

# 11 Integrity for sustainable investment

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This chapter explores how the adoption and promotion of anti-corruption and integrity measures by MENA governments and the private sector can contribute to more sustainable investment, and in turn inclusive economic development. It reviews the link between corruption, integrity and investment and analyses corruption risks and occurrence across the investment process. To advance the integrity agenda, MENA governments should enhance the connection between investment and anti-corruption frameworks and strategies at the domestic level and rely further on international conventions and instruments on anti-corruption. The private sector also has a central role to play in the fight against corruption.

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## Summary and policy considerations

Enhancing integrity for investment is of utmost importance for MENA economies. Integrity in business and transparency are critical to attract quality investment and advance sustainable development. Despite variations across the MENA economies covered in this report (MENA focus economies), corruption perception levels remain high in the region, negatively affecting investors' confidence and the business environment. In recent years, corruption has progressively moved to the forefront of reform agendas in the region: new legislation and national strategies have been conceived in a number of economies, notably in Morocco and Tunisia, and specialised anti-corruption institutions have emerged, for example in Jordan. However, corruption remains a prevalent issue, as demonstrated by the large-scale protests that took place in the past year in Lebanon and Algeria, and is a clear threat to the political stability, economic development and social cohesion of MENA economies.

Governments have a variety of policy options and strategies to curb corruption across the investment process. Yet most MENA focus economies so far have addressed the objectives of integrity and sustainable investment separately. Some governments have actively pursued policies to promote and facilitate investment in an effort to generate jobs, revenue and productive growth, among other objectives. Several focus economies have also reinforced their legal and institutional anti-corruption framework recently. But the links between integrity and sustainable investment call for a more holistic approach in both the policy and the institutional framework. Investment and anti-corruption agencies and policy-makers need to coordinate more closely to advance their respective agendas in a mutually reinforcing manner.

MENA governments could rely further on anti-corruption instruments and standards adopted at the international and regional levels, and should ensure progressive convergence of their national regulatory framework to these instruments. In particular, the United Nations *Convention against Corruption* (UNCAC), ratified by all of the MENA focus economies, requires the establishment of a comprehensive strategy to prevent and combat corruption. The OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* criminalises bribery of foreign public officials by private companies in international business transactions with strong enforcement and monitoring mechanisms. While MENA focus economies have not adhered to the OECD *Anti-Bribery Convention*, these standards can guide governments to advance integrity. In addition, the provisions in this Convention impact foreign firms operating in the region, as companies are bound to abide by the obligations set out in their home jurisdictions when doing business abroad. Implementing these standards will signal to international and domestic investors that MENA governments support a level playing field for all businesses.

Last, a culture of integrity cannot be achieved through public regulation alone: complementary and mutually supportive actions by the private sector also play a crucial role. It is vital that MENA governments involve the private sector in the prevention of corruption through good business practices, adoption of corporate anti-bribery policy and related compliance measures. The private sector has a key role to play in improving corporate integrity and accountability to create trust in business. Existing multi-stakeholder initiatives to promote a clean business environment should also be supported, and new and innovative opportunities for public-private collaboration should be further explored. By strengthening their integrity frameworks and acting in concert, firms and governments can provide strong signals that they support a business-friendly environment to enhance investment in the MENA region.

## Policy considerations

- Enhance the connection between integrity and investment frameworks at the domestic level. Investment promotion bodies and anti-corruption agencies should develop tools and practices that allow them to coordinate and communicate effectively on shared goals. Investment attraction goals could be better embedded in anti-corruption strategies. Likewise, investment policies must prioritise integrity and good governance across the investment process.
- Rely on international and regional conventions and standards in the fight against corruption and related instruments. MENA economies can benefit from the proper implementation of the anti-corruption instruments they have adhered to, as this sends a strong signal to foreign investors of convergence to international standards. Moreover, other international instruments to which MENA economies have not yet adhered can provide guidance to inspire domestic efforts to promote integrity in business transactions.
- Collaborate with the private sector and promote multi-stakeholder initiatives to encourage integrity in business. Governments and businesses have a shared responsibility. It is vital to involve the private sector in the prevention of corruption through good business practices, in particular stronger compliance frameworks at the firm level, and collective efforts to prevent corruption and address bribe solicitation problems industry-wide.

