
Services Sector

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The negotiation and conclusion of a free trade agreement (FTA) with Morocco presented particular challenges for the US negotiating team. Very little trade in services existed between the two countries before the negotiations, which made it difficult to identify interests and obstacles. Morocco's history is naturally closer to Europe, and to France in particular. More than 50 years after Morocco's independence, French remains the country's language of business. The vast majority of Morocco's elite, managers, engineers, and technicians were educated in French. The legal system is based on French civil and administrative law. The Banque de Paris et des Pays Bas administered the financial system during the colonial years, and to this day the primary foreign interests in the banking and insurance sector are French. This combination of factors contributed to making Morocco a private reserve for France, and later for the rest of Europe.

In contrast, the United States and Morocco ratified a bilateral investment treaty (BIT) that was implemented in 1991 but led to very little increase in investment (US investors have given priority to investments in China, Asia, and Latin America). The US presence is most visible in film production set in the fabulous landscapes of southern Morocco.

Negotiations on services thus started without much of a relationship or history to build on and without interest groups in Morocco to push the diplomatic efforts.

Nonetheless, at the international level, trade in services was a subject of considerable interest and attention: International trade in services is

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growing faster than merchandise trade—for example, eight of every ten jobs created in the United States are in the services sector. The development of information technologies has enabled the fragmentation of tasks and their outsourcing to countries that offer more competitive terms. The refocusing of US firms on core activities (their “core competency”) and their increasing use of specialized services to assist their expansion efforts (e.g., legal services, computer services, and marketing and strategy consultants) led to significant growth in the US services sector in the 1990s.

At a time when economists were theorizing on the role of services in development, highlighting their contribution to the competitiveness of economies, when journalists reported concerns about the loss of qualified jobs to India because of the Internet, and when international trade diplomats were concerned about too little discipline in the General Agreement on Trade in Services (GATS), US negotiators needed to launch fresh proposals in the absence of strong supporting actors to carry their ideas over the finish line.

A New Generation of FTAs

In the absence of the need to satisfy particular categories of interests, US negotiators accomplished a remarkable task. They proposed a complete agreement to the Moroccan party, including all the subjects covered in Geneva, without the constraints of multilateral negotiations. They insisted on an agreement among equals, without favoritism, symmetrical in its concessions, and respectful of the Kingdom’s sovereignty. At the same time, of course, they worked to promote global US interests corresponding to sectors in which the US economy is at the forefront—financial services, electronic commerce in all its forms, and the audiovisual sector (film and music).

Context, Content, and Effects of the FTA

A summary of the FTA’s primary chapters on services and analysis of Moroccan policies in the relevant sectors reveal possible points of friction between the parties, their causes, and the ways they were accounted for in the agreement. First, a review of World Trade Organization (WTO) negotiation methods for services illustrates the concepts behind the negotiations on trade in services for the Morocco-US FTA. A brief presentation of the major components follows, together with examples, where possible, of American firms’ successes under the new terms.

Presentation of the Framework

The GATS, negotiated during the Uruguay Round and implemented on January 1, 1995, was the first agreement to introduce a multilateral regime for the trade of services. It incorporated rules of conduct similar to those for merchandise trade:

- The most favored nation (MFN) clause generally requires that all WTO members benefit from the advantages extended by one member to any other member.
- The national treatment clause, when invoked, requires the same government regulations for national and foreign service providers.

The agreement sets out four types of services delivery, called modes:

- Mode 1 concerns the trans-border provision of just the service, for example, through telecommunications (Internet, telephone, fax, television) or through the dispatch of documents, CDs, tapes, or other means.
- Mode 2 regards foreign consumption, when consumers use the services outside their home country (including, for example, tourism, education, and medical treatment abroad).
- In Mode 3, the supplier establishes a commercial presence in another country, typically through branches or subsidiaries (e.g., banking services provided by a branch of a foreign bank, or education provided by a branch of an engineering school).
- Mode 4 assumes the physical presence of persons, as when an independent contractor or employee travels temporarily to the consumer's territory to provide the service (e.g., an architect who travels to a foreign site to supervise construction).

Because of the difficulties in building consensus, WTO members agreed on minimal coverage. Each submitted a list of sectors to which the agreement would apply, with the option of specifying exclusions for each sector; otherwise the agreement applied to all four modes for both market access and national treatment (eight commitments per sector). Each country could select the sectors for which it would make commitments from the Central Product Classification (CPC) list.¹ Within each sector, the country was free to limit its commitments to certain modes, market access, or national treatment. It could also define its commitments or exceptions horizontally, for all sectors.

