



Global Lessons on Collective Action Against Corruption

The Case of Morocco



Policy Insights

Global lessons on collective action against corruption - The case of Morocco



This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of the OECD member countries.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Please cite this publication as:

OECD (2020), *Global Lessons on Collective Action Against Corruption – The Case of Morocco*, OECD Publishing, Paris.

This Policy Insight is the work of the MENA-OECD Competitiveness Programme at the Global Relations Secretariat of the Organisation for Economic Co-operation and Development.

For further information:

www.oecd.org/mena/competitiveness/

© OECD 2020

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgement of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.

Table of Contents

Foreword	5
Acknowledgments.....	7
Executive summary	9
The advantages of collective actions in the fight against corruption	9
Success factors	9
Lessons from Morocco’s experience	10
1. Introduction	13
2. What does collective action against corruption involve?	17
2.1. The emergence and definition of collective action for fighting corruption	17
2.2. Forms and types of collective action	19
2.3. The mutual benefits of collective action	23
3. Factors for success.....	25
3.1. Bringing together multiple actors led by “champion” companies	25
3.2. Including small and medium-sized enterprises as well as micro-enterprises.....	25
3.3. Pursuing multisectoral and multipartite collective action.....	26
3.4. Ensuring that collective effort does not replace individual action.....	27
3.5. Sustaining collective action	27
3.6. Keeping structures light	28
3.7. Offering “win-win” benefits	28
3.8. Assigning a neutral facilitator	28
3.9. Establishing a core document	30
3.10. Fostering a zone of confidence for the free and secure exchange of ideas	31
3.11. Guaranteeing confidentiality.....	32
3.12. Adopting a “small steps” policy approach.....	32
3.13. Communicating the results to the public.....	33
3.14. Applying a certification process	33
4. The Moroccan experience in the energy, health and transport sectors.....	37
4.1. Context.....	37
4.2. Pilot collective action in the energy, health and transport sectors	39
5. Conclusion.....	45
Bibliography	47
Annex A. Mapping collective action to fight corruption in the MENA region	51
Egypt, Morocco, Tunisia	52
Iraq, Libya.....	52
Bahrain, Kuwait, Oman, Qatar, Saudi Arabia.....	52
Notes	53

Foreword

Corruption is a major obstacle to sustainable and competitive development. Beyond its extremely negative consequences for democracy and the rule of law, corruption complicates market regulation, hinders private sector-led growth and discourages foreign investment. Estimates show that the cost of corruption reaches beyond 5% of global GDP (US\$ 2.6 trillion) and increases the cost of doing business by up to 10% on average (World Economic Forum).

The international community has adopted several conventions to fight corruption at the international level, including the OECD Convention on Combating Bribery of Foreign Public Officials. Accordingly, numerous countries have tightened their legislative arsenals in this area, both in terms of repression and prevention obligations on the part of companies. Many domestic laws now oblige companies to set up a system to prevent both active and passive corruption. In addition, private sector companies – as both actors and victims of corruption – are increasingly realising the adverse effects of corruption on their economic health, viability and long-term stability.

In this context, fighting corruption is increasingly becoming a business decision, with companies mobilised to implement actions to strengthen business integrity to complement measures taken by public authorities.

This mobilisation translates into the implementation of compliance and corruption prevention programmes at the company level in accordance with current legislation. Given the scale of the phenomenon, it has also led to the emergence of "collective" anti-corruption action involving more companies in the same sector or field of activity banding together to promote greater business integrity on a voluntary basis.

The emergence of such action over the past 30 years, which takes very different forms in practice, has led to the establishment of common standards and the definition of fair rules between competitors in different sectors of activity to fight corruption collectively and on a larger scale. Some of the collective actions launched by private sector actors have gradually involved governments and civil society representatives, and have evolved into multi-stakeholder initiatives for promoting integrity.

The practice of collective action against corruption has emerged in different regions around the world, including in the Middle East and North Africa (MENA), where perceived levels of corruption remain very high, affecting investors' confidence and the business climate. Morocco has launched pilot initiatives in the energy, health and transport sectors under the aegis of the General Confederation of Moroccan Enterprises (CGEM) and in accordance with the National Strategy against Corruption. Initiated in 2016, these initiatives are part of the OECD Project "Strengthening Business Integrity in Morocco" (2015-2018) supported by the Siemens Integrity Initiative. This partnership is also part of a long and active collaboration between the OECD and Morocco within the framework of the MENA-OECD Competitiveness Programme and the Morocco Country Programme.

This report reviews this pioneering experience in Morocco, presents the different stages of the process of implementing the action to promote integrity and analyses the lessons learned. More generally, the report aims to facilitate the diffusion of collective action in other MENA countries and beyond, in particular by highlighting factors for success and possible pitfalls in implementing collective action initiatives. This document aims to support companies wishing to launch collective action, as well as governments and representatives of civil society, who can facilitate and/or associate themselves with this action. Indeed, alongside other legal, institutional and administrative reforms, bringing together different stakeholders in collective initiatives to promote integrity can make a significant contribution to a healthier business climate for greater economic development.

Acknowledgments

This document has been prepared by Mr François Vincke, lawyer and Vice-Chairman of the Commission on Corporate Responsibility and Anti-Corruption of the International Chamber of Commerce (ICC), with the assistance of Ms Rabha Zeidguy, Consultant and University professor, in collaboration with and under the guidance of the OECD Secretariat. It was prepared in the context of the OECD project “Strengthening Business Integrity in Morocco”, led by Mr Carlos Conde, Head of the OECD Middle East and North Africa Division, Ms Nicola Ehlermann, former Head of the MENA-OECD Competitiveness Programme and Ms Diane Pallez, Policy Analyst. The document benefited from the assistance of Ms Margot Bouhnik, Ms Sophie Elliott and Ms Kristin Sazama and was reviewed and enriched by Ms Catherine Marty, Legal Analyst in the Anti-Corruption Division, as well as by Mr Jorge Carbonel, Advisor in the Latin America and Caribbean Division, and Ms Mariarosa Lunati, Senior Advisor in the Middle East and Africa Division, OECD.

In Morocco, the project would not have been possible without the support and commitment of many people who share the same concern to contribute to a more honest business environment. We would like to thank the representatives of the Ethics and Good Governance Commission of the General Confederation of Moroccan Enterprises, in particular Mrs Amina Figuigui, Vice-President, as well as the representatives of federations and companies in the energy, transport and health sectors. We would also like to thank Mr. Abdallah Benzekri, Attorney at Law at the Casablanca Bar.

The project was realised thanks to the financial support of the Siemens Integrity Initiative.

Executive summary

The advantages of collective actions in the fight against corruption

In a context of endemic and widespread corruption, individual action by a single company – while important – may have only a limited impact. Collective actions by multiple firms across a given sector have proven much more effective in promoting rules that companies will actively comply with at both the national and international levels. This type of action is thus an important tool in advancing integrity and achieving a level playing field for all actors in the market. Beyond better economic outcomes, collective actions also boost the reputation – and thus economic attractiveness – of countries where such initiatives are deployed.

However, collective action requires time, expertise and close collaboration to succeed. Design and implementation are also complex to ensure that the action complies with competition law. Moreover to ensure a successful outcome for all, the process needs to be carefully guided by the competent authority to ensure that the process remains collaborative and facilitates the exchange of ideas on how to concretely improve business practices.

This report delves into the history and theory behind collective action, highlighting the leading role that the private sector can play in the fight against corruption. Drawing on experience from around the world, it outlines the main steps to follow in setting up a collective action and sheds light on the pitfalls to avoid. It also provides an example of a successful collective action, e.g. Morocco's recent experience in piloting collective action in three sectors – transport, energy and health.

Success factors

Collective action can take many forms, which vary in the binding nature of their commitments. They might involve a statement or declaration condemning corruption, an integrity pact, an initiative to develop common standards and principles, or a certification process. Despite the variety of collective actions, they share some common characteristics. This report has identified the following key success factors, illustrated with case study examples from around the world:

- **Bring together multiple actors led by “champion” companies:** Engaging "champion" companies creates incentives for other companies to join the collective action, provides a global dynamic, and encourages other companies in their efforts to achieve compliance and integrity.
- **Include micro, small and medium-sized enterprises:** These often have limited resources in terms of personnel and available funds, and can benefit most from the leverage effect of grouping companies of all sizes.
- **Pursue multisectoral and multipartite collective action:** Collective action initially brings together private sector actors and individual enterprises. However,

they may also involve public, national, regional or local authorities, as well as non-government organisations.

- **Ensure that collective effort does not replace individual action:** Each participating company must have its own effective integrity policies. This helps to ensure that firms cannot use collective action to neglect their own integrity mechanisms.
- **Sustain collective action:** Collective action must be sustainable— it takes time to address the various aspects of improving business integrity.
- **Keep structures light:** Collective action can be limited to a very light structure, with a modest budget, allowing for greater flexibility.
- **Offer “win-win” benefits:** There must be demonstrable benefits for the sector, region or country in which collective action is established.
- **Assign a neutral facilitator:** Appointing a facilitator from outside the circle of stakeholders with a strong knowledge of the economic area can be a major asset – a civil society facilitator can boost public confidence in the collective action.

Lessons from Morocco’s experience

In the Middle East and North Africa, levels of perceived corruption remain particularly high. According to the 2018 Transparency International Corruption Perceptions Index, despite some incremental progress by a select few, most countries are failing in the fight against corruption and the MENA region falls below the world median score (Transparency International, 2019^[1]). Corruption – together with political instability and informality – is seen as one of the most significant constraints faced by companies in the region (Zgheib, 2015^[2]).

Morocco has recently undertaken a number of legal and institutional reforms to fight the corruption and poor governance that have been negatively affecting its economic attractiveness and acting as a major impediment to investors. As part of its 2016 National Anti-Corruption Strategy, Morocco launched pilot collective action initiatives in key economic sectors – health, energy and transport – in partnership with the OECD, within the framework of the project on Strengthening Business Integrity in Morocco.

Companies in these sectors have successfully banded together under the aegis of the General Confederation of Moroccan Enterprises (CGEM). Their pilot actions led to the adoption of a charter of ethics in the transport and energy sectors and, in the health sector, to a memorandum of understanding on collaboration to develop a charter of good commercial practices and promotion. The Moroccan Government contributed to the success of the actions by providing support via the 2016 National Anti-Corruption Strategy.

Morocco’s experience and the process it followed provide additional success factors for collective actions that may be particularly relevant for MENA stakeholders:

- **Share experiences, raise awareness and establish trust between stakeholders.** Meetings involving the representatives of the pilot sectors took place in the presence of a facilitator. These raised awareness of the approach and its success factors and pitfalls and helped to lay the foundations for trust among stakeholders by encouraging them to share the difficulties they faced and to define the framework of a project to strengthen integrity in their sectors.

- **Include the initiative in the wider context of mobilisation against corruption.** The launch of this private-sector initiative coincided with the launch of the Moroccan Government’s National Anti-Corruption Strategy, bringing on board government players while maintaining a high degree of autonomy.
- **Involve the leadership of business associations.** The involvement of CGEM throughout the process ensured the mobilisation of the sectors concerned and supported the building of trust between all stakeholders.
- **Involve external facilitators.** The combined efforts of an international expert and a national expert were key in facilitating private sector discussions and transferring knowledge.
- **Take a flexible nature and gradual approach.** This kept the development of collective action progressively moving forward by defining more realistic objectives as the project unfolded, taking into account the specifics of each sector and the local context.
- **Include the endorsement of declarations of intent.** The signing of declarations of intent in each of the three sectors marked both the formalisation of the process and the ‘passing of the baton’ to Morocco, setting the country on the path towards realising its commitments.

1. Introduction

The first forms of multi-stakeholder collaboration to prevent corruption emerged in the mid-1990s, and have subsequently spread to various regions of the world, including the Middle East and North Africa, where levels of perceived corruption remain particularly high. Morocco, as part of its 2016 National Anti-Corruption Strategy, has implemented pilot collective action initiatives in key economic sectors – health, energy and transport – in partnership with the OECD within the framework of the project on “Strengthening Business Integrity in Morocco”. This chapter introduces the notion of collective action and its benefits for tackling corruption, and presents the structure of the report.

