprises that would be excluded from the privatization process. This was perceived by some members of parliament as not conforming with article 45 of the constitution which stipulates that parliament has to decide on any transfer of public enterprises to the private sector. Approving the "negative list", some parliamentarians argued, would move the privatization decision from parliament to the government. In other words, to conform with the constitution, the privatization law required a positive list of enterprises to be privatized. In addition, the initial project had not specified the timing of privatization, which, according to members of parliament, needed to be specified.

In the "second draft" presented by the government, public enterprises to be privatized were clearly listed and a deadline for the privatization process specified. On this basis, the parliament, which has the legislative power, authorized the transfer operation and the government- with its executive power- conducted the transfer.

Many were concerned with the respective role of the public and private sectors in the economy. There was some convergence among political parties as to the opportunity of transfer, especially for those enterprises running large deficits. However, there was no common position on how and when to submit the law project to the plenary or on what would be the implications on the national economy.

"Pro-government" parties, which were at the time the "*Constitutional Union*" (UC³) "*National Independents Pole*" (RNI⁴), "*Popular movement*" (MP⁵), and "*National democratic Party*" (PND⁶) stressed the role of the private sector for economic development and the positive effect it has in creating new economic opportunities.

Opposition parties such as the "*Independence Party*" (PI⁷), the "*Socialist Union of Popular forces*" (USFP⁸), and the "*Progress and Socialism Party*" (PPS⁹) put more emphasis on the fact that the public sector should not be perceived as the enemy of the private sector and that the public sector needs to be improved and restructured instead of being given up. They insisted on the critical role played by the public sector in economic development and also on its role as shock absorber during periods of crisis.

These parties agreed on the principle of privatization but insisted that a positive privatization list had to be given and each enterprise candidate for privatization should be studied separately and carefully without haste. The amendments, such as the addition of a positive list of 76 enterprises and 37 hotels to the law, allowed the law not to be rejected.

The amendments put forward by the majority included the revision of some articles to refer to the period of time of privatization (article 1), the clarification of the link between the committee in charge of transfer and the Ministry in charge of privatization (article 2) and the exclusion of the National Office for Tea and Sugar from the positive list suggested (article 8).

Opposition parties stressed a number of points among which were: a) the need to limit the period of the privatization process; b) the need to forbid the transfer of strategic public sector enterprises; c) the need to give priority to local communities; d) the need to forbid large private enterprises to participate in the privatization process; e) the need to encourage workers to participate through grants and tax deductions; f) the use of the

³ Union Constitutionnelle

⁴ Rassemblement National des Indépendants

⁵ Mouvement Populaire

⁶ Parti National Démocratique

⁷ Parti de l'Istiqlal

⁸ Union Socialiste des Forces Populaires

⁹ Parti du Progrès et de Socialisme

privatization proceeds to create enterprises in poor regions; g) the need to proceed in Ernst with the rationalization of the remaining public sector enterprises; h) the need to forbid the members of the transfer committee from taking part in the operations of privatization.

Each party presented its amendments to the "*finance, planning and regional development*" commission. The vote in the committee was made on amendments suggested by each party article by article. The Independence Party (PI) was concerned about a large number of articles. Many of its amendments were rejected. The amendments suggested by the SUFP were all withdrawn. Only a few were kept at the end. Some articles were significantly modified during the study of the law and only then approved as modified.

Finally the new project was voted article by article with the amendments and then voted on in its entirety. Table 2 presents the results for the vote of the articles of the law. The committee was composed of 28 members. 18 voted for the overall project law and 10 against. This project was then submitted to the general assembly who voted for the law on December 11, 1989 with 78 votes for, 45 against and 3 abstentions.

Table 2: Commission's Vote on Articles of the Privatization Law

Article	Approved	Opposed	Abstentions	Decision
1	18	9	None	Approved as amended
2	18	9	None	Approved without amendment
3	18	10	None	Approved without amendment
4	18	10	None	Approved as amended
5	18	10	None	Approved without amendment
6	18	10	None	Approved without amendment
7	18	10	None	Approved without amendment
8	18	10	None	Approved as amended

The law was promulgated on *11 April 1990*. The *implementation decrees* were approved by the Government council on the 15 of September 1990 and by the Council of Ministers on October 16, 1990 before being adopted by the Parliament on December 26 1990. The privatization law was amended on January 26 1995 and on April 8, 1999.