1. Nomenclature of services used by the Organization for Economic Cooperation and Development (OECD) and the WTO.

This approach, using “positive lists” for the sectors covered and country obligations, presents notable gaps in terms of the guarantees of legal stability required for investing and trading. Nevertheless, it provided the foundation for a multilateral regime and an institution for dispute resolution.

The US negotiators of the Morocco-US FTA did not want to replicate this approach. They insisted on negotiation of “negative lists”—items not expressly excluded from the agreement were considered fully authorized for modes 1 through 3 (Mode 4 was set aside to avoid raising contentious emigration issues).

Investment

The FTA chapter on investment is essential for allowing services under Mode 3. As the most effective mechanism for accelerating Morocco’s economic development, it is an important element for the success of the country’s free trade.

The investment chapter develops a complete framework for the protection of the interests of each country’s investors in the other country, with the usual guarantees of equitable treatment, guarantees of capital and profit transfers, and an arbitration mechanism for conflicts between investors and the state.

Table 5.1 shows the trend in US investments in Morocco since 1999. There was clearly a turning point in 2006, the year the agreement entered into force.

Professional Services

The practice of certain professions requires a state-issued license that is usually granted to holders of a degree recognized within the country. These professions range from accounting and auditing to architecture, medicine, engineering, and legal services. The GATS recognizes the latitude of its members to regulate professions. It also recognizes the possibility of discrimination against foreigners, in, for example, the exclusion of noncitizens from certain professions.

The Morocco-US FTA defines admissible exceptions to the national treatment and market access clauses for the three modes covered. In the opinion of a US trade advisory board (ISAC 2004), the operating conditions for professional services companies in Morocco are satisfactory and adequate.²

Since the FTA, numerous US companies have established operations in Morocco within this framework. The renowned architectural firm Foster + Partners designed a luxury real estate complex in Casablanca.

2. They were also favorable before the agreement.

Table 5.1 Evolution of FDI flows into Morocco by origin country, 2001–08 (millions of Moroccan dirhams)

Country	2001	2002	2003	2004	2005	2006	2007	2008	2001–08
France	27,650	2,252	2,889	4,745	19,523	8,450	14,682	10,573	90,764
Spain	939	390	18,095	477	1,423	7,246	6,179	2,559	37,306
United Arab Emirates	9	118	222	331	710	759	4,509	5,501	12,159
United Kingdom	287	356	244	455	452	906	2,603	1,704	7,007
United States	699	380	471	448	221	833	2,858	4,017	9,927
<i>Total</i>	32,486	5,876	23,257	9,485	26,130	25,482	41,379	35,526	196,620
US share (percent)	2.15	6.46	2.03	4.72	0.85	3.27	6.91	12.35	5.05

Source: Royaume du Maroc, Office des Changes (Foreign Exchange Office), www.oc.gov.ma.

Famous golfers have designed new courses. McKinsey, a US strategic consulting firm, distinguished itself with its services to the Moroccan government: The firm's teams created the Plan Emergence for the development of offshore industries and the Plan Maroc Vert (Morocco's Green Plan) for developing the Moroccan agricultural sector by 2020. McKinsey credits its success to its ability to integrate local and international teams and to understand the cultural aspects of consulting work in Morocco due to the cultural plurality of the firm.

Telecommunications Services

Evolution of Moroccan Policy

Like numerous other countries, Morocco implemented a telecommunications sector reform policy in the 1990s. The reforms liberalized landlines and mobile telephone services, and promoted active competition under the supervision of an administrative regulatory authority. Within 10 years of its implementation, the Moroccan telecom landscape was profoundly transformed. Figure 5.1 lists the services and companies operating in this new landscape and table 5.2 shows the penetration indicators for households and companies, covering Internet service providers (ISPs) and computer and telephony equipment.

It is unquestionably this success that led Morocco to accept a fairly liberal regime for telecommunication services within the framework of the GATS.

Commitments in the FTA Framework

The framework of the Morocco-US FTA complies with international commitments, ensuring transparency in regulation and equality of treatment in access to public networks through all the traditional mechanisms: transparency of regulation, clearly defined rights of action, access to the public network, rights and obligations of operators, and value-added service providers.

However, despite the acknowledged quality of Morocco's regulatory and legislative environment, strengthened by the provisions of the FTA, there has been no US investment in the sector. Meanwhile, European and Arab operators have fought over mobile and fixed licenses, probably because of Morocco's choice of the European GSM standard for its mobile networks.