Corruption, in all its forms, has extremely negative political, social and economic effects. It is a breeding ground for poverty and a real threat to democracy, leading to a loss of citizens’ trust in institutions, and is an important factor in undermining peace and endangering stability in the world. It is an obstacle to economic development, and impedes private-sector-led growth, hindering investment and competitiveness.

At the global level, several instruments of international law have been adopted to fight corruption more effectively, notably including the OECD Convention on Combating Bribery of Foreign Public Officials (OECD, 1997^[3]),¹ which requires signatory countries to criminalise offering bribes to foreign public officials in international business transactions. The OECD Convention complements the United Nations Convention against Corruption (UN, 2013^[4]), which contains specific provisions to tackle national and transnational corruption. As part of the implementation of these conventions, many countries have strengthened their legal and institutional frameworks and adopted comprehensive anti-corruption strategies.

The tightening of the international legislative arsenal against corruption, as well as the multiplication of domestic laws with an extraterritorial focus allowing companies to be sanctioned in a foreign territory,² mean that companies involved in corrupt practices are exposed to ever-increasing criminal, civil and administrative sanctions, as well as reputational risks. In addition, companies suffer on a daily basis from the cost of corruption in terms of lost funds, which are not invested, but also in terms of dependence and fragility, which results in a lack of competitiveness. Thus, beyond the obligation to comply with regulations, in particular those relating to the prevention of corruption, it is in the interest of the private sector to play an active role in promoting integrity and fighting corruption alongside public sector initiatives.

Given the scale and complexity of this phenomenon, and in order to achieve a healthier business environment, all actors across society must be involved. Effective co-ordination is required between the public and private sectors, particularly to prevent corruption.³

Experiences in several countries show that individual actions by companies, such as compliance programmes that meet the relevant regulations, have a high value and a definite

effect within the scope of the company and its group. On the other hand, they have less impact beyond this scope, particularly in a context of endemic and widespread corruption. Efforts must therefore go beyond individual approaches, involving groups of companies joining forces to engage in collective action. Collective action mobilises several companies, with the possible support or participation of public authorities and civil society, in a process of sustainable collaboration to promote business integrity. It is a "generic term referring to the establishment by industry of common standards, multi-stakeholder initiatives and public-private partnerships" (Pieth, 2012^[5]) aimed at combating corruption.

In practice, it involves bringing together actors in an alliance of organisations from a given industrial, commercial or financial sector, who share the conviction that corruption produces harmful effects in the long term, to define fair rules between competitors to which they adhere globally and individually. Collective action involves pooling efforts through the simultaneous adoption of shared principles and standards, in order to harmonise the rules of the game and complicate any attempt to distort competition rules while guaranteeing equal market access to the greatest possible extent. Collective action tends to promote greater competitiveness among different market players in order to achieve a "level playing field", i.e. a market that allows everyone to participate freely in economic activity. Participation in the action is a tangible proof of a company's commitment to a compliance approach.

Collective action can help raise public awareness of companies' efforts and initiatives, if it is made public. Ultimately, it can help improve the reputation, and thus economic attractiveness, of countries where such initiatives take place. However, the process remains complex, as participants generally engage in a competitive rather than a collaborative process of exchanging ideas on how to improve their business practices.⁴ Collective action therefore requires time, expertise and joint work; it must comply with competition law and be sensitive to the cultural context in which it is carried out (Marquette and Peiffer, 2015^[6]).

The first forms of multi-stakeholder collaboration to prevent corruption emerged in the mid-1990s, with the introduction of the concept of an integrity pact into the bidding process by Transparency International (Transparency International, n.d.^[7]). Various types of collective action have subsequently emerged in different regions of the world, in particular within the framework of the B20 Collective Action platform, which aims to facilitate such actions.¹

In the Middle East and North Africa (MENA) region, where levels of perceived corruption remain particularly high, similar initiatives have also emerged. In particular, Morocco, as part of its National Anti-Corruption Strategy launched in 2016, has implemented pilot collective action initiatives in key economic sectors – health, energy and transport. Companies in these sectors have successfully grouped under the aegis of the General Confederation of Moroccan Enterprises (CGEM), in partnership with the OECD and within the framework of the project "Strengthening Business Integrity in Morocco".

Other collective actions, particularly in the financial, construction, customs and small and medium-sized enterprise (SME) sectors, have emerged in the MENA region, notably in Egypt and Tunisia, but also in Libya and the United Arab Emirates, over the past 15 years, demonstrating the dynamism of these initiatives (Egyptian Junior Business Association Integrity Network, 2018^[8]).

¹ See the B20 Collective Action Hub at www.collective-action.com/initiatives/map, (accessed May 23rd 2019).

This report draws on a review of experiences across the world and on the analysis of Morocco's practical case to provide recommendations on developing collective action to fight corruption and promote integrity. It targets companies and other stakeholders of collective action, i.e. the public sector and civil society, and aims to suggest possible paths for reflection and stimulate debate among interested parties wishing to participate in and develop collective action.

The report contains four chapters following this introduction:

- Chapter 2 provides an overview of the global emergence of collective action to fight corruption, and introduces relevant definitions.
- Chapter 3 summarises the generic factors for success in conducting collective action, as well as the pitfalls to avoid, illustrated with examples from different regions.
- Chapter 4 describes Morocco's experience in the energy, health and transport sectors, highlighting the lessons learned.
- Chapter 5 presents concluding observations.

Annex A of the report provides a synthetic description of collective action initiatives in the MENA region.

2. What does collective action against corruption involve?

What is collective action to combat corruption and where did the idea come from? This chapter provides definitions of collective action and presents an overview of the emergence of collective action around the world. It outlines the different forms that such initiatives can take in practice – ranging from a statement or declaration condemning corruption, to an integrity pact, common standards and principles, and certification – before comparing the advantages and limitations of collective action with that of individual action.

2.1. The emergence and definition of collective action for fighting corruption

The theory of collective action was laid out in the 1960s by American economist Mancur Olson (Olson, 1965^[9]). Olson demonstrated how creating a common interest – in this case, an integrated and competitive business environment where companies do not use corruption as a driving force to generate business – could not succeed in the absence of clear and legitimate leadership. This was due to the self-serving behaviour of certain parties in the group (Marquette and Peiffer, 2015^[6]).

Since then, the concept of collective action to fight corruption has become more structured through practice, with the emergence of the first multi-stakeholder initiatives to fight corruption in the 1990s and their subsequent development in the 2000s.¹ To date, collective actions exist all over the world, covering different experiences, in different contexts and with different objectives.² Annex A summarises some of these initiatives.

There is no commonly accepted legal definition of the concept at the international level. However, a widely accepted definition offered by the World Bank Institute is as follows:³

“A collaborative and sustained process of cooperation between stakeholders. It increases the impact and credibility of individual action, brings vulnerable individual players into an alliance of like-minded organisations and levels the playing field between competitors.” (World Bank Institute, 2008^[10])

Collective action is often initiated due to the necessity to overcome the "prisoner's dilemma", i.e. situations in which non-co-ordinated participants will seek to maximise their individual advantage, even if everyone would benefit from co-operation in the sense of complying with the rule of law (High Level Advisory Group, 2017^[11]). For example, this dynamic might prevent operators from seeking to adopt higher social standards because their competitive position could be compromised by less scrupulous competitors. A collective action strategy can help level the playing field by ensuring that all participants adopt the necessary standards at the same time. By co-operating and monitoring each other, companies may aim to comply with the law, for example by introducing stricter standards

or jointly requiring greater integrity in the business environment. Thus, the grouping of companies within a collective action makes it possible to limit the risk that an individual company may be outperformed in the market by a less scrupulous company (UNODC, 2014^[12]).

Thus, collective action consists of collaboration based on short-term agreements or more sustainable initiatives, between competing but individually vulnerable actors who form an alliance to define and implement fair rules for all in order to eliminate the risk of corruption in a given sector (UNODC, 2014^[12]).

Initially, collective action against corruption gathered private companies only. One of the first initiatives of this type, the “Wolfsberg Group”, was set up between several large banking institutions with the aim of developing common practices and policies in private banking (Box 2.1).

Box 2.1. Collective action in the banking sector: the Wolfsberg Group

In the 1990s, due to the significant increase in financial sector regulation, particularly anti-money laundering regulations, a group of private banks set up the Wolfsberg Group to study the risks of revenue laundering from corruption. The group – comprising the largest number of private banks ever observed – developed standards to be adopted in accordance with the legislation in force.

The group quickly became an essential reference in international regulation and now brings together 13 American and European banks. It organises the annual Wolfsberg Forum, which brings together regulators and competitors to reflect on the follow-up to the collective action initiated in the 1990s.

The group has extended its scope of action to cover the various manifestations of financial crime, and has published nearly 2 000 documents on due diligence, the “know your clients” obligation, standards and best practices in the fight against corruption.

This initiative is still active.

Source: (Pieth, 2012^[5]), “Collective action and corruption”, *Working Paper Series* 13, www.baselgovernance.org/sites/collective.localhost/files/publications/120915_wp_13_collective_action_and_corruption_pieth_final.pdf; (Nero, 2016^[13]), *Collective Action to Tackle Corruption*, Ethical Boardroom, www.collective-action.com/sites/collective.localhost/files/publications/eb6_baselgovernance_0.pdf.

As the practice evolved, and become more accepted, some collective action now involves public authorities or representatives of civil society, though the private sector remains in the driving seat. Collective action often aims to supplement temporarily weak standards and local practices in order to improve the environment in which economic operators work and to contain or, at best, eliminate the risk of corruption. As such, collective action allows companies to become “learners”, participating in a circle of continuous improvement to integrate their approach into healthy and beneficial competitiveness (Nero, 2016^[13]).

In order to be effective, collective action must also first acknowledge the “benefits” in companies’ perception of using corruption in the short term in terms of easy gains – doing so allows corruption to be tackled effectively. This is even more necessary in unstable institutional environments, where the use of corruption is endemic (Marquette and Peiffer, 2015^[6]).

2.2. Forms and types of collective action

When put into practice, the concept of collective action is polymorphic. Its use may vary according to the specific needs identified or the circumstances faced by the stakeholders who wish to act collectively.

According to the World Bank Institute guide, collective action against corruption can take the form of 1) a statement or declaration condemning corruption, 2) an integrity pact, or 3) an initiative to develop common standards and principles (World Bank Institute, 2008^[10]). Collective action can also be implemented through 4) a corporate certification coalition. These different forms stand out through their binding nature of the joint commitments, as well as the nature of the objectives pursued. Each is described briefly below.

2.2.1. *Anti-corruption statement or declaration*

The B20 Collective Action Hub networks define an anti-corruption declaration as “a statement by a group of companies, or by companies and government, committing the parties not to engage in corruption, and to respond to corruption should it be detected. [...] In addition, declarations are often accompanied by various types of joint activities, for example to raise awareness about ethics principles, or to engage other partners in training activities on business ethics.” In other terms, an anti-corruption statement (or declaration) is an ethical public commitment covering a well-defined project or transaction, in which stakeholders agree to cooperate to achieve certain goals. The aim is to prevent corruption in individual projects and business transactions. It specifies that managers and employees of the companies signing up to the action—or potential contractors, subcontractors and other service providers—refuse to take part in and do not solicit corruption. It does not involve external monitoring, unlike the certifying business coalition described below.

This form of collective action is not subject to external monitoring. This is a voluntary agreement, which relies on self-enforcement and a good level of commitment by participants.⁴

An example in the MENA region of such a 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, which aimed to encourage Egyptian small and medium-sized enterprises (SME) to commit to advancing their anti-corruption practices. SMEs joined the Integrity Network Initiative by officially signing an “Integrity Pledge” which takes into account their needs and challenges (See Box 3.1 below for more details and references).