## Investment, integrity and the fight against corruption

### *Challenges and state of play in the MENA region*

Estimates suggest that around 2.5% of world GDP is lost annually in corruption, an amount equivalent to the size of the French economy (OECD, 2017). In developing countries, bribery is estimated to account for around 10% of the total cost of doing business (UNPRI, 2016). Corruption decreases investor confidence, produces welfare losses, misallocates resources, and can have a significant negative impact on basic public services like health and infrastructure. It affects the quantity and efficiency of investments by increasing costs of production and project uncertainty, hence reducing returns and increasing risks. Corruption also negatively affects the quality of investment, threatening its durability and its positive externalities on growth, innovation and technological progress.

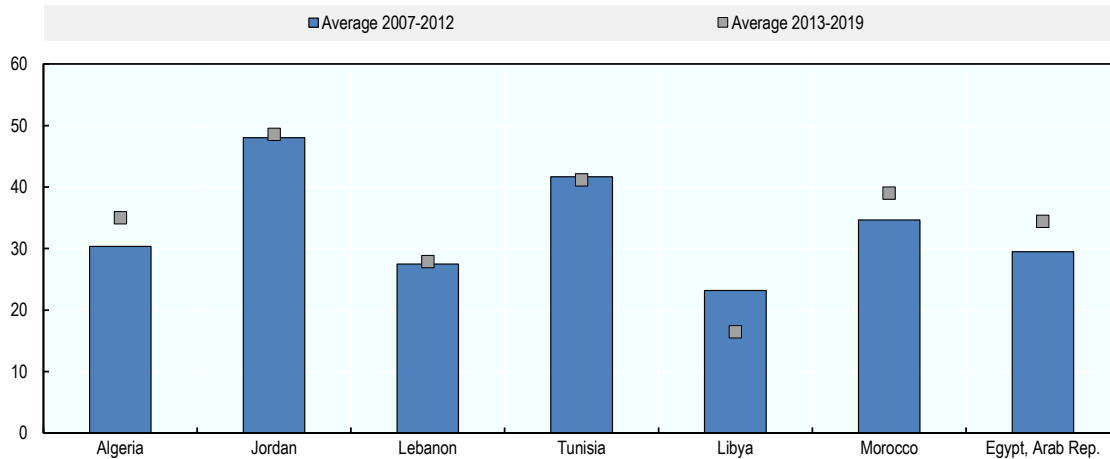
Fighting corruption is a priority in the economic development agendas of the MENA focus economies. Studies specific to the region highlight the significant negative effect of corruption on GDP growth and foreign direct investment (FDI) inflows (Al-Khouri and Khalik, 2013; Awdeh and Hamadi, 2019). Higher business integrity in MENA economies is found to improve the positive impact of FDI on economic development, pointing to the important synergies between the fight against corruption and the promotion of quality FDI (Hakimi and Hamdi, 2017).

Although integrity levels vary across the region, the overall picture remains bleak when considering the main international corruption indicators. In both 2018 and 2019, no MENA focus economy received a score above a “passing grade” of 50 (on a scale from zero indicating high corruption to 100 indicating high integrity) according to the Corruption Perception Index (CPI) of Transparency International (2018a). The index ranks economies based on how corrupt a country’s public sector is perceived to be by experts and business executives. Similarly, the World Bank’s Control of Corruption Index (CCI) gives all economies in the region, except Jordan, a negative score (World Bank, 2020).

Libya and, to a lesser extent, Lebanon and Algeria, suffer from particularly negative perceptions of corruption (Figure 11.1). Jordan, Tunisia and Morocco, on the other hand, fare relatively well vis-à-vis their

peers. When looking at the evolution of corruption perceptions over time, Morocco and Egypt have advanced their scores the most since 2007. Broadly, however, perception of corruption in the MENA focus economies do not seem to have considerably improved over the past decade. Recent demonstrations of social discontent across the region, including in economies that saw fewer large-scale protests in 2011, such as Lebanon, are a case in point. Popular mobilisation expresses clear dissatisfaction with the lack of economic opportunities, weak and unaccountable forms of government, as well as widespread corruption.