1.3. The "How" of the Privatization Law

The "*Directorate of Public Enterprises and Participation*" (DEPP) was created in 1978 within the Ministry of Finance. In 1987 the "Inter-Ministerial Committee of Public Enterprises and Participation" (CIPEP) was established by a Prime Minister note.

The DEPP has been in charge of economic and financial supervision of the public enterprises. The role of CIPEP is broader in the sense that its objective is to coordinate among various ministries involved. This entity is headed by the Prime Minister and brings together the Ministry of Finance, the Ministry of Planning, the Ministry of Economic Affairs, other ministries in connection with public enterprises, and the General Secretariat of the Government (GSG).

CIPEP is supported by a technical committee composed of the head of the "*budget directorate*", the director of the DEPP, the director of the plan, and if necessary the directors of the ministry to which the public enterprise is affiliated. The technical committee provides the general orientation regarding financing, investment, prices and wage policies of the public enterprises. It assesses the opportunity of creating public enterprises and the extent of the state participation. This committee suggests nominees for the board of trustees of state enterprises. It also deals with the restructuring and privatization of state-owned enterprises.

2. THE CUSTOM CODE

2.1. The "Why" of the Customs Code

The previous "Customs code" was promulgated in 1977. It has been regularly completed and modified through the annual budget laws. Due to trade liberalization reforms and Morocco's commitments under the WTO, the need to entirely amend the former code to improve the efficiency of customs' administration could not be postponed. Customs procedures were among the most serious obstacles to economic transactions mentioned by the private sector at the beginning of the nineties.

The main objective of this reform was to ease customs' procedures and to rationalize customs' controls. These objectives were to be achieved through legal reform but also through investment in new technologies, exchange of data, through more flexibility and

transparency in managing "*imports under a temporary admission regime*", and transparency in the relation with the private sector.

2.2. The Law-Making Process

Preliminary work aiming at designing a new code started in June 1996 by the decision to create a special committee within the administration to revise the Customs code. Consultations with representatives of administrative departments involved in foreign trade and indirect taxation as well as with representatives of professional organizations were held. Ministries of Interior, Justice, Agriculture, Trade and others were associated to the project.

From December 1996 to January 1997, a first "revision project" was drafted by the "Customs Administration". This project was then reviewed with the General Secretariat of the Government (GSG) between February and April 1997.

The decision to create a "*mixed committee*" was taken in May 1997, in a meeting of the administration with representatives of the CGEM¹⁰ (Business Association). to constitute a committee to discuss the law project. Six meetings were held at the Customs Administration between May and June 1997. The members of the committee were given copies of the following: the "former code", "proposed revisions of the code", and "propositions and observations of the exporters' association" (ASMEX¹¹), the "European Community Customs law", and reports on Morocco's project made by international experts from the "World Custom Organization", the International Monetary Fund and the French Customs Administration.

In 1998 the Ministry of Finance insisted on the necessity to accelerate the process of elaborating the law project. On March 12, 1999 the project was examined in the "Council of Ministers" and not later than March 30, 1999; the project was submitted to the parliament.

The project was examined in the parliamentary commission of "Finance and Economic Development" of the parliament. This commission held "15 meetings" to review, amend

¹⁰ CGEM: Confédération Général des Entreprises du Maroc.

¹¹ ASMEX: Association Marocaine des Exportateurs.

and approve the "Customs Code". The debate in the commission focused mainly on amendments to the project and the work of the customs administration.

Some parliamentarians thought that the project was incomplete and that it was necessary to establish rules to clarify the rights and obligations of each party (Customs administration, private sector, administration in general etc..) as to avoid ambiguity and arbitrariness in using legal rules. Others thought that some of the code's provisions were not consistent with the government's program approved by parliament.

A proposal was made to separate between legal and administrative issues in the code. For legal aspects, it was recommended to design simple rules and types of infractions to avoid confusion.

Finally, some members insisted on the need to change both rules and "mentalities". This entails to control the effective implementation of the rules, to address issues related to "imports under temporary admission regime", to improve professional relations between Customs administration and the foreign exchange office, to fight effectively against smuggling business, and to improve training of Custom's officers and judges.

The vote of the committee for the overall law project was 8 for, 0 against and 2 abstentions. The Dahir for the law n° 02-99 modifying and completing the customs law was promulgated and published in the "official bulletin" in the summer of 2000 and entered into effect in September 2000.