2.2.2. *Integrity pacts*

Integrity pacts (previously referred to as “isles of integrity”), just like anti-corruption statements, relate to a specific project or transaction. However, unlike anti-corruption statements, integrity pacts always take the form of a formal contract that specifies the rights and obligations of the principal and each of the bidders in the context of public procurement contracts. Besides, it is subject to external monitoring. As such, integrity pacts are the most binding level of Collective Action.⁵

In practice, integrity pacts are concluded during the pre-tender phase and take the form of a written agreement between a government and a private company, which attests to a shared determination to refuse any form of corruption or collusion throughout the procurement process.

Introduced by Transparency International in the 1990s, integrity pacts generally involve the public procurement of major infrastructure projects. They aim to increase the transparency of the process, guarantee the quality of the project and lower costs by avoiding costs associated with corruption (Marquette and Peiffer, 2015^[6]).

In some instances, a civil society facilitator can also be included as an independent surveillance officer. The objective is to create level playing field among bidding companies by external monitoring of processes. It also sends a noticeable anticorruption message to the public (International Bank for Reconstruction and Development and World Bank, 2008^[14]).

As such, integrity pacts represent a pledge of trust. In addition, they may provide sanctions (loss of contract, confiscation, and liability of the contracting authority) and dispute settlement mechanisms in the event of violation of any of the terms of the pact. Finally, the financing of these pacts may be shared between the company serving as tenderer, allocated project funds, and the resources of the contracting authority itself. Generally, these costs represent only a small percentage of the total cost of the project.

In Spain for instance, these pacts guaranteed the integrity of the funding for constructing public schools in the region of Madrid, Valencia and Castille (Arribas Reyes, 2019^[15]). Box 2.2 presents another example from Mexico.

Box 2.2. Social witness programme with Mexican hydroelectric project

In 2002, the Federal Electricity Commission of Mexico (Comisión Federal de Electricidad, CFE) began to prepare to contract the construction of a large hydroelectric project El Cajón. At the time, Transparency Mexico (TM) started implementing integrity pacts, which included the Social Witness (SW) programmes, where an independent expert together with TM monitor the transparency and integrity of contracting processes. The Mexican Government became interested in the integrity pact and, concerned with corruption risks in the El Cajón project, instructed the CFE to implement an integrity pact with the help of TM. TM joined the project at the preparatory stage and helped develop the integrity pact, whereby bidders and government officials signed declarations on integrity. TM monitored the implementation of these declarations with the assistance of the social witnesses. The contract was assigned to the winning bidder, and the construction of the project proceeded as scheduled. El Cajón began operating in March 2007.

Source: (Water Integrity Network and Transparency International, 2010^[16]), *Integrity Pacts in the Water Sector. An Implementation Guide For Government Officials*.

However, integrity pacts possess certain pitfalls, such as the lack of transparency of information between stakeholders, the inability of officials to monitor each other during the procurement process, the continuity of the commitment of the parties, and the willingness or unwillingness of the government to sign up to them. In order to overcome these pitfalls, integrity pacts must be designed in a flexible way (Arribas Reyes, 2019^[15]), in order to be able to adapt to the local context in which they operate, and to have an effective supervisory system (Marquette and Peiffer, 2015^[6]).

2.2.3. Initiatives to develop common standards and principles

Unlike integrity pacts, this form of collective action – also known as “standard setting initiatives” – is part of a long-term vision. The action is initiated by a group of stakeholders

who wish to combat corruption by combining their efforts to promote transparency in the business world. This type of action mainly aims at encouraging governments to modify their anti-corruption policies and to promote efforts to combat this serious problem. In practice, it can take the form of codes of conduct in a given sector or industry.

The Basel Institute on Governance defines standard-setting initiatives as follows:

“Market players are involved in the design of the standards on anti-corruption, and then voluntarily submit to these standards. Adherence to these standards is a condition of continued membership of the initiative. Failure to comply with the code of conduct could result in a participant being expelled from the initiative. Standard-setting initiatives are efforts at harmonizing compliance and thus levelling the commercial playing field in a particular location or business sector...”⁶

Box 2.3 gives an example from Brazil.

Box 2.3. The Brazilian Business Pact for Integrity and against Corruption

The Brazilian Business Pact for Integrity and Against Corruption was signed in 2006 following a series of seminars bringing together business representatives to share good practices in the fight against corruption, and to explore the relationship between the private sector and the government in promoting integrity.

This pact, inspired by the principles developed by Transparency International, the United Nations Convention against Corruption, the 10th principle of the United Nations Global Compact and OECD recommendations, as developed through a long public consultation process. It was then opened for signature to Brazilian public and private companies of all sizes and working in all types of sectors as long as they met two criteria:

- Ability to provide proof that they are not registered in the National Register of Incapable or Suspended Companies
- Completion of an annual questionnaire containing 70 questions on their commitment to fight corruption.

The pact's working group to monitor compliance with the signatory companies' commitment to promote integrity and fight corruption evaluates this questionnaire, available on an online platform.

The pact requires signatory companies to make the following commitments:

- ensure internal awareness of existing anti-corruption legislation
- forbid corrupt acts
- in the event of election campaigns, ensure financial contributions are transparent and legal
- disseminate the pact to the parties with whom companies are required to interact
- conduct open and transparent investigations
- promote transparency values in the supply chain.

Government institutions and non-government organisations also signed the pact, which now has more than 200 signatory bodies. The working group, composed of representatives of signatory companies and an executive secretariat, meets monthly to develop strategies to support signatory companies in implementing honest business practices and to influence public policies in order to promote integrity and fight corruption effectively.

Source: (B20 Collective Action Hub, n.d.^[17]), "Brazilian business pact for integrity and against corruption", webpage, <https://www.collective-action.com/initiatives-detail/113>. For more information visit <http://www.empresalimpa.org.br/> (in Portuguese).

2.2.4. *Certifying business coalition or labelling*

Certifying business coalition or “labelling” is also a way of voluntarily agreeing to comply with certain standards and involves long-term goals. This type of collective action consists of creating a coalition responsible for ensuring the respect of obligations and certifying that members of the coalition adhere to shared common principles in the fight against corruption. It is subject to regular independent audits and external monitoring processes in order to ensure compliance and enforcement.

This type of tool is potentially effective for the mitigation of concerns of competitive disadvantage when a company that upholds high integrity standards loses out to companies that only claim to adhere to the standards. It is also a way to strengthen a company’s reputation and eventually pressure other market participants to comply (OECD, 2016^[18]).

Given that one of the main pitfalls of collective action is the informal nature that it can take, certification can be a good way to remedy this problem of informality.

2.3. The mutual benefits of collective action

“In light of the widespread and profound problem that corruption poses for governments, public procurement authorities and the private sector, it appears highly unlikely that individual actions alone will suffice to spur change of an ethical nature and help improve the transparency of processes in the realm of business” (Marquette and Peiffer, 2015^[6]).

This warning—formulated by a large international group—highlights the need for various stakeholders to pool their skills and expertise in order to achieve more tangible and longer-lasting results than would be possible through individual efforts by a few actors acting alone.

In an environment plagued by corruption, the business owner who takes individual actions, even on a significant scale, can end up isolated in the face of unscrupulous competitors who distort the nature of competition (Kassum and Vincke, 2013^[19]). In such cases, collective action can add greater weight, and allow members to operate on an equal footing through a shared framework of ethics and norms.

Furthermore, the collaborative nature of the undertaking creates a concrete sense of belonging for the group members, with a shared set of values and principles, thus giving more weight, credibility and sustainability to their action. This is especially true for small and medium-sized enterprises (SMEs) and micro-enterprises. Such enterprises are often more vulnerable due to a lack of physical and human resources—indispensable elements for establishing effective systems for preventing and combating corruption.

However, the collective nature of the approach and the frequency of regular meetings between competitors should not lead to illicit price-fixing schemes, market divisions or parallel conduct or exchanges of sensitive information. In certain collective action cases, the first order of business during member meetings is the clear and audible reading of recommendations on competition law, in order to remind members to refrain from any anti-competitive behaviour (Kassum and Vincke, 2013^[19]). In this regard, it is the responsibility of the participants to comply with competition law by establishing a strong compliance programme (Pieth, 2012^[5]). Similarly, it is up to the facilitator or focal point person to ensure that the debates between participants do not serve as encouragement to pursue anti-

competitive goals. Such a result would not only be illegal, but also contrary to the objectives of collective action, which have a specific intent of increasing market competitiveness among the business parties that have joined the action.

3. Factors for success

Despite the variety of collective actions, they share some common characteristics. This chapter outlines 14 factors for successful collective action to combat corruption and build integrity, following the steps required through from setting up the groups to sustaining them and communicating the results. It draws on case studies from around the world, and offers a useful guide for other groups planning similar actions.

3.1. Bringing together multiple actors led by “champion” companies

By definition, collective action must bring together a number of companies, directly or indirectly (through organisations or federations for example), in order to be considered sufficiently representative of the industrial or financial sector, or the profession to which they belong. This plurality of participants prevents collective action from being "monopolised" by a single company and thus being treated as a form of lobbying.

However, the quantity of companies brought together is not decisive in determining the success of the action, unless it ensures that one or more "champion" companies are involved in a particular field.

The engagement of "champion" companies creates incentives for other companies to join the collective action, provides a global dynamic to the framework for action, and leads other companies in their efforts to achieve compliance and integrity (Pieth, 2012^[5]).

3.2. Including small and medium-sized enterprises as well as micro-enterprises

Collective action against corruption often involves very large multinational companies. However, such initiatives are also very useful, if not indispensable, for national or regional companies, small and medium-sized enterprises (SMEs) or even micro-enterprises, often grouped together in employers' organisations or professional associations. Indeed, VSEs and SMEs, which often have limited resources in terms of personnel and available funds, can benefit most from the leverage effect of grouping companies of all sizes. For example, the Egyptian Junior Business Association successfully launched such an initiative aiming to improve SMEs' capacity to implement anti-corruption compliance programmes (Box 3.1).

However, involving large groups in collective action may present some difficulties. It can be more difficult to reach consensus on the activities to be carried out. The same applies to a heterogeneous group, which includes micro-enterprises, SMEs and large companies.

Box 3.1. The creation of an integrity network for SMEs in Egypt

In 2015 as part of the Siemens Initiative for Integrity, the UN Global Compact and the Egyptian Junior Business Association (EJB) – an association founded in 1999 to extend the fight against corruption to SMEs in Egypt – created an integrity network involving companies engaged in the fight against corruption.

The network works mainly to raise awareness among SMEs of the benefits of promoting a culture of integrity and to increase their capacity to fight the various manifestations of corruption. It has three main objectives:

1. Encourage Egyptian SMEs to engage in the fight against corruption. The network encourages them to sign integrity pledges that integrate the needs of SMEs and the difficulties they face in their approach to promoting integrity. These pledges involve a 10-step procedure for implementing them, and companies are assessed for their compliance with the promise. The companies that have signed these pacts then benefit from training in fighting corruption.
2. Create benefits and incentives to encourage Egyptian SMEs to join the network.
3. Participate in a multi-stakeholder dialogue with major companies, social actors and the public sector and make recommendations for Egyptian anti-corruption policies.

The network has helped to improve the capacity of the SMEs concerned to implement anti-corruption compliance programmes. It now includes nearly 100 SMEs and 22 partners. In addition, 680 participants from nearly 400 SMEs have been trained in compliance and anti-corruption issues.

The network has developed an internal and external evaluation process to ensure compliance with the commitments made. It has also prepared resources for SMEs (guidelines, training and information tools on how to develop transparency policies, codes of conduct, online helpdesk, etc.)

Source: (United Nations Global Compact, 2018^[20]), *Promoting Anti-corruption Collective Action through Global Compact Local Network*, Second edition. www.unglobalcompact.org/docs/publications/UN_Anti_Corruption_Brochure-2018.pdf; (B20 Collective Action Hub, n.d.^[21]), “Developing a corporate anti-corruption ecosystem in Egypt”, webpage, www.collective-action.com/initiatives-detail/648

3.3. Pursuing multisectoral and multipartite collective action

Collective action initially brings together private sector actors and individual enterprises grouped into industrial organisations or professional associations. However, depending on the goal pursued, these actions may also involve public, national, regional or local authorities, as well as non-government organisations. In other words, they can involve

representatives of civil society and experts from the sectors concerned. Box 3.2 gives one example.