**Figure 11.1. Evolution of CPI scores in MENA focus economies (2007-2019)**

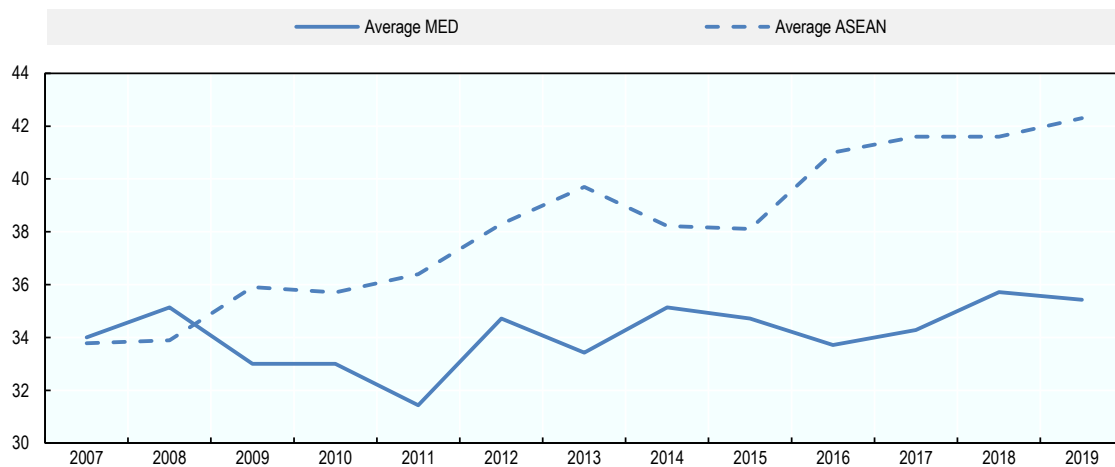


Note: The CPI methodology employed by Transparency International was updated in 2012. Accordingly, CPI scores prior to 2012 were multiplied by 10 to be visually comparable to scores of subsequent years. CPI scores for the Palestinian Authority not available.

Source: Author's figure based on data of Transparency International, Corruption Perception Indexes

These dynamics are particularly evident when comparing the average scores of MENA focus economies with those of ASEAN<sup>1</sup> members (Figure 11.2). In 2008, ASEAN members were perceived as more corrupt than MENA focus economies on average. In the following years, however, this relationship was overturned, with international observers and firms increasingly deeming ASEAN economies less corrupt than MENA ones. This is mainly due to a stable improvement of the scores of ASEAN, while those of MENA stagnated and in certain cases worsened.

**Figure 11.2. Average CPI scores for MENA and ASEAN economies (2007-2019)**



Note: The CPI methodology employed by Transparency International was updated in 2012. Accordingly, CPI scores prior to 2012 were multiplied by 10 to be visually comparable to scores of subsequent years. CPI scores for the Palestinian Authority not available.

Source: Author's calculations based on data from Transparency International, Corruption Perception Index.

Enhancing integrity to promote the trust of international investors and maximise the positive impact of FDI on the economy is a priority for MENA governments. The promotion of sustainable investment and the fight against corruption are processes that reinforce each other and should be considered as such by investment and anti-corruption policymakers. MENA governments are actively pursuing policies to promote and facilitate investment in an effort to generate jobs, revenue and productive growth in the local economy. Investment promotion agencies (IPAs) have been established to attract investment and better capture its benefits (Chapter 6). A number of economies of the region have recently introduced strategies to strengthen the anti-corruption framework and promote business integrity, and have established dedicated anti-corruption bodies.

Yet, governments have not addressed these challenges in a holistic and concerted manner. For instance, efforts to tackle corruption have mainly pertained to the sphere of domestic bribery and criminal legislation, rather than being addressed as limits to economic development and international investment. Conversely, strategies to promote investment in the region have focused on creating a business-friendly regulatory framework, and less on strengthening integrity in this domain – as a dimension of a better investment climate. As presented below, concrete corruption risks occur at several stages of the investment process. This and the links between integrity and sustainable investment call for a holistic and whole-of-government approach towards both the policy and the institutional frameworks governing integrity and investment.

Trust in government, strong and effective institutions and good governance all contribute to increasing international investors' confidence and perception of integrity. Figures from Transparency International (2019) point to low trust in government across the MENA region, albeit with variations across economies.<sup>2</sup> Levels of trust in public institutions are particularly low in Lebanon and the Palestinian Authority, where 80% and 50% of respondents reported having little to no trust in government, respectively, and notably higher in Jordan, where 60% of respondents indicated they had trust in the government.

Institutional effectiveness, quality and capacity, are also important pre-conditions to ensure clean business transactions and promote integrity. Strong institutions play an essential part not only in maintaining a predictable and transparent business environment, but also in increasing the likelihood of detection and prosecution, and deterring corruption. There is evidence that structural reforms, including rationalisation of state functions, reliance on market pricing, and a sound regulatory environment contributed to a substantial and significant reduction of corruption in transition economies (Abed and Davoodi, 2000).