3. THE LABOR CODE

3.1. The "Why" of the Labor Code

The legal and regulatory frameworks governing labor in Morocco were dispersed in hundreds of statutes, decrees and regulations, some of them dating from the 1920's¹². The existing legislations were inadequate and very often vaguely defined. The need for an updated and comprehensive labor legislation was felt by all social partners. Social tensions and an increasing number of strikes pointed also to the need to institutionalize conflict resolution mechanisms through a modern labor code, so as to prevent labor

strikes from turning into violent disputes. In 1997, Moroccan firms lost 270 000 days due to labor strikes, this figure reached 450 000 days of strikes in 1999 before it declined to 370 000 in 2000. Morocco had also to align its legislation with international conventions and to comply with labor standards as required by free trade agreements with the European Union, and more recently with the US.

3.2. The Law-Making Process

The "*Labor Department*" in the Ministry of Employment was in charge of drafting the project for a new legal framework for labor. Various attempts have been made since the early 1980's and 1990's to reform the labor code. However, the social as well as the political climate were too strained, which prevented any agreement over the labor code from being reached. The signature of the "*gentlemen agreement*" in 1996 was a turning point in social partners' relationships. The agreement, signed between the government, trade, and labor unions, acknowledged the importance of social dialogue as a critical instrument to initiate permanent relations based on the search for social peace¹³.

In 1998, a revised project of the labor code was prepared and presented to the "*joint committee*" in charge of implementing the 1996 "*gentlemen agreement*". The joint committee was formed by representatives from the labor department, business representatives, and labor unions. This committee held several meetings between January and April 1999 to review in detail the labor code project. A number of amendments were submitted by the various social partners.

The joint-committee reached an agreement on most articles and provisions. A tentative effort was made to reconcile the remaining diverging positions. But it took too much time. This effort allowed the committee in September 1999 to reduce the number diverging points among labor unions and employers' representatives to 6 out the 589 articles of the labor code project.

After the legal review of the different provisions by the "Secretary General of the Government", the labor code project was submitted and adopted by the "Government

¹² Morocco labor rights report (2004).

¹³ Needs Assessment of the Moroccan Labor Administration System.

council" on the 30th of December 1999 and by the "Council of Ministers" on February 29, 2000.

The labor code was submitted to the "Chamber of Counselors" and transferred to the commission on "Justice, Legislation and Human Rights", which started its review on March 29th 2000. Labor unions (particularly the UMT¹⁴) were opposed even to placing the draft on the committee's agenda¹⁵.

Meanwhile, the "labor department" held a number of meetings with the different stakeholders in 2000 and 2001 in order to come up with an agreement on unresolved issues (provisions related to "firing of workers", "severance pay", "reduction of working time", "representatives of unions", and the "right of strike").

In his speech to the parliament in 2002, the King exhorted the government and the parliament to accelerate the process of adopting a modern labor code that can stimulate investment and employment. The King also invited all social partners to contribute to social peace, which is required to boost confidence and stimulate investment¹⁶.

Other meetings were organized within the "social dialogue" process. Two meetings were particularly important, that of the "*National committee on social dialogue*" on April 19th 2002 and that of the "*Technical Tripartite*" on April 30, 2003. The latter led to the "*tripartite agreement*" under which Moroccan employers accepted to raise workers' wages, and trade unions to make concessions with respect to regulations on strikes and severance pay.

The law project was finally adopted by the Chamber of Counselors on June 23 2003. The Chamber of Representatives approved the law project in July 2003. Promulgated by the King's Dahir in September 11th, 2003; the labor code¹⁷ appeared in the official bulletin on December 8th, 2003 (Arabic version), and on May 6th, 2004 (French version). The labor code has entered into force on June 8th, 2004¹⁸.

¹⁴ UMT: Union Marocaine des Travailleurs.

¹⁵ See Zakariae Aboueddahab (2004), "Le processus d'élaboration du code de travail au Maroc", for more details on the process of labor code adoption in the parliament.

¹⁶ The main extracts of this speech appeared in the preface of the "Labor Code".

¹⁷ Law n° 65-99 with respect to the labor code.

¹⁸ An analysis of the process is to be found in the paper by Zakaria Aboueddahab.

3.3. From Law-Making to Law Enforcement

The effectiveness of the law making process can only be assessed through the degree of law-enforcement. This is particularly true for the labor code that deals with conditions of employment, employment contracts, dismissal, terms of work and wages (hours of work and overtime, paid annual and holiday leave, maternity protection), trade unions' affairs and election of labor representatives, and with collective bargaining and settlement of collective labor disputes.