Financial Services

The agreement on financial services was the most difficult to negotiate. US professional associations, unhappy about the dominant position of French and European firms in this market (shown in table 5.3), placed great hope

Figure 5.1 Telecommunication service providers

Type of service	Landline and mobile phone service providers	VSAT providers	GMPCS providers	Trunk radio providers	Internet service providers (ISP)
Structure of market	Oligopoly	Oligopoly	Oligopoly	Duopoly	Open competition
Name of provider	Maroc Telecom Meditelcom Maroc Connect	Spacecom Gulfsat Cimecom	European Datacom Global Star Orbcomm Soremar Thuraya	Inquam Moratel	Maroc Telecom Maroc Connect Meditelcom Other ISPs

VSAT = Very Small Aperture Terminal

GMPCS = Global Mobile Personal Communication by Satellite

Source: Agence Nationale de Réglementation des Télécommunications, www.anrt.ma/fr.

Table 5.2 Level of market penetration of mobile phones and internet, 2004-08 (percent)

Year	Mobile phones	Internet
2004	31.23	0.38
2005	41.45	0.88
2006	53.54	1.34
2007	65.66	1.72
2008	73.98	2.46

Source: Agence Nationale de Réglementation des Télécommunications, www.anrt.ma/fr.

Table 5.3 Foreign presence in the Moroccan banking sector, 2005 (percent)

Bank	Main foreign shareholder	Share of ownership
Arab Bank Maroc	Subsidiary of Arab Bank plc	n.a.
Attijari Wafa Bank	Grupo Santander	14.5
BMCE Bank	CIC	10.0
BMCI	BNP Paribas	65.0
Citibank	Citibank	100.0
Crédit du Maroc	Crédit Agricole	52.6
SGMB	Société Générale	51.9

n.a. = not available

Source: BMCE Bank, www.bmcebank.ma.

in the FTA for opening the Moroccan market to their financial, banking, and insurance services. For the Moroccans, concessions in this area were the most difficult, as they represented the largest break from the country's existing policies.

Before examining the terms of the actual agreement, it is important to provide a brief summary of Morocco's monetary and financial policies, in particular for two areas in which policies have remained in effect since independence in 1956: restrictions on the export of capital and on the convertibility of the dirham. Some may see the influence of the Harrod Domar development model on Moroccan financial and monetary authorities³; others will see in those restrictive policies the fear of a recurrence of the 1981 balance of payments crisis, with its successive restructuring plans and monitoring by international organizations; still others will see in them the nationalist fear of a financial crisis similar to those that shook Asia a decade ago.

Restrictions on the Movement of Capital

Foreign direct investment in Moroccan companies requires prior approval. Holding foreign assets by Moroccan nationals is prohibited or carefully regulated and limited. Hedging operations through organized markets for futures or options are authorized only for economic operators holding physical positions (importers or exporters of raw materials negotiated through an organized market) and must go through Moroccan banks.

The insurance code requires insurance and reinsurance companies to place all of their reserves in assets traded in Morocco (treasury bonds, corporate bonds, and stock traded on the Casablanca stock exchange). Mutual funds were authorized to hold foreign assets only after the conclusion of the FTA. Before that, they were restricted to marketing funds invested in local assets. Individual investors do not have the right to hold an account with a foreign broker or a foreign bank account. The Moroccan Office des Changes (Foreign Exchange Office) has administrative control over most currency transfers for trade and investment.

Restrictions on Currency Exportation

The provisions that apply to holding and exporting currencies are very strict. Other than exporters, it is not possible to use a debit or credit card for international transactions. It is not possible to open a brokerage account via the Internet or to gamble at online casino sites. And it is not possible to use a local debit card to order anything through the Internet; the cards are valid only on Moroccan territory.

3. In this model, a critical factor is the positive net flow of capital from the rest of the world into national investment—the higher the rate of investment, the faster the growth of the economy. Hence outward flows of capital should be discouraged.

Financial Liberalization

Although financial and monetary authorities have maintained restrictions on the movement of capital, they have made significant changes to modernize the financial system. They reinvigorated the Casablanca stock exchange, privatized public banks, made the Central Bank independent, and imposed prudential rules based on Basel I and II. Reforms in the early 1990s allowed the creation of a modern financial system, able to play its intermediary role at a lower cost and to create the saving and investment instruments necessary for the country's development.