### ***Corruption risks across the investment process***

An investor may resort to corruption in order to enter a foreign market; obtain or retain a government contract, licence or customs clearance; access raw materials or foreign currency; or to receive specific incentives or tax benefits. In order to combat and prevent corruption among foreign investors, it is therefore important to understand where and how corruption risks can materialise. Several stages of the international investment process that are particularly exposed to corruption risks are presented below.

#### *Market entry*

In entering a foreign market, international investors are required to go through a number of administrative and contractual procedures. Depending on the type of FDI (greenfield investment or M&A), as well as its destination (both geographical and sectoral), these may include screening and approval procedures, investment licensing, enterprise registration, capital requirements, customs clearance, as well as public procurement contracts (Box 11.1).

Market entry is a high-risk stage in the investment process. OECD (2017) analysis of foreign bribery data obtained from law enforcement authorities shows that 76% of the bribes considered were paid in connection to administrative procedural requirements at the investment entry stage. In particular, 57% of them were paid to obtain public procurement contracts, 12% to obtain customs clearance, 6% to receive

a licence or other authorisation, and 1% for travel visa purposes. Among all public servants who took bribes, 11% were customs officials, 3% procurement officials, and 1% immigration officials.

These figures attest to the importance of streamlining market entry rules, making them predictable and publicly available to foreign investors (Chapter 4). Clear and unambiguous market entry rules and requirements are a prerequisite to reduce opportunities for officials' discretion over the provision of licences, permits or public contracts.

In the MENA focus economies, the legal framework for the entry of foreign investors is not always legible and transparent. Often details on discriminatory measures are not available in English or involve lengthy and frequently updated lists of open sectors, making it difficult for investors to understand prevalent rules. A more transparent and predictable approach involves a “negative list”, whereby all foreign investment projects are authorised without discriminatory conditions, except specific sectors or sub-sectors clearly outlined in the negative list. Among the MENA focus economies, Jordan has a negative list, and Tunisia and Algeria are in the process of adopting this approach.

Most of the MENA focus economies have also established one-stop-shops (OSS) to reduce steps required to start a business and, in some cases, procedures can be completed online (e.g., the investor service centres in Egypt). This should help reduce the risk of bribery, although it is not yet clear to what extent OSS offices (and online portals) in MENA economies are fully functional (Chapter 6).

#### **Box 11.1. Case study: corruption in entering a foreign market through public procurement**

In 2016, the National Court of Spain found the Spanish transport and infrastructure companies Elecnor, Assignia and Rover Alcisa guilty of money laundering and corruption of foreign public officials in relation to their international operations in Algeria. Through a dense criminal network, the companies bribed Algerian officials around EUR 3 million to win projects concerning the construction of tramway rails and a desalination plant in the southern and northern regions of the country, respectively. The payments were made by a Dutch company located in the Netherlands to a consulting firm owned by Algerian counterpart, as well as by a Spanish intermediary through Western Union transfers to family members of Algerian officials residing in France.

Source: Transparency International (2018b)

Emergency processes put in place by governments in the context of Covid-19 health and economic crisis have increased the risks of corruption in public procurement. Many countries used emergency procedures to contain the spread of the virus, or in some cases, to import medical equipment and supplies. OECD data shows that many of the recently detected cases of foreign bribery have occurred in the health industry. Other risks and potential integrity violations arise from the unprecedented economic and fiscal measures being implemented to respond to the ongoing economic crisis. These measures may be exploited and represent a test for public financial management systems. Governments should ensure that public integrity is not compromised in the management of the economic stimulus packages and that these packages produce their intended benefits (OECD, 2020).

#### *Protection of property rights*

The protection of property and land use rights in the host economy is essential for the confidence of international investors. Instances of corruption in this domain include public officials soliciting bribes in exchange for access to land, or investors resorting to corrupt practices in order to secure and maintain property rights.

Legal clarity and predictability, notably against arbitrary expropriation, as well as transparency in land registration and administration (for example through the proper maintenance of public registers), can contribute to reducing corruption risks by improving information asymmetries (Chapter 3). Moreover, the distribution of land through market mechanisms and market pricing, rather than through centralised procedures relying on considerable red tape, can decrease corruption risks by limiting the opportunities for arbitrary decisions of public officials. In this respect, digitalisation can play a particularly positive role.

Regarding the institutional setting, better co-ordination and a clearer division of responsibilities between central government and local land authorities can enhance reporting, knowledge sharing and improve resource allocation (OECD, 2015).