Box 3.2. The Extractive Industries Transparency Initiative (EITI)

Launched in 2002 on the initiative of former British Prime Minister Tony Blair, this collective action by governments, businesses and civil society organisations in several countries was born of the conviction that the exploitation of natural resources must be subject to a high level of transparency and accountability. The EITI has worked to promote a global standard for the good governance of oil, gas and mineral resources. It requires countries to regularly publish accurate information on their natural resource management and exploitation, including the licensing process, the amounts paid by companies in taxes and social contributions, and the destination of these payments at regional and national level.

In practice, the 52 countries now party to the EITI form a multi-stakeholder group at the national level, made up of representatives from government, the various extractive industries and civil society. Together they determine the functioning of the EITI process and share information on governance in each sector, making recommendations for improving governance. This information is made public in order to guide public debate and ensure that recommendations are followed up. The initiative has helped to inform legal and tax reforms, particularly in Nigeria; strengthen tax collection; verify the implementation of contracts and licences; and improve the investment environment for businesses through increased transparency.

Source: (EITI, 2017^[22]), “The global standard for the good governance of oil, gas and mineral resources”, Factsheet, https://eiti.org/sites/default/files/documents/factsheet_en_lac.pdf.

3.4. Ensuring that collective effort does not replace individual action

Collective action against corruption must rely primarily on the individual ethical values of the various stakeholders. Thus, it is preferable and beneficial for each company wishing to participate in collective action to ensure they have their own effective integrity policies highlighting the values and procedures of their anti-corruption approach and attesting to their full respect of these procedures.

This helps to ensure that companies cannot use their membership of collective action to neglect their individual responsibility and to avoid putting in place their own integrity mechanism. Moreover, this prevents collective action from becoming a mere facade.

3.5. Sustaining collective action

Collective action must be sustainable. It does not involve a single, isolated event. In fact, a certain period of development and maturation is required, during which the various aspects of improving business integrity can be addressed. Without this effort to mature, collective action will not be able to produce the expected results over time.

However, in some cases, it may focus on a public works project or on the implementation of a specific legislative or regulatory programme for a limited period. If stakeholders judge

that the goal of the specific action has been achieved, they may terminate it or focus on another programme or topic.

3.6. Keeping structures light

Collective action should not involve creating cumbersome administration. It can be limited to a very light structure, with a modest budget, allowing for greater flexibility. Indeed, due to the importance of fixed costs, some companies might be reluctant to finance an additional structure. In the interests of cutting costs and remaining flexible, their preference may be to absorb their own costs and to jointly finance only the costs incurred by people outside their payrolls, such as the facilitator (see Section 3.8).

3.7. Offering “win-win” benefits

Members of a collective action frequently belong to large international groups operating abroad. Collective action implemented overseas must show sensitivity towards the socio-cultural context in which the activity occurs.

It must also contain demonstrated and demonstrable benefits for the sector, region or country in which it is to be established. In practice, this means that by improving stakeholders’ integrity and reputation the country can increase its attractiveness for direct foreign investment. In this way, the collective action offers a “win-win” for all the stakeholders involved.

3.8. Assigning a neutral facilitator

For greater efficiency and to reduce the risk of free riders, collective action should involve one or (in rare cases) more facilitators from outside the circle of stakeholders. It should be a neutral party with a strong knowledge of the economic area concerned yet without necessarily being part of it. The facilitator can get involved at the outset of the collective action or take part in collective action that is already up and running.

Furthermore, the participation of civil society as a facilitator can boost public confidence in the collective action. Box 3.4 illustrates the benefits of appointing an external facilitator, notably for creating trust among stakeholders.

Box 3.4. The benefits of a civil society facilitator

In 2010, the European Aerospace and Defence Industry Association founded the International Forum on Business Ethical Conduct (IFBEC), an entity comprising 30 American and European companies engaged in collective action to promote standards of ethics and compliance, with the support of the International Centre for Collective Action (ICCA).

In 2014, IFBEC requested ICCA's services to promote collective action with parties external to the forum. ICCA chaired and facilitated discussions within a group of experts from IFBEC member companies and participated in an assessment of means to promote transparency and reduce corruption risk by asking IFBEC members to complete a survey on their practices.

This collaboration, despite being temporary in nature, has proved particularly fruitful, since the participation of ICCA has helped to strengthen internal confidence among stakeholders in the collective action.

Source: (Nero, 2016^[13]), "Collective action to tackle corruption", *Ethical Boardroom*, Spring 2016, www.collective-action.com/sites/collective.localhost/files/publications/eb6_baselgovernance_0.pdf.

The facilitator should reside in the country where the collective action takes place, in order to ensure they possess a strong working knowledge of the political, administrative and economic issues of the regions and sector(s) concerned.

When selecting a facilitator, it is particularly crucial to ensure that he/she meets the following criteria:

- strong personal and professional integrity
- strong commitment and involvement
- no current or potential conflicts of interest¹
- a proven ability to perform the required tasks in a thorough manner.

In addition to these ethical requirements, the selection of the facilitator must also look for a range of professional skills, such as:

- A level of training that guarantees the ability to grasp political, administrative, legal and economic issues. While significant legal expertise is important, the facilitator does not need to have a law degree (Nero, 2016^[13]).
- The ability to ensure stakeholder compliance with charter provisions (see next section), and to reduce the risk of pitfalls that may arise, such as illegal trade agreements or practices, or the transgression of confidentiality provisions.
- Good organisational skills, the ability to synthesise information and proven editorial skills.
- Demonstrated ability to work autonomously.

3.9. Establishing a core document

The parties involved in collective action are encouraged to formalise their action in a document, such as a charter.² This should include some basic principles to help frame their decision-making process and the organisation of their work. It is important to avoid unnecessarily long or complicated documents and to favour those that can help the stakeholders proceed in a practical and organised manner, ensuring their activities run smoothly. The document may also include provisions concerning compliance with competition rules and ensuring confidentiality of subjects discussed (Box 3.5).

Box 3.5. The benefits of a core document: Thailand's Coalition Against Corruption

Launched in 2010 through a collaboration between the Thai Institute of Directors, the Thai Chamber of Commerce and the Joint Foreign Chamber of Commerce, this collective action aims to raise awareness within the private sector of the various risks posed by corruption. The specific objectives include: first, to change the private sector's approach to corruption by encouraging companies to adopt a zero-tolerance policy; second, to change the way the public sector works through lobbying activities and to identify the risks of corruption in public services; and third, to promote a healthy business environment by gradually expanding the Coalition Against Corruption (CAC) Network.

In order to formalise the framework for action, the project began with the signing of a **declaration of intent** in which the companies involved agreed to:

- work internally to assess corruption risks, implement anti-corruption policies, and compliance programmes and provide guidance to managers and employees on good business practices
- share their internal policies, experiences and best practices to promote ethical and transparent business transactions
- invite companies through the coalition and participate in joint anti-corruption activities.

After signing, companies must undertake an anti-corruption self-evaluation, using a tool similar to the one issued by Transparency International.³ This tool is divided into two parts: the principles, and requirements for implementing the programme. After submitting their tool, the certification process is completed by regular checks and inspections (approximately every three years).

The formalisation of the process brought together 278 signatory companies in 2014, and this collective action is now supported by 7 champion Thai companies, as well as by the Center for International Private Enterprise (CIPE) and the British Prosperity Fund.

Source: (CSR Network ASEAN, n.d.^[23]), "Collective action against corruption – Business and Anti-corruption Initiatives in ASEAN", p.7, <https://www.asean-csr-network.org/c/images/AIMPublication-CollectiveActionAgainstCorruptionRVR-CVStarr-1.pdf>; (B20 Collective Action Hub, n.d.^[24]) "Thai Collective Action Against Corruption Campaign", (database), www.collective-action.com/initiatives-detail/86

3.10. Fostering a zone of confidence for the free and secure exchange of ideas

In order to build trust, experience shows that it is preferable to ask candidates for a collective action to submit their ethics and compliance documents for confidential review by the facilitator or another person or organisation. This allows the candidate's ethical sincerity and aspirations to be assessed. It is essential to ensure that the companies involved in the collective action have an internal ethics and compliance framework with which they comply in practice. In the absence of such a framework, companies must develop one and submit to it before engaging in collective action.

When collective action involves SMEs or micro-enterprises, which are generally less structured due to lack of resources, the evaluator may also be able to help them upgrade their ethical and compliance framework if he or she feels they are strongly committed to engaging in collective action.

At the end of this coaching process, the evaluator can determine whether the candidate has made sufficient effort in terms of ethics and compliance to place them on an equal footing with other stakeholders and to be allowed to join the group.⁴ While this simple and inexpensive approach makes it possible to evaluate the intentions and efforts of the candidate company, it is not possible to evaluate its actual practice. Thus, it can happen that despite this evaluation, a member company of the collective action does not comply in practice with some legislation or good practice.

This preliminary analysis of the candidate companies' ethics and compliance framework nevertheless helps to create a zone of trust between stakeholders. As such, all members are comfortable to speak about their concerns and dilemmas freely and without fear, as they are aware that their peers share their concerns, even if an incident or accident could potentially damage the reputation of one or the other party.

3.11. Guaranteeing confidentiality

The discussions between participants or in the presence of the facilitator must be realistic with regard to the practices of the companies involved in the collective action, in order to be able to confront and improve their practices.

If participants are required to share confidential data, they must be careful to avoid violating provisions protecting free competition. They must also ensure that any discussions between stakeholders are kept confidential. Provisions for the protection of confidentiality of the exchanges may be provided for in the charter linking the various stakeholders, or in any other document used to set up the collective action.

3.12. Adopting a “small steps” policy approach

The World Bank Institute report on collective action concludes by noting that “collective action is not easy and requires patience”, while adding that considering certain factors may increase the likelihood of success (World Bank Institute, 2008_[10]).⁵

The High-Level Advisory Group Committee shares the same views, stating, “despite examples of proper coordination of efforts, experience shows that a collective action can be difficult to put into practice, both locally and in terms of international governments.” (High Level Advisory Group, 2017_[11]).

Therefore, it is important not to undertake projects on too large a scale and to exercise caution, adhering to a “small steps” approach. Indeed, the ultimate result is to help companies give up certain bad practices that have grown into automatic reflexes over time. Therefore, it is highly advisable to approach this endeavour tactfully, with an initial approach that will not come across as overly restrictive, prior to addressing challenges that may be perceived as more sensitive and difficult to overcome.

Similarly, it is necessary to start by creating a mind-set that can foster a climate of trust between the stakeholders. They must first get used to working alongside one another in a new context, thus helping to produce conditions that are conducive to co-operation. Furthermore, sensitive subjects cannot be approached without a reasonable period of adjustment. It is important nonetheless to define specific, concrete and achievable objectives and to establish a plan that respects the realities on the ground. Integrity cannot be decreed and collective action cannot produce results overnight.

3.13. Communicating the results to the public

The confidentiality necessary for these exchanges should not hold back any publicity and awareness as part of the collective action. Stakeholders often wish to share their message and their conviction outside the company. They might target a sector, a region or a country in which their experience can be beneficial and improve the climate for integrity whilst protecting the companies' interests.

The results obtained on a legislative or regulatory level or concerning the practices of the administration and the companies involved can be disseminated. This can help build public awareness of and support for strengthening integrity. The publicity can help boost the reputation of a sector, or an entire country, involved in fighting corruption (Box 3.7).

Box 3.7. The benefits of communication: the Maritime Anti-Corruption Network

Founded in 2011 by the Maersk group, the Maritime Anti-Corruption Network (or MACN) brings together nearly 75 companies in the maritime sector in a collective action to promote integrity in the sector. The network has benefited from the expertise of Transparency International, as well as intergovernmental organisations such as the United Nations Development Programme.