Nonetheless, while the reforms introduced a needed impetus for more competition, they did not provide for a fully liberalized environment. Restrictions on the entry of foreign firms are still high, and there is still a cozy relationship between the government and the management of the largest banks. Figure 5.2 illustrates the structure of the banking system. (See also figures 5.3 and 5.4 for the evolution of the Moroccan interest rate and of deposits in the Moroccan banking system.)

The WTO and the FTA

The list of commitments that Morocco submitted under the GATS framework did not allow the integration of the Moroccan financial system into the global financial market. It included the same domestic restrictions on the movement of capital, the convertibility of the dirham, and the role of the Exchange Office discussed above. In addition, Morocco's GATS commitments had clauses limiting the actions of international insurance companies in Morocco—only a company headquartered in Morocco could sell insurance instruments.

With the FTA, US negotiators succeeded in unlocking some of these restrictions:

- Transborder trade between the two countries may include maritime and aviation insurance as well as insurance for merchandise in transit. In other words, it is no longer necessary for a ship to be insured through a company headquartered in Morocco.
- Institutional actors in the market may invest up to 5 percent of the funds they manage in foreign shares. This creates opportunities for US brokers and investment banks.

However, restrictions on the freedom of foreign bank subsidiaries in Morocco remain. These banks cannot act on the basis of the funds and guarantees from their parent company but must act on the basis of capital paid in to Morocco.

Since the implementation of the FTA, the Moroccan financial sector has seen many transformations, in particular the authorization of several large

Figure 5.2 Structure of the Moroccan banking system

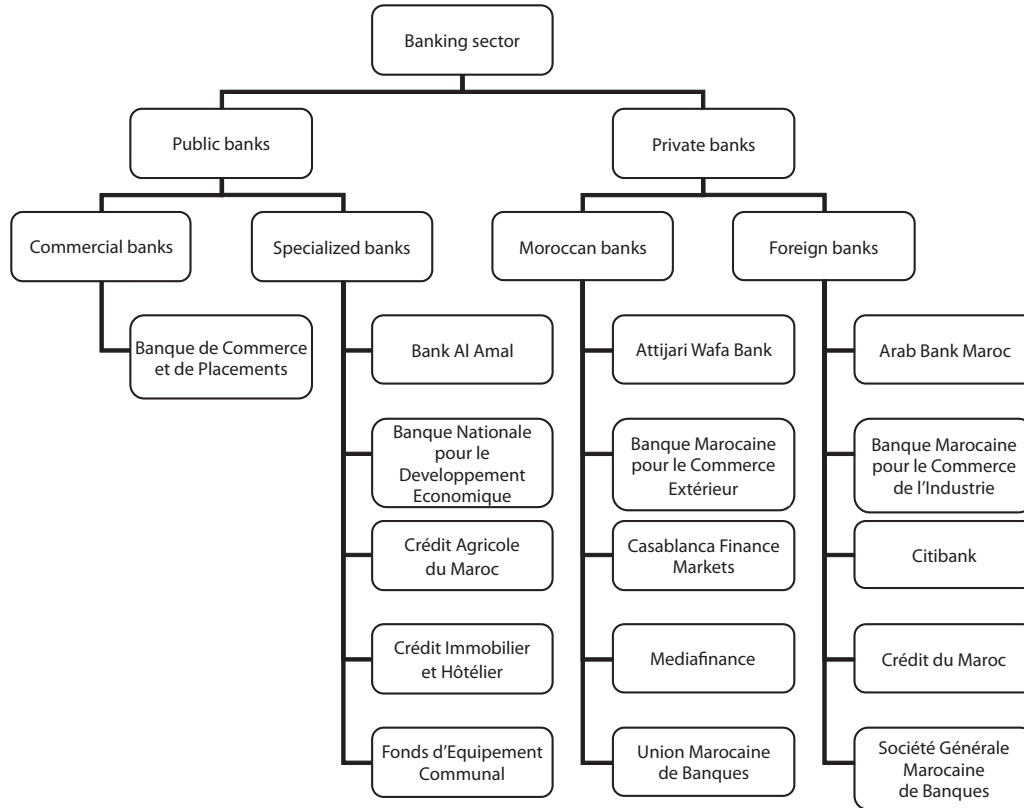
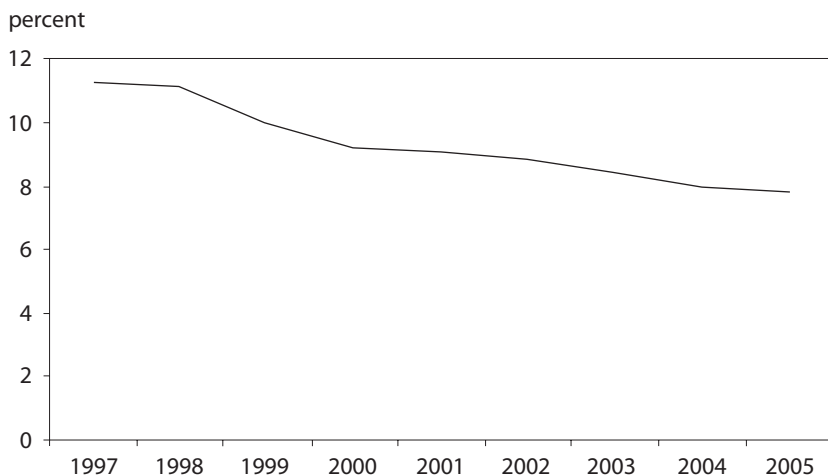
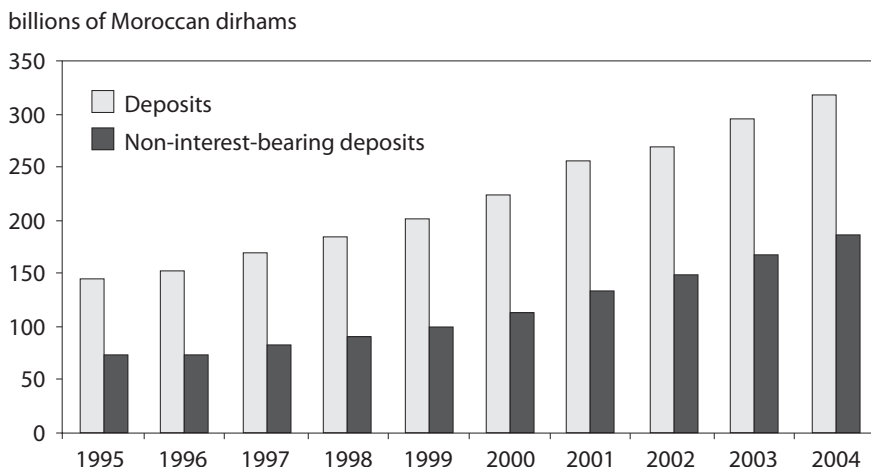