### *Taxation and investment incentives*

Tax collection and incentive allocation are particularly exposed to corruption risks. This is not only due to the complexity and opacity of the processes that underpin them, but also to the level of potential profits at stake. High levels of corruption are often associated with low government revenues (IMF, 2019b).

Weak policy design, lack of transparency, and cumbersome tax administration are all factors that increase the potential for bribery in fiscal matters. Cross-country analysis suggests that fiscal institutions play an important role for the control of corruption, with evidence indicating that the more complex fiscal laws are, the higher the risk of corruption will be (IMF, 2019a). Similar correlations are found when factoring in the number of tax payments required, the amount of time spent for tax auditing and VAT refunds, and the level of administrative burden (both in terms of time and procedures). On the contrary, more tax transparency and higher degrees of digital government stand out as key features of a healthier, cleaner business environment (ibid.).

Lack of transparency in the design and allocation of investment incentives is also the main cause of corruption at this stage of the investment lifecycle (Chapter 7). Where eligibility criteria are unclear, public authorities have more room to exercise discretion and more opportunities for corruption arise. In order to avoid misconduct, it is important that tax and financial incentives offered to international investors, and eligibility criteria to receive them, are clear and specific, and that vague wording and ad hoc rules are reduced to the minimum. Additionally, granting incentives based only on tax law can limit scope for corruption as well as aggressive tax planning by international firms (World Bank, 2017).

### *Access to finance, foreign exchange and profit repatriation*

Like public administrations, banking institutions in host economies can impose burdensome requirements or bureaucratic procedures on investors seeking to obtain loans or other financial services. Access to foreign exchange can also be challenging. Overly restrictive conditions and unclear exchange control rules leave room for discretionary decisions by authorities, and may in turn create higher incentives to resort to corruption. Automation and reliance on market mechanisms and pricing, rather than on the discretion of authorities, can help curb risks.

Investors can resort to corruption in repatriating capital or profits in order to overcome restrictions and foreign control rules still in force in a number of MENA economies, avoid transfer pricing rules, or evade taxes. Where illicit financial flows (tax avoidance, money laundry schemes, terrorism financing, etc.) are at play, investors may offer bribes to avoid scrutiny. Risks can be mitigated through adequate auditing and tax compliance processes, and co-operation with relevant financial and governmental institutions.

## Policy options to enhance integrity for sustainable investment

Governments have a variety of policy options and strategies to curb corruption across the investment process. Three important approaches are considered: enhance the connection between investment and anti-corruption frameworks and strategies at the domestic level; rely on and implement international conventions and standards on integrity, and converge toward international standards and good practices in this domain; and benefit from the crucial contribution of the private sector in the fight against corruption.

### ***Enhancing the connection between integrity and investment frameworks at the domestic level***

The fight against corruption and the promotion of sustainable investment are mutually beneficial policy priorities and should therefore be tackled through a holistic approach. Policymakers should further connect the domestic legal and institutional frameworks for investment and anti-corruption. Occasional instances of such connection exist in the MENA region, but more can be done.

Concerning the investment legal framework, for example, integrity provisions are hardly mainstreamed in the investment laws of the eight economies. Egypt is the only MENA focus economy to explicitly reference corruption issues in its Investment Law, stipulating that any investment project set up through corrupt means is exempt from all guarantees and incentives stipulated in the law.

Meanwhile, national anti-corruption strategies often do not note the economic benefits of a corruption-free business climate. Notable exceptions include the Egyptian National Anti-Corruption Strategy 2019-2022 and the Moroccan National Strategy against Corruption 2017-2025, which explicitly indicate corruption as a threat to the country's attractiveness to international investors. National strategies can be effective tools to engage investors and investment policymakers in the fight against corruption, notably in terms of inter-institutional co-operation between national investment and anti-corruption bodies, as well as between public and private actors.

With regard to inter-institutional cooperation, the Moroccan strategy gives the Ministry of Industry, Trade, Investment and Digital Economy the responsibility to co-ordinate projects on digitalisation of public administration. Similarly, according to the proposed Palestinian 2020-2022 Anti-Corruption Strategy, the Ministry of National Economy is expected to collaborate with the Anti-Corruption Commission to apply codes of conduct in targeted public institutions and enhance corporate governance rules (Palestinian Anti-Corruption Commission, 2020). Finally, in the Tunisian National Strategy for Good Governance and the Fight against Corruption 2016-2020, the Ministry of Investment and International Co-operation is co-responsible for activities on private sector capacity building and co-operation with international peers (Instance Nationale de la Lutte Contre la Corruption, 2019a).