In 2014 in Argentina, the MACN network launched a collective action to reduce the level of corruption in the customs sector. After meeting with more than 40 ship-owners, port agents, public inspectors and lawyers specialised in maritime law, the network's representatives identified the main objective of this collective action to be the modernisation of the port inspection system in order to reduce the discretionary power of port inspectors and to increase transparency and integrity in this sector. Following a series of public consultations, the collective action has made it possible to reform the regulatory framework for the sector in order to prevent collusion and informal arrangements by reducing the discretionary power of port agents, as well as to establish a system for verifying inspections.

In Egypt, a collective action initiated by Maersk in 2015 took the form of an awareness campaign entitled "Say No!" for captains sailing through the Suez Canal, in order to raise their awareness of the cigarette traffic in the canal. Following a major communication campaign, the frequency of requests for "facilitation payments" has decreased significantly. In addition, ship captains reported that they found it easier to refuse requests for small facilitation payments since the launch of the campaign.

Source: (Maritime Anti-Corruption Network, 2016^[25]), *Impact Report*, https://static1.squarespace.com/static/53a158d0e4b06c9050b65db1/t/5833c8cff7e0ab79e5074d80/1479843781771/MACN+Impact+Report+2016_Web.pdf

3.14. Applying a certification process

If a collective action has made significant progress in improving integrity, the next step might be to certify those companies involved. Certification may occur prior to or after official membership in the collective action. It is also worth considering applying it

following the adoption of new rules or practices. In the latter case, it is necessary to ascertain whether the participants in the collective action have adhered to the new standards; if not, sanctions should apply. In this way, certification offers a solution to the free-rider problem (Wannenwetsch, 2018^[26]) and can alleviate the informality that is sometimes characteristic of collective action (Pieth, 2012^[5]).

On the other hand, certification can be used in some cases as a defence in the case of prosecution. For example, Section 7 of the 2010 *UK Bribery Act* provides that an enterprise with appropriate procedures in place to prevent members of a trade organisation from resorting to forms of corruption may put forward these procedures as the basis of its defence, which will then be considered admissible. Obtaining certification can attest to the establishment of appropriate procedures by the company, and thus reduce its risk of being prosecuted for acts of corruption.⁶

Certification can boost both the image and the credibility of companies that undergo such a process (Boxes 3.8 and 3.9).

Box 3.8. The benefits of certification: the Ukrainian Network of Integrity and Compliance

The Ukrainian Integrity and Compliance Network (UNIC) was established in October 2017 following a conference on business integrity in the Eurasia region organised by the OECD, the United Nations Development Programme in Ukraine, the European Bank for Reconstruction and Development and the Ombudsman of the Ukrainian Business Council in January 2017. The network promotes co-operation among companies of different sizes willing to work to improve business integrity. In order to take part in the collective action, potential stakeholders must complete a questionnaire on their internal practices, which is evaluated by a committee of experts to determine gaps in the company's compliance programmes. The network then suggests ways for the company to improve its compliance programme.

Once the potential party has established compliance procedures that are deemed adequate, the company becomes eligible for UNIC certification based on ISO 37001. This certification provides a guarantee that the company complies with its programme of ethics and integrity. This certification can be useful when a company wants to demonstrate compliance to customers, business partners and international investors.

To date, the network has certified the compliance of 59 companies, SMEs and multinational firms.⁷

Source: (B20 Collective Action Hub, n.d.^[27]), “Ukrainian Network of Integrity and Compliance (UNIC)”, (database), www.collective-action.com/initiatives-detail/5680; (Wannenwetsch, 2018^[26]), “To certify or not to certify”, www.collective-action.com/blog/certify-or-not-certify

Table 3.1 summarises the main characteristics as well as the pitfalls to avoid when setting up a collective action.

Table 3.1. Dos and Don'ts of collective action

✓ Place the project under the leadership of one or more “champion” companies (phases of analysis, development, maturation)	✗ Establish a disproportionate organisation
✓ Ensure the sustainable nature of the approach	✗ Allow the action to be developed in ways that weaken the effectiveness of the institutions meant to fight corruption
✓ Bring together a diversified range of companies (micro-enterprises, SMEs, larger companies) in line with the aim of the action	✗ Replace individual action
✓ Formalise the framework of the action by establishing founding documents on a case to case basis	✗ Undertake projects that are not practically achievable
✓ Guarantee the confidentiality of debates	
✓ Publicise the results achieved by the collective action	
✓ Build a zone of confidence that allows stakeholders to have free and uninhibited exchanges	
✓ Make use of a facilitator	
✓ Consider certification	
✓ Adopt a “small steps” approach	
✓ Consider associating the private sector and civil society	

4. The Moroccan experience in the energy, health and transport sectors

Morocco has recently introduced a number of legal and institutional reforms to fight the corruption and poor governance that were undermining its economic attractiveness and discouraging investors. In particular, in 2016 the government launched its first National Anti-corruption Strategy, which includes a private sector component. In this context, Moroccan enterprises initiated pilot collective actions in three priority sectors – energy, health and transport – in the framework of the OECD project “Strengthening business integrity in Morocco”. This chapter details the process followed by the various stakeholders to prepare for and implement the collective action, concluding with lessons from these actions, and future prospects for both Morocco and the MENA region.

4.1. Context

4.1.1. Improving the business environment and fighting corruption in Morocco

For over a decade, Morocco has been engaged in a movement of economic and social modernisation that includes improving the business climate and opening the door to international investment. In 2009, Morocco notably joined the OECD Declaration on International Investment and Multinational Enterprises (OECD, 1976_[28]). The country has seen a constant increase in foreign direct investment (FDI) since 2005, reaching close to USD 2 651 billion in 2017, or 2.42% of gross domestic product (GDP) (UNCTAD, 2019_[29]).

Transport connectivity increased between 2010 and 2017, alongside container throughput, reflecting the country’s improved integration with global trade. Morocco currently ranks 60th out of 190 countries in the 2019 “Doing Business” ranking (World Bank, 2019_[30]). This represents a steady increase over the last few years,¹ and Morocco is now second in the MENA region, behind the United Arab Emirates.

In this context, Morocco has also undertaken a number of legal and institutional reforms to fight the corruption and poor governance that have been negatively affecting its economic attractiveness and acting as a major impediment to investors.² Morocco’s fight against corruption is part of strengthening the rule of law and justice. Having ratified the United Nations Convention against Corruption in 2007 (General Assembly of the United Nations, 2003_[31]), Morocco has committed to a number of international obligations, and the Kingdom’s new Constitution of July 29th 2011 contains several provisions on integrity (Kingdom of Morocco, General Secretariat of the Government, 2011_[32]).³

The constitution also established the National Agency for Probity, Prevention and Fight against Corruption (ICPC), in compliance with the requirements of Article 6 of the United Nations Convention against Corruption.⁴ The agency has the mandate to “initiate,

coordinate, supervise the follow up and the implementation of prevention and fight against corruption policies, to receive and disseminate information in this field, to contribute to the moralisation of public life and to strengthen good governance principles, public service culture and the values of responsible citizenship”.⁵ It has been fully functioning since the nomination of its president in 2018.

Article 162 of the new constitution establishes a mediator responsible for contributing, among other things, to the dissemination of the “values of moralization and transparency in the management of public administrations, public institutions, local authorities and organizations with the prerogatives of a public authority.”

Morocco has adopted its first National Anti-corruption Strategy, officially launched in May 2016 (National Anti-Corruption Commission, 2016^[33]). The strategy comprises ten programmes to fight corruption, covering a diversity of aims and sectors and involving multiple actors, in particular the private sector. The private sector is a driver of the structural changes required, and the Programme 8 of the strategy (P8), entitled “Business Integrity”, is co-ordinated by the General Confederation of Moroccan Enterprises (CGEM), the main employers’ organisation of the country, and is solely dedicated to the private sector. In the short term, the programme aims to “improve business transparency within the private sector”. In the medium term, its goal is to “ensure companies’ strong adherence to ethic codes and corporate social responsibility (CSR) certification, integrating transparency and the fight against corruption”. Finally, in the long term, the programme aims to “reduce corruption niches fed by the private sector”. It is hence oriented towards “promoting integrity and good governance within companies”, as well as “promoting transparency within the pilot sectors prior to generalisation.” For this purpose, Morocco identified three business sectors to implement these pilot experiences, in collaboration with the OECD (see next section).

A 23-member National Anti-Corruption Commission (NACC), headed by the Prime Minister, was established in June 2017⁶ to oversee and co-ordinate the implementation of the strategy.

More recently, in 2018, the Moroccan Parliament also passed a law on the right of citizens to access information from all institutions and public administrations. The provisions contained in Law No. 31-13 of 22 February 2018 provide for the adoption of a law to protect whistleblowers in the public service. The same year, the government also presided over the creation of a National Observatory of Crime to support changes in crime indicators and to propose preventive measures.

4.1.2. The OECD Project “Strengthening business integrity in Morocco”

Morocco has innovative experience in private-sector collective action against corruption in the energy, health and transport sectors.

The three-year project “Strengthening business integrity in Morocco”, implemented in collaboration with the OECD in the framework of the Siemens Integrity Initiative² began in 2015. The project aimed to support Morocco in strengthening business integrity in order to create a climate favouring foreign investment, international trade and development, and

²Siemens Integrity Initiative, <https://new.siemens.com/global/en/company/sustainability/compliance/collective-action.html>, (accessed 27 May 2019).

was developed in the respect of the goals subsequently laid out in the 2016 National Anti-Corruption Strategy,

As mentioned above, Programme 8 identified three economic sectors, strategic for both social and economic development: energy, transport and health. The importance of these three sectors in national development strategies, the volume of financial flows they generate and their resultant vulnerability to corruption justified their selection as pilots (OECD, 2018^[34]).

The project was oriented around three axes reflecting key corruption issues facing the country:

- strengthening the integrity frameworks in the energy, health and transport sectors
- promoting transparency and integrity in government procurement
- implementing pilot collective actions and integrity pacts in the project's three sectors.

The Ethics and Good Governance Commission of the CGEM, in charge of supporting good governance practices within companies, led the Project. The project allowed both federations and companies in the three priority sectors to unify their efforts in collective action and fight the manifestations of corruption specific to each field.

4.2. Pilot collective action in the energy, health and transport sectors

4.2.1. Identifying the corruption risks in the three sectors

The OECD launched a study in 2015 to identify the main threats and risks to business integrity in Morocco in the three strategic sectors. It also compiled an overview of existing responses and initiatives led by the private sector, in collaboration with public authorities. This study resulted in the report, "Strengthening integrity in the health, energy and transportation sectors" (OECD, 2018^[34]). The study ended with a preparatory meeting for the pilot projects in these three sectors. The meeting enabled the various stakeholders to identify specific corruption risks in each field of activity, and to consider the potential of collective action to mitigate these risks.

The energy sector

In Morocco, the energy sector is characterised by rapid growth in consumption, ranging from 7-8% a year (OECD, 2018^[34]). The country is highly dependent on energy, and there is a need to increase the share of renewable energies. It has been demonstrated that there are significant potential risks of corruption in the extractive industries sector, which notably includes the energy sector (OECD, 2015^[35]), at all levels of public intervention, from policy design and planning, to revenue distribution, licensing, sectoral regulation and supervision, commercial participation and tax treatment.

The preparatory meeting for the launch of the collective action project allowed identifying some of these elements. Here the difficulties faced by SMEs in accessing public procurement were discussed, and blamed on practices that – although legal – are discriminatory. Indeed, in awarding contracts for "major projects", corruption distorts competition, reducing the efficiency of the process, by favouring corrupt companies to the detriment of bidding companies, even though these often prove to be more efficient. The "political" nature of the corruption also increases this risk, due to the prominent role of public authorities in this sector.

The health sector

The health sector covers the activities of hospitals, dispensaries, hospices, infirmaries, clinics, medical analysis laboratories and medical practices that operate in the liberal sector (pharmacies, drug wholesalers, pharmaceutical companies and public and private insurers). The sector has one of the most significant long-term impacts on the country's economic performance. The rapid extension of medical coverage in Morocco and its gradual opening to the private sector make it a particularly sensitive area.