The labor department is in charge of enforcing labor laws and regulation through "labor inspections" composed of 6 prefectural delegations and 27 provincial delegations¹⁹. Labor inspections in Morocco are endowed with some 500 inspectors in charge of monitoring the implementation of legal and regulatory labor provisions, managing labor conflicts and preventing strikes. However, human and financial resources allocated to labor inspections are very modest compared to their responsibilities.

4. THE ASSOCIATION AGREEMENT WITH THE EUROPE UNION

4.1. The "Why" of the Association Agreement with the European Union

Formal relationships between Morocco and the European Union date back to 1957. The "Rome Agreement" included specific provisions for Morocco and Tunisia. Morocco's relationships were afterwards managed by two successive agreements: "*the 1969 Association Agreement*" and "*the 1976 Cooperation Agreement*". The 1969 Association Agreement was a trade agreement with a limited duration of 5 years. The 1976 Cooperation Agreement had a broader scope and included trade agreement as well as financial and technical cooperation.

In January 1992, a crisis largely reported in the press occurred in the relationships between Morocco and Europe. The European Parliament refused the renewal of the 4th financial protocol with Morocco. Morocco abandoned this protocol and put an end to the "*Fish Agreement*" with the European Union. Discussions started for a new type of relationship based more on partnership than on assistance. The "Association Agreement" and "Fish Agreement" were both signed in February 1996.

¹⁹ Labor legislation in Morocco (2004).

4.2. Consultations and negotiations

Several ministerial departments were involved in negotiating the association agreement with the European Union: those for "agriculture", "finance", "industry and trade", and "foreign affairs". Each department negotiated separately with the European Union. Each department informed and consulted private sector's representatives, who did not directly participate in the negotiations. In October 1995, for example, the Minister of Trade and Industry organized several meetings with economic operators regarding various aspects of the free trade agreement with Europe²⁰.

In 1996 the new agreement had to be signed. It was presented to the "government council" and then to the "council of ministers" before being sent to the Parliament. The elapsed period between the project finalization and adoption by parliament lasted about one year.

According to Mr. Filali, then Prime Minister, "the process which led to the signature of the most important agreement that the Kingdom had to sign, was certainly long and difficult."²¹ The delay recorded in the signature of the agreement was to a large extent due to strong opposition by vested interests. The position of the Europeans was that they made substantial efforts to reach an agreement in a short period. They emphasized that a number of European commissioners were sent to Rabat during the period to make advances in negotiations²². In the meantime, a few high level Moroccan officials visited Europe for the same matter. From the Moroccan side, the association agreement significantly reduced preferential treatment from which the Kingdom benefited on the ground of the 1976 agreement.

5. MARKET ENHANCING LAWS & EFFECTIVE MARKET DISCIPLINE

Morocco has been over the last years a controversial case. It has adopted a large number of economic laws, and implemented policies that liberalized trade, investment and financial sector. It made substantial progress in managing public finance, and in privatizing a large number of state-owned enterprises. Morocco has also achieved a major soft political transition, with concrete initiatives in favor of human rights, political

²⁰ In *Le Matin* October 14 1995.

²¹ *Le Matin* February 27 1996.

²² Among others Jacques Delors 1993, Ionnis Paleokrassas 1993, Manuel Marin 1993, Leon Brittan 1994, Han van den Broek 1994, Ionannis Paleokrassas 1994, Jacques Delors 1994, Emma Bonino 1995.

rights, women rights with recent changes in the family code, free and transparent elections, initiatives in favor of decentralization and local governance, spectacular development of civil society, and easier access to media channels. Yet, both Morocco's economic and social performance remain very modest. Economic growth has been weak and volatile, and unemployment has been very high. Both economic and political openings have failed to materialize in tangible improvement in people's lives. Morocco has not been able to boost domestic investment, neither to effectively attract foreign investments. The question on "*what is missing?*"

5.1. Significant Progress in Trade liberalization But More is Needed

Over the nineties, Morocco has strengthened its trade liberalization policy that begun in 1983. Through the foreign trade law enacted in 1992, Morocco committed itself to liberalize imports and exports of goods and services, abolish any quantitative restrictions, and use tariffs in protecting domestic production. The average tariff rate on manufacturing products declined by an annual rate of 6 percent from 1990 to 2000. Import penetration increased by an annual rate of 1.5 percent over the same period²³. In 2002, the Government abolished the list of "*reference prices*" as a first step towards the lowering of trade barriers to products in the textile and garment sector.