Figure 5.3 Evolution of the Moroccan interest rate, 1997–2005



Source: Bank Al-Maghrib, monetary and financial statistics, www.bkam.ma.

Figure 5.4 Evolution of deposits in the banking system, 1995–2004



Source: Bank Al-Maghrib, monetary and financial statistics, www.bkam.ma.

investments—for example, the investment in *Crédit Industriel et Hôtelier* by a French savings bank, capital increases by the *BMCE* (Moroccan Foreign Trade Bank), and the acquisition of *Crédit du Maroc* by the French bank

Crédit Agricole. Among investment banks, Arab interests have invested in one of the primary brokerage firms in Casablanca. There have been no expressions of interest, however, on the part of US operators.

Success Story: Western Union

The only clear success story of a US company in the Moroccan financial sector is that of Western Union. This money transfer company developed the necessary partnerships to provide quality service in Morocco (postal network, banking networks, and currency exchange stores) and is now present in the farthest reaches of the country, bringing expatriates' money to family members who remained behind. Through its ability to anticipate the needs of Moroccan migrants, it has become a major actor in the lucrative market of remittances.

Transportation Services

Without effective and efficient transportation, international trade cannot develop nor confer its benefits. Transportation services are critical not only for merchandise trade but also for other modes of service delivery. Although neither Morocco's commitments to the WTO nor those negotiated under the FTA are binding, the government has embarked on a reform process to facilitate its participation in foreign shipping and transportation services operations.

Liberalization Over the Long Term

In an effort to improve the efficiency of its logistics, and to promote trade and tourism, Morocco developed a set of complementary reforms covering all facets of the transportation sector.

In land transport, the government abolished the administrative regime for the shipping of merchandise and the licensing of shipping lines; now only shipping companies are licensed, based on the professional certification of their drivers and equipment. Tourist transportation was deregulated, and an in-depth evaluation is in progress to reform the transportation network for travelers.

With regards to air transportation, Morocco has ratified two Open Skies agreements, with the United States and the European Union.