Concerning the engagement of the private sector, the 2016 Moroccan National Anti-Corruption Strategy includes a dedicated programme on business integrity. The General Confederation of Moroccan Enterprises (CGEM) is responsible for the implementation of activities on improving transparency in the private sector, promoting adherence to ethical codes and corporate social responsibility certification processes, and reducing private-sector driven corruption opportunities (Commission Nationale Anti-Corruption, 2016). Similarly, the Egyptian National Anti-Corruption Strategy 2019-2022 commits the government to cooperate and co-ordinate with all relevant stakeholders, including the private sector and civil society. In this respect, a number of capacity building activities to prevent and fight corruption in the private sector are considered, including courses, seminars, and tools facilitating access to relevant information (Sub-Coordinating Committee, 2019).

The Tunisian and Jordanian anti-corruption strategies also plan and encourage co-operation and dialogue between the public and the private sectors. Practically, this takes the form of collaboration in drafting and



implementing activities related to good governance and integrity in the domains of education, science and culture in Tunisia, and of structured and regular consultation sessions for Jordan.

Beyond national strategies, other instances of inter-institutional co-operation between authorities responsible for investment and integrity are present in the region. The Egyptian Administrative Control Authority (ACA), the main national anti-corruption body, supported Egypt's Investment Promotion Agency, the General Authority for Investment (GAFI), in the introduction of investor services centres (ISCs) for foreign investors. These aim to curb corruption by simplifying registration procedures and decreasing person-to-person contact (Administrative Control Authority, 2015).

Other institutions opted for structured co-operation with their counterparts through joint agreements or memoranda of understanding. This is the case between the Palestinian Ministry of National Economy and the Anti-Corruption Commission (Palestinian Anti-Corruption Commission, 2015), the Tunisian Ministry of Investment and International Co-operation and the National Authority for the Fight against Corruption (Instance Nationale de Lutte Contre la Corruption, 2019b), as well as between the Jordanian anti-corruption body, the Integrity and Anti-Corruption Commission, the Aqaba Special Economic Zone and the Jordan Chamber of Industry (Jordan Integrity and Anti-Corruption Commission, 2018; 2019).

### ***International conventions and standards in the fight against corruption***

A number of instruments have been adopted both at the international and regional level to fight corruption and promote integrity. While some of these aim to generally promote a corruption-free environment, others seek to specifically combat corruption in international business transactions. MENA governments could greatly improve their image as sustainable investment destinations by showing their willingness to converge towards international standards. The section below offers an overview of the main international and regional conventions against corruption, as well as relevant OECD instruments on integrity. Box 11.2 examines how MENA economies have starting including specific provisions on anti-corruption in their international investment agreements, and Table 11.1 provides an overview of MENA focus economies' policy measures to fight corruption and promote integrity.

#### *International instruments*

The United Nations Convention against Corruption (UNCAC) is the most widespread legally binding international instrument for the fight against corruption. In force since 2005, the Convention has near universal coverage currently comprising 187 parties – including all MENA, EU and OECD economies. Although it does not explicitly target investment transactions, the UNCAC sets up a comprehensive strategy to prevent and combat corruption from a multilateral perspective. Its standards cover both the supply and demand sides of corruption: public and private bribery. Its declared objective is to promote and strengthen measures to prevent and fight corruption, facilitate international co-operation and technical assistance, and promote integrity, accountability and proper public management.

To this end, parties to the convention are required to adopt a number of measures corresponding to an important area of anti-corruption, namely: prevention, criminalisation, international co-operation, asset recovery, technical assistance and information exchange, and implementation. Requirements include the obligation to criminalise a number of corruption-related offences (e.g. bribery, embezzlement, diversion of funds, money laundering, and obstruction of justice) and establish independent national anti-corruption bodies. In particular, article 5 of the UNCAC requires governments to have anti-corruption strategies.

In addition to UNCAC, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention) is the first and only international instrument to specifically tackle the supply side of corruption, that is to say the offering (or promising) of bribes from companies to public officials as defined in the Convention. It is also the only instrument of its

kind that specifically aims to fight corruption in international business, making it particularly relevant to inspire efforts in promoting integrity in FDI transactions and international trade.