However, the conversion of the quantitative restrictions previously imposed on agricultural products in 1996 into tariffs and the incorporation of the "*fiscal import levy*" into the import duty led to an increase in the simple arithmetical average of tariffs from 23,5 per cent in 1995 to 33,4 per cent in 2002. The modal rate (which is the most common rate used) is 50 per cent and applies to around 31 per cent of the total number of lines. Around 58 per cent of the lines have rates ranging from 30 to 50 per cent²⁴. According to WTO estimates, over one third of the tariff lines continue to be subjected to rates higher than the bound rates.

²³ L. ACHY and K. SEKKAT, (January 2004).

²⁴ Trade Policy Review: Morocco (2003) published by WTO.

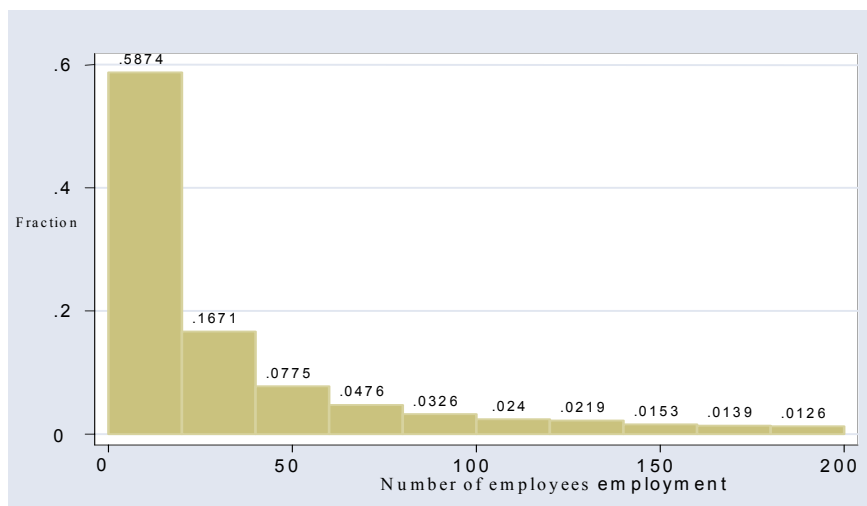


Figure 1: Small and Medium Manufacturing Firms 2000

5.2. Ownership Structure, Concentration and Market Competition

The manufacturing sector in Morocco is highly concentrated with few dominating firms. According to the 2000 manufacturing survey, 92 percent of manufacturing firms are small and medium enterprises SME (less than 200 employees). The graph shows that manufacturing sector is largely populated by small sized firms (less than 25 employees)²⁵.

Although large firms do not represent more than 8 percent in terms of their number, their sales amounted to 63 percent of total manufacturing sales, their value added 70 percent, and their exports 72 percent. Even in terms of employment, large firms contributed roughly 58 percent of total manufacturing employment (see Figure 1).

One would have expected that the more liberal import policies of the 1990s would transform the Moroccan manufacturing sector and lead to less market concentration.

However, recent estimates of concentration indexes provided by Achy and Sekkat (2004) reveal that the average concentration ratio in the manufacturing sector

²⁵ Different explanations can be given to this phenomenon. De Soto (1989) argues that many entrepreneurs in Peru remained *small to avoid excessive regulation*. Guathier and Gersovitz (1997) show that small firms in Cameroon choose not to grow to avoid taxes, while *large firms were influential enough to obtain special treatment*. Mid-sized firms bore the highest tax burden. This is why the size distribution exhibits a “*missing middle*” in developing countries as first pointed out by Rauch (1991).

increased from 35,5 percent in 1990 to 37,5 percent in 2000²⁶. Concentration is even higher in some sectors that continue to benefit from higher rates of protection and low levels of import penetration such as food and beverage industries, steel and cement industries.

The largest firm in the steel industry is SONASID, which *enjoys a quasi-monopoly with 89,7 percent of market share in 2002*²⁷, and the largest firms in the cement industry (Lafarge ciments), the oil industry (Lesieur Cristal), the sugar industry (Cosumar), and the milk and dairy products industry (Centrale laitière) belong all to "ONA", the largest Moroccan industrial and finance group.