The national maritime transportation company was privatized, and the Kingdom dismantled the bilateral maritime conferences and negotiated a global agreement with Europe to open new maritime lines between Morocco and Europe.

The government also initiated important port reforms, including an end to the management monopoly of the National Ports Office. Services for ships are now subject to a competitive regime as dock concessions are

open to multiple operators at the same port. And a new deep-water port was created on the Mediterranean for container trans-shipment; Maersk and PSA Singapore are the concessionaires.

Moreover, infrastructure was developed in parallel to the liberalization reforms, notably the accelerated building of a road network—several thousand kilometers are under construction.

Yet, despite these reforms and progress, US companies have shown no interest in Morocco's major operations. Even the Open Skies agreement has not led to US carriers developing flights; only a code sharing agreement allows Delta Airlines to serve Morocco. US companies have not taken part either in the port concessions or in highway development.

Electronic Commerce

American negotiators secured major and highly favorable concessions in the area of electronic commerce. They obtained recognition of the concept of digital products as well as their treatment as services and not as products. The import of a product of this type is taxed based only on its physical support (DVD, compact disk, and magnetic tapes), so digital products transferred through the Internet are exempt from taxation. The major drawback of this concession is the limited ability of Moroccans to use credit cards to pay for these services.

Conclusion

A Useful Service

The services provisions of the Morocco-US FTA are unquestionably useful and important for Morocco's development. It acknowledges the critical nature of quality services for development and growth. It creates obligations of transparency and cooperation for internal regulations. It requires the government to dismantle its policy and make its legislation on services compliant.

A Satisfactory Service?

This agreement has done little to serve the interests of US companies and attract US investment in the sector. In telecommunications, the difficulties associated with the selection of the GSM standard limit the entry of US companies. In financial services, the constraints imposed by the Foreign Exchange Office limit US participation in developing the market. And in the transportation sector, the major development projects over the past few years have proceeded without US participation. Even in electronic commerce, because of the Foreign Exchange Office's constraints on the use of credit cards for purchases outside Morocco, the concessions obtained for digital products have not translated into greater traffic.

Thus although the agreement was concluded according to current best practices and inspired by global debates on US trade policy, it did not have the support of interest groups directly involved in the country.

A Service to Be Completed

Pursuing the liberalization of trade in services initiated through the framework of the Morocco-US FTA may be an important factor in the Kingdom's future economic growth. All the studies on the relationship between the liberalization of services and growth show a positive link, particularly for services directly related to international trade, transportation, and financial services.⁴ In financial services, much remains to be done to improve the Kingdom's integration into global financial markets. On the one hand, the lack of integration was an effective tool in sheltering the Moroccan financial sector from the current global crisis, at least initially. On the other hand, it complicates the ability of the sector to engage in the wide-ranging reforms necessary to integrate into global markets.

Recommendations

Despite technological progress, services depend on a human relationship between a client and a service provider. They therefore have a strong cultural dimension. The ability to operate in a foreign cultural environment, while respecting local values and customs, is critical for success.

There is great cultural proximity between Moroccan managers and executives and those in Europe, and France in particular. Many company managers and administrators were educated either in France or in Morocco by teachers trained in France. The Moroccan legal system is based on European legal texts, and references for business and administrative law are European. Despite the emergence of Moroccan companies, the business culture remains highly influenced by European practices. And despite gains by English and Spanish, French remains the working language for the business world.

Thus, the first recommendation is to develop a mutual understanding of practices and culture. Western Union's success stems largely from its ability to understand the needs of migrants and their families and to find appropriate solutions. McKinsey's success comes mostly from its cultural plurality and its ability to translate practices tested elsewhere into a language and references appropriate for the Moroccan environment.

The second recommendation concerns the necessity of pursuing financial liberalization as a condition for increased integration of the two

4. For example, see Mattoo, Rathindran, and Subramanian (2006) or Hoekman and Mattoo (2008).

countries' financial systems. There cannot be any development of trans-border trade without removing restrictions on the use of credit cards and relaxing the rules for convertibility.

To do this, it is important to reassure Moroccan decision makers, calm their legitimate fears, and develop the means to make these changes. One proposal is to jointly develop an educational seminar to promote these reforms in cooperation with the organization of Moroccan banks. The stated ambition of Casablanca to become a regional financial center, addressing the financial services needs of the Maghreb and West Africa, should be part of the policy dialogue to lift these restrictions and allow free capital movements. It is not feasible to move toward such a goal under administrative constraints on foreign exchange.

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