The OECD Anti-Bribery Convention (entered into force in 1999), currently has 44 parties: all OECD countries and seven non-OECD countries. Parties to the Convention agree to establish bribery of foreign public officials as a criminal offence under their laws and to investigate, prosecute and sanction this offence. They must hold both individuals and companies responsible for foreign bribery. The Convention contains a host of related measures to fight corruption, including a peer-review mechanism in the context of the OECD Working Group on Bribery in International Business Transactions (a specialised OECD body where all States Parties are represented), entrusted with monitoring and promoting full implementation of the Convention.

Although no MENA government has adhered to the OECD Convention, it has important implications for the region. Indeed, foreign businesses coming from adherent countries and operating in a MENA economy are bound by the obligations set out in their home jurisdictions when doing business abroad. Throughout the years, this seems to have helped deter the international supply of bribes. OECD research shows that investors from signatories to the OECD Convention are significantly less likely to invest in economies perceived as having high corruption levels, due to the fear of being prosecuted in their country of origin (Blundell-Wignall and Roulet, 2017). This has significant consequences in view of the weight of OECD companies in terms of international trade and investment, including in the MENA region. Indeed, the 44 Parties to the Convention cover together 81% of the global outbound FDI stocks and over 66% of the world's exports (OECD, 2018).

### **Box 11.2. Integrity promotion in international investment agreements: evidence from MENA economies**

Some of the MENA focus economies have started including specific provisions on corruption in their international investment agreements (Chapter 5). While such provisions are often mere reiterations of broad commitments to the fight against corruption (such as in the Preamble of the US-Libya Trade and Investment Framework Agreement), others have gone further, introducing international co-operation mechanisms or obliging the contracting parties to exclude corrupt international investors from bidding procedures.

The EU-Algeria Association Agreement of 2002, for example, calls for co-operation on the basis of the relevant international legal instruments to combat corruption in international business transactions by, *inter alia*, “taking effective practical measures against all forms of corruption, bribery and illicit activities of every sort” and “providing mutual assistance in criminal investigations into acts of corruption” (Article 91). The Agreement also encourages technical assistance between the two parties for the “training of officials and magistrates responsible for tackling corruption” (Article 91).

Similar measures are present in Article 18 of the Free Trade Agreement between the Morocco and the United States of 2008 (in force), which also calls on the parties to declare corrupted international investors ineligible for participation in public procurement processes (Article 9), as well as to cooperate and support relevant initiatives in international fora (Article 18).

The Investment Co-operation and Facilitation Agreement between Morocco and Brazil goes even further in the scope of co-operation. It binds the two parties to improve the transparency of their activities in the fight against corruption and extortion, abstain from engaging in corruption, keep accurate records and accounts that cannot be used for the concealment of illicit transactions, and adopt internal mechanisms for the prevention and detection of corruption. To ensure compliance, under Article 14, the Agreement establishes a Joint Committee charged with the monitoring the implementation of these measures.

### Regional instruments

The Arab Anti-Corruption Convention (entered into force in 2013), issued by the League of Arab States is a regional legal instrument to support the international fight against corruption. It comprises 22 signatories, including all of the MENA focus economies. The aim of the instrument is to repress and prevent corruption through promoting Arab co-operation in this domain. Its content is similar to the provisions of the UNCAC, and includes the requirement to criminalise specific corruption offences, promote technical assistance, and ensure international co-operation including concerning stolen asset recovery. The Convention also introduces monitoring elements, notably by establishing a Conference of State Parties with the aim of exchanging information, cooperating with international fora, reviewing implementation and adopting recommendations.

The African Union Convention on Preventing and Combating Corruption is the main instrument of the African Union in this domain. It comprises 49 signatories, including Algeria, Egypt, Libya and Tunisia. Similar to the other international instruments outlined, its chapters cover aspects related to the prevention and criminalisation of corruption, asset recovery, and implementation mechanisms. The Convention seeks to fight both public and private corruption. To this end, it requires adherent countries to criminalise private sector bribery and private sector embezzlement (considered optional measures under the UNCAC). An Advisory Board elected by the African Union Executive Council is responsible for the follow-up of the Convention and it is required to submit regular reports on the progress of States Parties in implementing the provisions. Additionally, States Parties themselves are required to report their progress to the Advisory Board on an annual basis.

### Other OECD instruments promoting a clean business environment

The OECD Guidelines for Multinational Enterprises comprise a comprehensive set of international standards on responsible business conduct (Chapter 10). The Guidelines cover a number of areas, including human rights, labour rights, environment, and anti-corruption. In particular, Chapter VII focuses directly on “Combating Bribery, Bribe Solicitation and Extortion”, detailing, *inter alia*, the responsibility of MNEs to not offer or promise any type of pecuniary and non-pecuniary bribes to public officials or business partners, as well as to improve transparency, awareness, internal controls and risk assessments in this respect.