The health sector in Morocco (and elsewhere) is reported to be particularly exposed to the risk of corruption due to several factors (OECD, 2018^[34]). First, information between providers, service providers and patients is uneven, aggravated by the fact that the various health professions are strictly divided. Second, the demand for health care and products is relatively inelastic, while the entire drug market is subject to a major drug smuggling phenomenon. This is particularly the case for fraudulent preparations and medicinal products whose placing on the market is authorised illegally. According to the World Health Organization (WHO) in 2009, fraud and corruption caused nearly 25% of the drugs purchased to disappear (WHO, 2010^[36]). In addition, the fact that health systems involve many public and private actors leads to a high degree of complexity, which favours overcharging for services and abusive or unnecessary treatment in private clinics. This complexity also allows for the conclusion of "agreements" between public and private health professionals for the referral of patients to private clinics and laboratories, the exercise by civil servants of their activity in a private capacity, and the misappropriation of public property (premises, time, and materials) for private purposes. Finally, the scale of financial flows makes the drug market extremely vulnerable to corruption (WHO, 2010^[36]).

The transport sector

The transport sector involves a wide diversity of activities and actors. There is also a high degree of informality in the road transport sector, reaching nearly 40%, although the transport sector represented 6% of GDP in 2015. Moreover, this sector is often characterised by the existence of "natural" monopolies due to the high fixed costs, which lead to high barriers to market entry. Indeed, the construction of road or rail networks, as well as ports, requires substantial capital, usually from governments. The sector is therefore highly regulated, and public intervention plays a central role.

However, this high degree of interventionism, notably because of the magnitude and complexity of the projects, carries a significant risk of embezzlement and a potential multiplication of corruption risks throughout the course of the projects. Especially since the transport sector is characterised by a low literacy rate. The impact of these risks, particularly on productivity, is all the more significant as the amounts involved are frequently high and include a significant proportion of public aid. This is then likely to lead to distortions of competition, the main adverse effects of which are an increase in barriers to entry and a decrease in sectoral productivity. Finally, this same state interventionism can mean workers in this sector receive differential pay according to whether their company belongs to the public or the private sector.

The identification of risks specific to these three sectors made it possible to launch, in an informed and structured manner, various pilot projects aimed at strengthening integrity and fighting corruption in these key areas of the Kingdom's economic and social development. The representatives of the various federations also decided to unite their efforts rather than act alone, as detailed below.

4.2.2. *Implementation process*

The collective action to promote integrity in the target sectors of health, transport and energy in Morocco happened in several stages, from raising awareness of the concept of collective action to launching the action (Figure 4.1).

Raising awareness and stakeholder meetings

In October 2015, a preparatory consultation took place at the Ministry of Public Service in Rabat, followed by a roundtable at the CGEM headquarters on the topic of business integrity in Morocco.

The roundtable brought together representatives of federations from the energy, transport and health sectors, as well as from companies of various sizes affiliated to CGEM. It introduced the concept of collective action in fighting corruption and raised awareness among participants of the challenges and success factors of such actions. Mr François Vincke,⁷ an international expert on the topic, played the role of facilitator throughout the project and attended the roundtable. Participants expressed their views on collective action bringing together the companies active in their sector, with a view to promoting greater integrity in the exercise of their industrial and commercial activities.

Sharing experiences and establishing trust between stakeholders

In November 2016, further meetings took place at the CGEM involving the various representatives of the sectors involved, and in presence of the facilitator. These meetings aimed to exchange specific information on structuring the pilot projects in their respective sectors, taking into account the risks identified.

The meetings provided an opportunity to discuss practical examples of collective action in the defence and aeronautics sectors, as well as in oil and energy, in other regions of the world, and to study the success factors and pitfalls encountered. They helped to lay the foundations for a zone of trust among stakeholders by encouraging them to share the difficulties they faced and to define the framework of a project to strengthen integrity in their sectors.

Defining the objectives

In April 2017, a series of bilateral meetings with representatives of the various sectors helped to define specific objectives for the projects, with the facilitator always present to guide discussions.

The first meeting involved representatives from the energy sector. The discussions led to a list of key performance indicators (KPIs) to assess the compliance approaches and procedures implemented by companies in the sector. The discussions also made it possible to lay the foundations for a common interest policy and to establish possible mechanisms for evaluating internal company warning systems. Finally, the participants discussed the possibility of drawing up an integrity pact.

In the health sector, discussions led to the definition of three guidelines to shape the pilot project:

1. Strengthening and improving access to health care through a pilot awareness-raising experiment in a major university hospital, upon authorisation of the Ministry of Health.

2. Raising awareness amongst medical students of the risks of corruption in the health sector, in order to gradually eliminate unscrupulous practices prevailing in the medical field.
3. Contributing to the development of a university course to build integrity in the health sector. A consensus on the need to use the educational vector then emerged from the discussions between the various representatives.

Finally, representatives of the CGEM Transport and Logistics Federation met to define their common objectives, targeted primarily at the high rate of informality in the transport sector. The exchanges also highlighted the issue of fair competition, as well as ethical relations between companies and the administration. Agreement was reached on the need to dematerialise authorisations in the transport sector (i.e. convert them to electronic versions), since physical authorisations are conducive to corruption in the sector. It was agreed to implement tele-procedures for authorisation cards and traffic sheets for goods and passenger vehicles, as well as vehicle registration authorisations and vehicle withdrawal authorisations.

Following this meeting, which defined the objectives of the collective action to implement and the procedures to be followed in the private sector, the representatives of the Transport and Logistics Federation presented their action to their supervisory authority, the Ministry of Equipment, Transport, Logistics and Water.

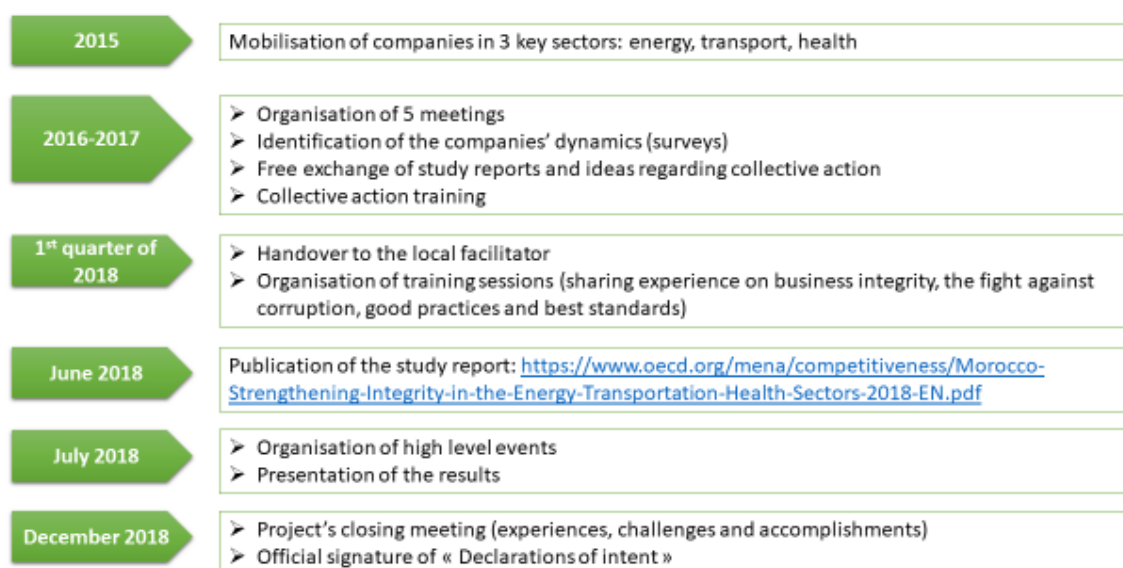
Further meetings were organised a few months later following the same model, to validate the themes, objectives and scope of the actions and to disseminate information to all the companies concerned.

Handing over to a local facilitator

A local facilitator, Mr Benzekri,⁸ was appointed to take over from the international expert to co-ordinate the various pilot projects. New meetings took place at the CGEM during 2018 in his presence to lead to the implementation of collective actions.

Launching the collective action

A high-level meeting with the government in July 2018 was an opportunity to deepen the dialogue between government representatives and business on these issues and to involve the relevant authorities. In December 2018, the final meeting took place, to launch the pilot projects. This allowed for an assessment, through a public-private dialogue, of the benefits, results and challenges encountered in creating these various actions. It also recorded the progress made in defining the actions, and allowed reviewing the actual results within the different sectors. The various representatives of the three sectors signed declarations of intent in the presence of high-level representatives of the Moroccan Government. These took the form of ethical charters for the road transport and energy sectors and a memorandum of understanding for collaborating in the development of a charter of good commercial practices and promotion in the health sector.

Figure 4.1. Steps towards implementing collective action in Morocco

Source: Confederation of Moroccan Enterprises (GCEM)

4.2.3. Lessons learnt and future prospects

The Moroccan initiative provides an excellent illustration of the ability of the private sector to join in a voluntary approach to make commitments to tackle corruption. Several aspects that contributed to the success of this approach are worth highlighting:

- The inclusion of this initiative in the wider context of mobilisation against corruption as a whole. The launch of this private-sector initiative was concomitant to the launch of the Moroccan Government's national anti-corruption strategy, and brought on board the government players connected to the effort in a useful way, while maintaining a high degree of autonomy.
- The pivotal leadership role played by CGEM throughout the process, ensuring the mobilisation of the sectors concerned. The Ethics and Good Governance Committee, led by its president Mr Mohamed Bachir Rachdi and vice-president, Mrs Amina Figuigui, was particularly important.
- The importance of external facilitators. The combined efforts of the international expert and national expert were key in facilitating private sector discussions and transferring knowledge.
- The flexible nature of the overall project supporting the development of collective action in Morocco, i.e. the OECD project "Strengthening business integrity in Morocco". This kept the development of collective action progressively moving forward by defining more realistic objectives as the project unfolded, taking into account the specifics of each sector. The process drew on experience showing that establishing collective action requires time and patience, and the power of persuasion. Moreover, faced with the difficulty of the task, the key players from

the three sectors concerned - who were highly ambitious and pioneering from the outset - opted for a gradual approach, starting with the formal step of publicly signing the declaration of intent.

The signing of declarations of intent in each of the three sectors marked both the formalisation of the process and the passing of the baton to Morocco, setting the country on the path towards realising its commitments. CGEM will remain a central player and an experienced guide thanks to the pilot programmes. This includes helping the companies involved by providing them with tools, and highlighting the benefits of committing to collective action against corruption.

5. Conclusion

The initiatives of collective action conducted across the world, and the recent, innovative experience of collective action development in Morocco, point to a number of lessons that could be applied to other similar actions in the MENA region.

The collective action to promote business integrity in Morocco illustrated that establishing and sustaining collective action against corruption is a challenging undertaking, but also highlighted the willingness of the Moroccan private sector to fight corruption effectively, as part of the broader framework of the National Strategy Anti-Corruption adopted in the country in 2016.

To ensure the effectiveness of collective action, stakeholders must be careful to avoid certain pitfalls. They must work together to harmonise measures taken by companies of varying sizes and origins, from both the public and private sectors. At this point, the organisation and structure of a collective action is particularly important, and must guarantee a fair and clearly defined policy framework for the different stakeholders, so that each party has a clear and established role in implementing and sustaining the action. Stakeholders must also ensure that collective action does not replace individual action, as this can prove detrimental to the initiative. In addition, all stakeholders involved, whether companies, governments, or individuals from civil society, must be careful that implementing the action is not a pretext for setting up an illegal agreement that would conceal and perpetuate the use of corrupt practices under the guise of legality.

Despite the practical difficulties in set-up and the need for continuous monitoring, collective action offers one of the most effective solutions for combating corruption. In addition to reducing the risk of corruption, collective action can offer additional guarantees to consumers, in particular where certification is in place, and creates incentives for competing companies to comply with the ethical standards to which the committed companies subscribe.

In the long run, by allowing intervention at several levels and across different fields—while bringing together public, private and civil society sectors—collective action allows to fight effectively against the multifaceted expressions of corruption.