The private sector in Morocco has grown under protection and state intervention, which created a culture of vested interests and privileges. The transition towards a market economy with laws and regulations applied to all without any exception has not been so far an easy task. Various signals reveal that political interests continue to affect business sphere²⁸.

5.3. Limited Effects of Financial Liberalization on Stock Market Development

The number of listed companies on the Moroccan stock market is low and very revealing. It declined from 71 in 1990 to 44 in 1995, then increased to 53 companies currently²⁹. In addition, the share of the first 10 securities listed on the Casablanca Stock Exchange (CSE) as a proportion of total market capitalization was as high as 71 percent in 2000. The ten most traded shares accounted for 81 percent of total value traded on the official market³⁰.

²⁶ Concentration ratio is computed as the share of the four largest firms' turnover in the total industry turnover.

²⁷ Emergig Morocco 2004, Oxford Business Group.

²⁸ See "Où va l'ONA?" (Where ONA is heading?) article that appeared in la VIE ECO, Friday, May 21st, 2004. The article starts by the following: "*Talking about ONA is not an easy task. ONA is the first private conglomerate in Morocco, but it is also a firm tightly related to the royal family, which is its main shareholder*" through the SIGER/ERGIS Group. In 2003, the group's share in ONA rose to 34,84 percent (*Emerging Morocco 2004*). See also "La notion de champions nationaux ne décourage pas les investisseurs", (National Champions concept does not discourage investment)" L'Economiste, Friday, December 3rd, 2004.

²⁹ The number of listed companies has been 1013 in Egypt, 644 in Israel, 285 in Turkey and 152 in Jordan in 2000.

³⁰ L. ACHY "Financial Markets and Growth in Morocco".

The small number of listed companies can be attributed to the capital structure of large Moroccan companies which is dominated by family ownership. The decision to go public is seen as potential threat to their control and their independence. In addition, capital market financing requires disclosure of information to the large public. The lack of independence of the regulation authority “CDVM³¹”, and particularly its weak ability to enforce insider trading regulation is another potential explanatory factor. Unlike the dominant practice in developed and mature markets, the Executive (the Ministry of Finance) is in charge of capital market regulation in Morocco.

6. GOVERNANCE SHORTCOMINGS: LACK OF ACCOUNTABILITY AND TRANSPARENCY

Some signals reveal to potential investors but also to citizens in general that substantial efforts are required in the areas of accountability and transparency. The case of investigative parliamentary commissions into "financial scandals" involving public entities ("*Crédit Immobilier et Hôtelier*" (CIH), and "*Caisse Nationale de Sécurité Sociale*" (CNSS)) are very revealing in that regard. Although parliamentary investigations detected huge irregularities in the management of public funds, the Ministry of Justice has not been able to follow up adequately on allegations.

CONCLUSIONS AND RECOMMENDATIONS

Over the last two decades Morocco has adopted a large number of economic laws and regulations. The central objective has been to provide economic and social actors with the legal means and institutions for a market economy. However, economic performance as can be measured by per capita economic growth or the rate of job-creation failed very short of expectations. Morocco has not been able to boost domestic investment neither has it been able to effectively attract foreign investment. Unemployment increased, poverty and economic vulnerability did not show any substantial decline. One would have also expected that more liberal trade policies since the nineties would have transformed the Moroccan manufacturing sector and lead to less market concentration, but this has not been the case.

Our review reveals that law making is an extremely time-consuming process, and that there is generally a substantial time-lag between the "*Problem recognition phase*", and

³¹ CDVM: Conseil Déontologique des Valeurs Mobilières.

"*effective reaction phase*". A significant part of that time is used to build up a "*common or close position*". In some cases, a strong political signal by the highest authority is needed to push the parties towards an "agreement".

Some laws generated more debate than others. "Privatization law" and the "labor code" belong to the first category. The "Customs law" on the other hand, created less debate and raised less opposition. This asymmetry can be explained by the extent of potential direct impact on the economy and on the general population (the first two laws) compared to the Customs law.

The paper revealed that law enforcement is important for actors than just law making. The transition towards a market economy requires that laws and regulations be applied to all actors without any exception or discrimination. However, justice continues to be perceived as ineffective and impartial. Institutions of accountability and transparency are lacking and when they exist they lack capacity and resources to be effective. Control and audit institutions, labor inspections, fiscal inspection, competition and stock market authorities are some examples of those institutions that need to be effective, transparent and endowed with adequate resources to support market reforms.

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