**Table 11.1. Overview of MENA focus economies’ policy measures to fight corruption and promote integrity**

	UNCAC	OECD Anti-Bribery Convention	OECD Guidelines on MNE	AU Convention on Preventing & Combating Corruption	Arab Convention Against Corruption	Existence of national anti-corruption legislation	Specialised Anti-Corruption Body	National Anti-Corruption Strategy
Algeria								
Egypt								
Jordan				N/A				
Lebanon				N/A				
Libya								
Morocco								
Palestinian Authority				N/A				
Tunisia								

Note: Blue refers to adherence to the instrument or existence of legislation, body or strategy. White refers to non-adherence to the instrument or absence of legislation, body, or strategy. Grey refers to strategies under development but not yet implemented.

Source: Author’s own elaboration based on national and international measures and instruments.

Additionally, the Principles for Enhancing Integrity in Public Procurement, approved by OECD member countries in 2008 based on international best practices from OECD and partner countries, aims to enhance integrity across the entire public procurement cycle, from needs assessment to contract management and payment. It responds to the high corruption risks to which, as explored above, procurement practices are exposed.

### ***Role of businesses: promoting strong corporate compliance measures and multi-stakeholder initiatives to prevent corruption***

The aforementioned international instruments have prompted many countries to adopt stricter anti-corruption legislation to repress and prevent corruption in the private sector. The private sector – as both actor and victim of corruption – is increasingly realising the adverse effects of corruption on its economic health, viability and long-term stability. It is therefore vital to consider the role and potential of the private sector in promoting integrity.

Robust anti-bribery compliance procedures are essential for ensuring that businesses can prevent, detect, and respond to bribery, domestically and in international business. A growing number of OECD and EU companies investing in the MENA region have adopted strong anti-corruption compliance systems, in accordance with international standards, including the *2009 OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance*. Various factors have been driving private sector companies to design systems to prevent, detect and respond to the risk of corruption. These factors include enforcement and reputational risks, in addition to legal and regulatory requirements. MENA companies must also be encouraged to meet such compliance standards.

The mobilisation of the private sector has also led to the emergence of collective anti-corruption actions involving several companies from the same sector or field of activity working together to promote greater business integrity on a voluntary basis. This has in turn led to the establishment of common standards and the definition of fair rules between competitors in different sectors of activity to fight corruption collectively. Some of the collective actions launched by private sector actors have gradually involved governments and civil society representatives, evolving into multi-stakeholder initiatives for promoting integrity.

The practice of collective action has emerged in different parts of the world, including in the MENA region. In Morocco, pilot initiatives have been launched in the energy, health and transport sectors under the aegis of the *Confédération Générale des Entreprises du Maroc* (CGEM) and in accordance with the National Strategy against Corruption.

Another example of collective action is the Egypt Integrity Network Initiative initiated in 2015 by the Egyptian Junior Business Association in partnership with the Foundation for the Global Compact and the United Nations Global Compact to encourage Egyptian SMEs to commit to advancing their anti-corruption practices (Egyptian Junior Business Association Integrity Network, 2018). Similar initiatives have been emerging in other economies in the region, especially in the financial and construction sectors, and among SMEs, notably in Egypt and Tunisia, but also in Libya.

Finally, in order to avoid disputes with investors arising from governmental misconduct, many countries are setting up investment dispute prevention mechanisms, which favour, at early stages of investment-related disputes, the dialogue and the non-jurisdictional resolution of potential conflicts with enterprises, including cases involving bribery. An increasing number of MENA governments have introduced such mechanisms, through early alerts and after-care services for investors (Chapter 5). Egypt set up an inter-ministerial committee for investment dispute resolution and GAFI, the investment promotion agency, put in place a mediation and grievance mechanism to address investors' complaints as well as dispute arising between investors. The Jordan Investment Commission also established an Investment Grievance Mechanism.

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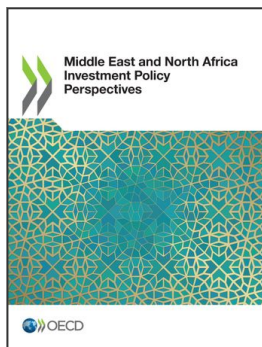
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## Notes

<sup>1</sup> Association of Southeast Asian Nations

<sup>2</sup> Data only available for Jordan, Morocco, Palestinian Authority, Lebanon and Tunisia.



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