Bibliography

- Arribas Reyes, E. (2019), *Moving Forward through Anti-corruption Collective Action: the driving role of the private sector*, Annual Meeting of the MENA-OECD Business Integrity Network (MOBIN), 18 March, Paris. [1
5]
- B20 Collective Action Hub (n.d.), *Anti-corruption and Integrity in the Arab Countries – Phase II – Egypt, Morocco and Tunisia*, <http://www.collective-action.com/initiatives-detail/1091>. [3
7]
- B20 Collective Action Hub (n.d.), *Anti-corruption and Integrity in the Arab Countries – Phase II – Iraq and Libya*, <http://www.collective-action.com/initiatives-detail/1090>. [3
8]
- B20 Collective Action Hub (n.d.), *Brazilian Business Pact for Integrity and Against Corruption*, <https://www.collective-action.com/initiatives-detail/113>. [1
7]
- B20 Collective Action Hub (n.d.), *Developing a Corporate Anti-corruption Ecosystem in Egypt*, <http://www.collective-action.com/initiatives-detail/648>. [2
1]
- B20 Collective Action Hub (n.d.), *Extractive Industries Transparency Initiative*, <http://www.collective-action.com/initiatives-detail/135>. [4
1]
- B20 Collective Action Hub (n.d.), *Implementing Integrity Practices in GCC Private and Public Businesses*, <http://www.collective-action.com/initiatives-detail/736>. [3
9]
- B20 Collective Action Hub (n.d.), “*SHINE PROJECT – Strengthening High-level Commitment for Integrity Initiatives and Nurturing Collective Action of Enterprises Advocating for Fair Market Conditions*”, <http://www.collective-action.com/initiatives-detail/522>. [4
5]
- B20 Collective Action Hub (n.d.), “*Thai Collective Action Against Corruption Campaign*”, <http://www.collective-action.com/initiatives-detail/86>. [2
4]
- B20 Collective Action Hub (n.d.), “*Ukrainian Network of Integrity and Compliance (UNIC)*”. [2
7]
- B20 Collective Action Hub (n.d.), *Project for the UN Global Compact: Promoting Collective Action through UN Global Compact Local Networks*, <http://www.collective-action.com/initiatives-detail/517>. [4
2]
- Caryn, M. (2015), “Corruption and Collective Action”, *Development Leadership Program*, Vol. 32/Research Paper, p. 12, <http://publications.dlprog.org/CorruptionandCollectiveAction.pdf>. [4
0]
- CSR Network ASEAN (n.d.), *Collective Action Against Corruption – Business and Anti-corruption Initiatives in ASEAN*. [2
3]
- Egyptian Junior Business Association Integrity Network (2018), *Implementing Collective Action Initiatives against Corruption in the Middle East & Africa*, [8]

- http://www.baselgovernance.org/sites/default/files/2019-02/ini_collective-action_outcome-report_resized.pdf.
- EITI (2017), *The Global Standard for the Good Governance of Oil, Gas and Mineral Resources*, Extractive Industries Transparency Initiative, Oslo, [2
2]
https://eiti.org/sites/default/files/documents/factsheet_en_lac.pdf.
- G20 Seoul Summit (2010), *The Seoul Summit Document*, [4
3]
<https://www.oecd.org/g20/summits/seoul/Seoul-Summit-Document.pdf>.
- General Assembly of the United Nations (2003), *United Nations Convention against Corruption*. [3
1]
- High Level Advisory Group (2017), *Report on Combating Corruption and Promoting Integrity presented to the OECD Secretary General*, OECD, Paris, [1
1]
<http://www.oecd.org/fr/corruption/anti-corruption/HLAG-Corruption-Int%C3%A9grit%C3%A9-Rapport-Mars-2017.pdf>.
- International Bank for Reconstruction and Development and World Bank (2008), *Fighting Corruption through Collective Action - A Guide for Business*, International Bank for Reconstruction and Development and World Bank, [1
4]
https://webcache.googleusercontent.com/search?q=cache:XYbDsXOGZRIJ:https://www.globalcompact.de/wAssets/docs/Korruptionspraevention/Publikationen/fighting_corruption_through_collective_action.pdf+&cd=1&hl=fr&ct=clnk&gl=fr.
- Kassum, J. and F. Vincke (2013), *ICC Ethics and Compliance Training Book*, International Chamber of Commerce, Paris. [1
9]
- Kingdom of Morocco, General Secretariat of the Government (2011), *The Constitution*, Kingdom of Morocco (in French), <http://extwprlegs1.fao.org/docs/pdf/mor128747.pdf>. [3
2]
- Maritime Anti-Corruption Network (2016), *Impact Report*, Maritime Anti-Corruption Network, Copenhagen. [2
5]
- Marquette, M. and C. Peiffer (2015), *Corruption and Collective Action*, <http://pure-oai.bham.ac.uk/ws/files/19752251/CorruptionandCollectiveAction.pdf>. [6]
- National Anti-Corruption Commission (2016), *National Anti-Corruption Strategy 2016*. [3
3]
- Nero, W. (2016), “Collective action to tackle corruption”, *Ethical Boardroom* Spring, p. 3, [1
3]
https://www.baselgovernance.org/sites/collective.localhost/files/publications/eb6_baselgovernance_0.pdf.
- OECD (2018), *Morocco – Strengthening Business Integrity in the Energy, Transportation and Health Sectors*, OECD, Paris, <http://www.oecd.org/mena/competitiveness/Morocco-Strengthening-Integrity-in-the-Energy-Transportation-Health-Sectors-2018-EN.pdf>. [3
4]
- OECD (2016), *Business Integrity in Eastern Europe and Central Asia*, OECD, Paris, [1
8]
<http://www.oecd.org/corruption/acn/Business-Integrity-in-Eastern-Europe-and-Central-Asia-ENG.pdf>.

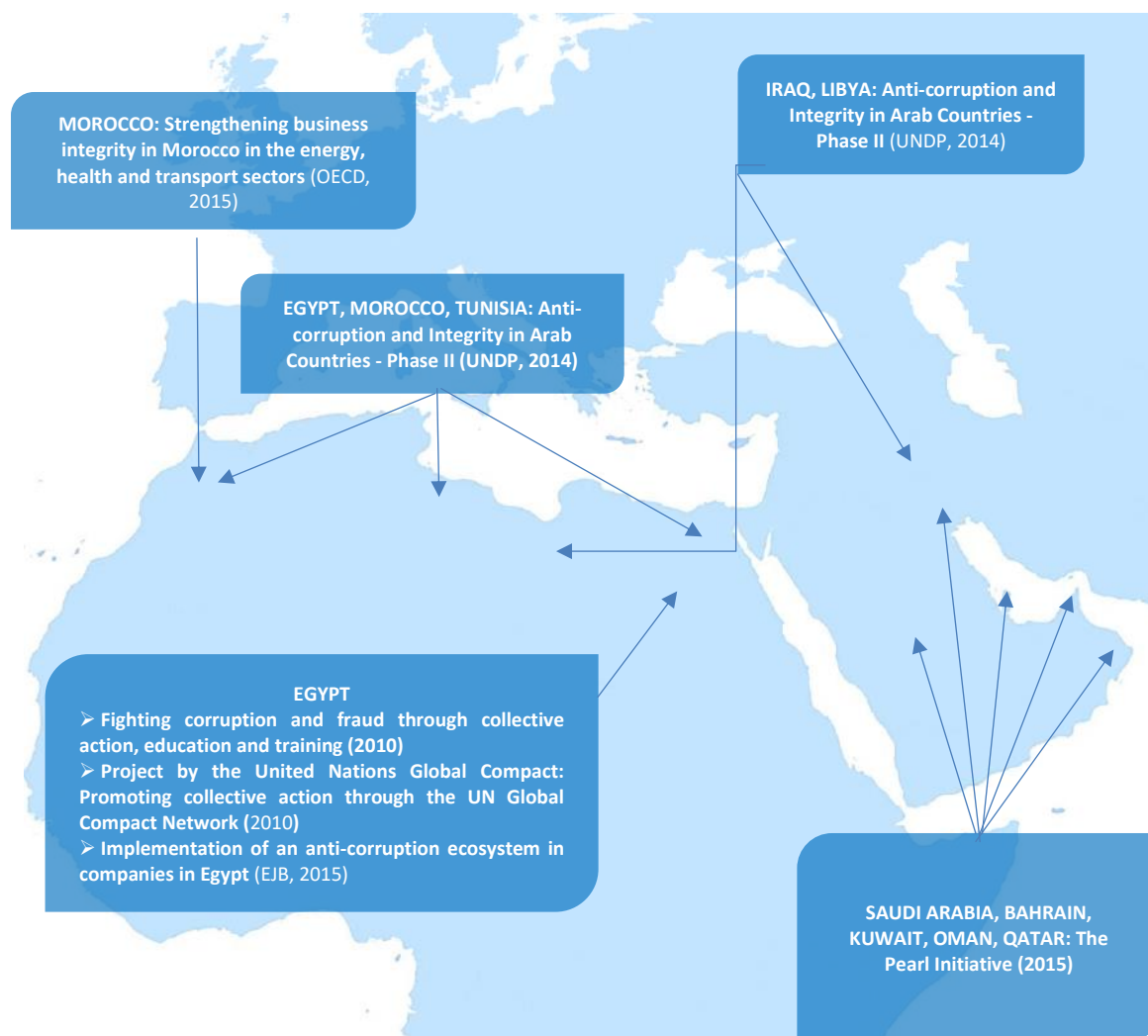
- OECD (2015), *Consequences of Corruption at the Sector Level and Implications for Economic Growth and Development*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264230781-en>. [3 5]
- OECD (1997), *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, OECD, Paris, http://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf. [3]
- OECD (1976), *Declaration on International Investment and Multinational Enterprises*, OECD, Paris, <http://www.policy/oecddeclarationoninternationalinvestmentandmultinationalenterprises.htm>. [2 8]
- Olson, M. (1965), *The logic of Collective Action: Public Goods and the Theory of Groups*. [9]
- Pieth, M. (2012), “Collective Action and Corruption”, *International Centre for Collective Action*, Vol. 13/September, p. 20, https://www.baselgovernance.org/sites/collective.localhost/files/publications/120915_wp_13_collective_action_and_corruption_pieth_final.pdf. [5]
- Transparency International (2019), *Middle East & North Africa: corruption continues as institutions and political rights weaken*, <https://www.transparency.org/news/feature/regional-analysis-MENA>. [1]
- Transparency International (2009), *Business Principles for Countering Bribery: Transparency International Self-Evaluation Tool*, Transparency International, Berlin, https://transparency-france.org/wp-content/uploads/2016/04/2009_TI_BusinessSelfEvaluationTool_EN.pdf. [4 4]
- Transparency International (n.d.), *Resources about integrity pacts*, https://www.transparency.org/whatwedo/tools/resources_about_integrity_pacts/5. [7]
- UN (2013), *United Nations Convention against Corruption*, United Nations, New York, http://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf. [4]
- UNCTAD (2019), *General Profile: Morocco (database)*, <https://unctadstat.unctad.org/CountryProfile/GeneralProfile/en-GB/504/index.html>. [2 9]
- United Nations Global Compact (2018), *Promoting Anti-corruption Collective Action through Global Compact Local Network*, http://www.unglobalcompact.org/docs/publications/UN_Anti_Corruption_Brochure-2018.pdf. [2 0]
- UNODC (2014), *An Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*, UNODC, New York, http://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook. [1 2]
- Wannenwetsch, S. (2018), “To certify or not to certify”, B20 Collective Action Hub. [2 6]
- Water Integrity Network and Transparency International (2010), *Integrity Pacts in the Water Sector. An Implementation Guide For Government Officials*, https://www.transparency.org/whatwedo/publication/integrity_pacts_in_the_water_sector_an_implementation_guide_for_government. [1 6]

- WHO (2010), *Good Governance in the Pharmaceutical Sector, Progress Report*, WHO, Geneva, <http://apps.who.int/medicinedocs/documents/s17548fr/s17548fr.pdf>. [3
6]
- World Bank (2019), *Doing Business 2019*, World Bank, Washington DC, http://www.worldbank.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf. [3
0]
- World Bank Institute (2008), *Fighting Corruption through Collective Action – A Guide for Business*, World Bank Institute, Washington DC. [1
0]
- Zgheib, N. (2015), *Obstacles to business in Middle East and North Africa: instability, corruption, informal sector*, European Bank for Reconstruction and Development, <https://www.ebrd.com/cs/Satellite?c=Content&cid=1395245518291&d=Mobile&pagename=EBRD%2FContent%2FContentLayout>. [2]

Annex A. Mapping collective action to fight corruption in the MENA region

Collective action against corruption emerged across the MENA region in the early years 2000. This has been initiated in different sectors and at different scales, both national and regional, as reflected in Figure A.1.

Figure A.1. Examples of collective action against corruption in the MENA region



Source: B20 Collective Action Hub Database, www.collective-action.com/initiatives, (accessed May 23, 2019).

Egypt, Morocco, Tunisia

In 2014, the United Nations Development Programme launched the second part of the project “Fighting corruption and promoting integrity in Arab countries in the pharmaceutical and health sectors” (B20 Collective Action Hub, n.d.^[37]). This project aims to support non-government actors, including companies, to participate in national anti-corruption reforms. The project enables stakeholders to propose practical actions to reduce the risk of corruption in the health and customs sector, and to integrate the implementation of collective actions into the programmes of national anti-corruption authorities.

Iraq, Libya

In 2014, the United Nations Development Programme, in co-operation with non-government organisations, launched a collective action project in Iraq and Libya (B20 Collective Action Hub, n.d.^[38]), similar to the one launched in Egypt, Morocco and Tunisia. The project aims to increase the technical capacities of stakeholders in collective action to fight corruption. Ultimately, this capacity development should increase the level of transparency and accountability in the customs and health sector.

Bahrain, Kuwait, Oman, Qatar, Saudi Arabia

The Pearl Initiative was launched in 2015 in the Gulf Cooperation Council region to raise awareness among business leaders, government officials and students of the importance of good integrity practices (B20 Collective Action Hub, n.d.^[39]). Ultimately, the initiative must ensure the implementation of the highest standards in the fight against corruption in order to achieve a healthy and honest business environment. This collective action has made it possible to develop practical tools to help companies comply with a high level of integrity and transparency in the conduct of their business.

Notes

¹ The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted in 1997 and entered into force in 1999, establishes legally binding standards to make the bribery of foreign public officials in international business transactions a criminal offence. It is the first and only international anti-corruption instrument targeting the "supply" of bribes to foreign public officials. The 43 State Parties to date include all OECD member states as well as Argentina, Brazil, Bulgaria, Colombia, Costa Rica, Lithuania, South Africa and the Russian Federation.

² Based on the US Foreign Corrupt Practices Act (FCPA) in particular, a number of multinational companies have already been prosecuted and convicted for acts abroad, as well as under the more recent legislation adopted by the United Kingdom (UK Bribery Act).

³ The concept of collaboration between authorities and the business community in the fight against corruption, although recent, has generated recognition at the highest level. The G20 Leaders meeting in Seoul stated in the 2010 Summit's Closing Statement that they would commit to encourage the fight against corruption. They wish to engage the private sector in this fight to promote probity, integrity and transparency in the conduct of private business as well as in the public sector. They stress the essential role of the private sector in this regard, as well as that of industry and civil society, the latter being competent to identify vulnerabilities in commercial transactions in specific sectors in order to advocate improvements in the probity, integrity and transparency of their practices. (G20 Seoul Summit (2010), *The Seoul Summit document*, Seoul, November 12, 2010 <https://www.oecd.org/g20/summits/seoul/Seoul-Summit-Document.pdf>).

⁴ The concept of collaboration between stakeholders in collective action (companies, public authorities and representatives of civil society) can be linked to the philosophy underlying the practice of "collaborative law", which is increasingly being applied in many countries. In collaborative law, the principle of co-operation between parties comes to apply with the common objective of reaching an agreement that responds as much as possible to the concerns of each of them. The objective is no longer to carry out a confrontation or obtain a victory in a dispute but to find an answer to everyone's concerns. As such, collective action also brings together parties who, far from wanting to confront each other on criminal concepts, seek together to optimise the prevention of the commission of corruption offences.

¹ The Basel Institute on Governance created the International Centre for Collective Action (ICCA) in 2012, with the objective of helping companies and other stakeholders improve their ability to reduce the risk of corruption through collective action. In 2013, the B20 mandated the ICCA to develop and maintain what was called the B20 Collective Action Hub in partnership with the United Nations Global Compact and the ICCA's institutional partners.

² For more details, please refer to the B20 Collective Action Hub at the International Centre for Collective Action (ICCA) database - <https://www.collective-action.com/initiatives/map> (accessed May 23, 2019).

³ It is also worth highlighting the studies and work carried out on this subject by the Basel Institute on Governance <https://www.baselgovernance.org/theme/icca>, and the International Anti-Corruption Academy as well as by Transparency International on the specific issue of integrity pacts

⁴ For more details see <https://www.collective-action.com/resources/typology>.

⁵ For more details see <https://www.collective-action.com/resources/typology>.

⁶ Source: <https://www.collective-action.com/resources/typology>.

¹If there appears to be a conflict of interest, a reporting obligation should be imposed whereby the referring person must explain the situation that could have unfolded.

² It is not obligatory to have such a document – there are some practical examples of collective action, which proceeded without one. It is nonetheless recommended for the reasons mentioned.

³ Transparency International has developed a Self-Evaluation Tool (SET) to allow companies to evaluate their anti-bribery programmes themselves. It enables companies to appraise the strength, completeness and effectiveness of their anti-bribery policies and procedures, by comparing them against the framework of the Business Principles for Countering Bribery (Transparency International, 2009^[44]).

⁴The evaluator should try to base his analysis as much as possible on objective elements, and should ensure that they are consistent in the analysis of the different candidates. To do this, they can rely on (1) the criteria set out in ISO 37001:2016 (Anti-corruption Management System); (2) the provisions of the OECD Guide to Good Practice on Internal Controls, Ethics and Compliance, annexed to the OECD Council Recommendation to strengthen the fight against bribery of foreign public officials in International Business Transactions; (3) the requirements set out in the FCPA Hallmarks of Effective Compliance Programs of the United States; (4) the provisions of Chapter 8 of the Federal Sentencing Guidelines of the United States; (5) the provisions of the Bribery Act Guidance of the United Kingdom; (6) Article 17 of the French Sapin II Act; and (7) where applicable, the national provisions of the country most concerned.

- International Organization for Standardization (2016), ISO 37001:2016, Anti-bribery management systems, <https://www.iso.org/obp/ui#iso:std:iso:37001:ed-1:v1:en>.
- OECD (2010), “Good Practice Guidance on Internal Controls, Ethics, and Compliance”, in *Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transaction of November 2009*, OECD Publishing, Paris <https://www.oecd.org/daf/anti-bribery/44884389.pdf>.
- Criminal Division of the U.S Department of Justice and the Enforcement Division of the U.S Securities and Exchange Commission (2012), “The 10 Hallmarks of an Effective Compliance Program”, in FCPA Guidance, Washington, <https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf>
- United States Sentencing Commission (2018), “Chapter 8 – Sentencing of organizations”, the Guidelines Manual <https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2018/GLMFull.pdf>
- Ministry of Justice of the United Kingdom and the Rt. Hon Nick Herbert (2012), *Bribery Act 2010 guidance* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/181762/bribery-act-2010-guidance.pdf

⁵The report lists the following "success factors" for collective action: (1) appoint a facilitator, (2) be patient, do not rush to achieve success, as building trust between stakeholders takes time, (3) define a narrow scope (specific sector, specific country), which increases credibility and allows for easier monitoring or audit, (4) clarify how the initiative will be financed from the beginning of the project, (5) focus on achievable results and improvements to create foundations on which to build more ambitious initiatives in the future, (6) engage senior management of participating companies, (7) create public awareness and launch a communication campaign, (8) establish certification as a positive incentive for participants, and (9) agree on clear consequences in the event of a violation (author's translation).

⁶UK Bribery Act 2010 section 7, www.legislation.gov.uk/ukpga/2010/23/section/7 (accessed on 23 May 2019).

⁷See the UNIC members list at <https://unic.org.ua/en/members/> (accessed on 27 May 2019).

¹Morocco ranked 128th in the 2019 Doing Business Ranking.

²Morocco is thus losing another 5% to 7% of its GDP, as indicated by the Head of Government, Sâadedine El Otmani, in an interview in July 2018 (Le Desk, 30 July 2018).

³Article 36 of the Moroccan Constitution of 29 July 2011 provides that "Offences relating to conflicts of interest, insider trading and all financial offences shall be punishable by law. Public authorities are required to prevent and punish, in accordance with the law, all forms of delinquency related to the activity of public administrations and bodies, the use of the funds at their disposal, and the award and management of public contracts. », <http://extwprlegs1.fao.org/docs/pdf/mor128747.pdf> (accessed 27 May 2019).

⁴The Central Authority for the Prevention of Corruption was created in March 2007 by Decree No. 2-05-1228, www.icpc.ma/wps/wcm/connect/46218980438e08cc8541cd40d51cf4f5/D%C3%A9cret+n%C2%B02-05-1228+du+13+mars+2007+Cr%C3%A9ation+ICPC+fr.pdf?MOD=AJPERES&CACHEID=46218980438e08cc8541cd40d51cf4f5 (accessed 27 May 2019).

⁵According to Article 167 of the Moroccan Constitution of 29 July 2011 "the National Authority for Integrity, Prevention and the Fight against Corruption, established under article 36, has the following tasks in particular: initiating, coordinating, supervising and monitoring the implementation of policies to prevent and combat against corruption, collecting and disseminating information in this field, contributing to the moralization of public life and consolidating the principles of good governance, the public service culture and the values of responsible citizenship". , <http://extwprlegs1.fao.org/docs/pdf/mor128747.pdf> (accessed 27 May 2019).

⁶Ministry of Administration and Civil Service Reform, Decree No. 2-17-264, www.mmmp.gov.ma/fr/actualites.aspx?id=1267 (accessed 27 May 2019).

⁷Mr François Vincke is a member of the Brussels Bar and a member of the International Chamber of Commerce.

⁸Mr Benzekri is a lawyer at the Casablanca Bar, specialising in business law in Morocco. He has also practised for more than ten years as Professor of Law at the universities of Tangiers and Rabat, and was legal manager for the Moroccan Financial Market Regulator (AMMC).



GLOBAL LESSONS ON COLLECTIVE ACTION AGAINST CORRUPTION

THE CASE OF MOROCCO

Fighting corruption is increasingly becoming a business decision, leading companies to implement actions to strengthen business integrity. This, in turn, has led to the emergence of “collective” anti-corruption action, involving several companies in the same sector or field of activity banding together to promote greater business integrity on a voluntary basis. This type of collective action, alongside other legal, institutional and administrative reforms, can make a significant contribution to creating a healthier business climate for greater economic development.

This report aims to facilitate the diffusion of collective action in the Middle East and North Africa region and beyond by highlighting factors for success and possible pitfalls in implementing collective action initiatives. In particular, this report reviews the pioneering experience of collective action in the health, transportation and energy sectors of Morocco. It presents the different stages of implementing such action to promote integrity and analyses the lessons learned. As such, this document provides practical guidance to companies wishing to launch collective action, as well as governments and representatives of civil society, who can facilitate and/or associate themselves with this action.

This work was carried out within the framework of the project “Strengthening business integrity in Morocco”, supported by the Siemens Initiative for Integrity, which assisted Morocco in its determination to strengthen the integrity of companies and create a better environment for foreign investment, international trade and economic development. This project is also part of the long and active collaboration between the OECD and Morocco in the framework of the MENA-OECD Competitiveness Programme and the Morocco Country Programme.

www.oecd.org/mena
www.oecd.org/mena/competitiveness