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Mauritania: Anti-Corruption Study

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PREM 4
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1 USD = 329 UM
Fiscal Year
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ACRONYMS AND ABBREVIATIONS

CCM    Central Procurement Commission
CDD    Community-Driven Development
CFAA   Country Financial Accountability Assessment
CPAR   Country Procurement Assessment Report
CPCCA  Code of Civil, Commercial and Administrative Procedure
CPI    Corruption Perceptions Index
CPIA   Country Policy and Institutional Assessment
CSO    Civil Society Organization
DB     Doing Business report
EC     European Commission
EITI   Extractive Industries Initiative
FDI    Foreign Direct Investment
GDP    Gross Domestic Product
ICS    Investment Climate Survey
IDF    Institutional Development Fund
IGE    Inspectorate General of State
IGF    Inspectorate General of Finance
IP     Integrity Pact
IT     Information Technology
KKM    Kaufmann Kraay Mastruzzi
NGO    Non-Governmental Organization
OECD-DAC Organization for Economic Cooperation and Development –
       Development Assistance Committee
OLS    Ordinary Least Squares
PEFA   Public Expenditure and Financial Accountability
PPP    Purchasing Power Parity
PRECASP Public Sector Capacity Building Project
SOCOGIM Society of Construction and Real Estate Management of Mauritania
UN     United Nations
UNDP   United Nations Development Program

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Executive Summary

1. **Motivation of the report and choice of topics.** This report is based on a number of background papers prepared jointly by a group of donors (EU, UNDP and the World Bank) and government counterparts. These papers were discussed in country and condensed in a Policy Note on fighting corruption, which was delivered to the authorities in April 2007. The Policy Note has been in turn used by the authorities to prepare a draft National Anti-corruption Strategy (NACS), which is being finalized. This report also benefits from research conducted at the World Bank on the economics of rent seeking in Mauritania and the impact of corruption on the development of private local and foreign firms. The study therefore builds on the Policy Note by analyzing more in depth corruption issues and practices in the country in selected areas.

2. The topics covered in this report were chosen given their criticality for the anti-corruption and governance agenda and in order to align the analysis and recommendations to the draft anti-corruption strategy, which focuses on: (i) the socio-cultural aspect of corruption; (ii) corruption in the public administration sphere (including procurement); (iii) corruption in the extractive industries; and (iv) the re-establishment of the rule of law. The inclusion of additional work on corruption as an obstacle to private sector development was motivated by the availability of the recently completed Investment Climate Assessment (ICA). Clearly, corruption in Mauritania is not confined to the topics covered here, which therefore do not represent an exclusive list of problematic areas. Follow up work on other issues of corruption and governance is currently being undertaken with support from the World Bank, including a governance diagnostic and a stakeholder analysis.

3. **Aims and structure of the report.** The overarching aim of the report is to provide analytic support to the NACS formulation, offer lessons from international experience on governance and anti-corruption (GAC) policy and generally support the Government and its development partners to better understand the phenomenon of corruption in Mauritania. The report is structured as follows: Chapter 2 focuses on the definition and measurement of corruption and the Mauritanian political economy. Chapter 3 focuses on corruption in public procurement. Chapter 4 concentrates on corruption in the courts of law. Chapter 5 deals with the extractive industries. Chapter 6 focuses on corruption from the perspective of the private sector, based on the results of the recent Investment Climate Assessment (ICA).

4. **Main message of the report.** On the basis of the analysis conducted in this report, the single most important message concerns the need for maintaining momentum and pressing ahead with the finalization of ongoing anti-corruption strategic thinking and legislation, and the implementation of already approved GAC laws and measures. Looking forward, the emphasis should shift from passing laws and rules to concrete implementation of procedures on a broader agenda of greater political accountability. Priority areas include: (1) independence of the media, (2) monitoring procedures (such as a governance diagnostic survey) and (3) the establishment of an effective mechanism through which the voice of citizens and users of public services can be heard.
5. **Chapter 2: why the analysis of corruption matters in Mauritania?** Corruption can be defined as “the use of public office for private gain”. Although this simple definition refers directly to the abuse of the public trust by government agents, corruption manifests itself most commonly as a systemic problem involving individual citizens, private businesses, and often with links to cross border actors. It essentially represents the failed outcome of weak monitoring and accountability systems. Such failures can be seen at all levels of government activity. Corrupt activities are broadly classified as either “grand corruption” – at the legal and policy levels - or “administrative corruption” – which includes abuses of personnel, budget and contracting procedures as well as the everyday bribes commonly known as “petty corruption”. These two broad categories can also be understood as “upstream” (grand) vs. “downstream” (administrative) corruption.

6. Corrupt practices have deep social roots in Mauritania and reflect decades of rent-driven development. Under the old regime of Maamuya Ould Sid'Ahmed Taya (1984-2005) relationships of loyalty and dependence permeated a formal political and administrative system through a predominant party system. Wealth was redistributed towards a clientele chosen because of “ethnicity”, “tribalism” or “status” within the system of Mauritanian society. Tribal leaders were rewarded for their loyalty with positions in government and key sectors of the economy that conferred access to public resources to reward their constituencies. Office holders were rotated to spread access to state largesse and to limit incentives to defect to the opposition. These societal developments have left their mark on the country’s political and administrative institutions, and accountability mechanisms remain weak.

7. Despite the existing challenges, Mauritania has now the chance to make a fresh start. A coup in August 2005 deposed the long serving president Taya. The transition authorities (2005-2007) laid out a path for the establishment of democratic rule and took important steps on the governance front, such as, inter alia, the adhesion to the Extractive Industries Transparency Initiative (EITI), adoption of an Ethics Code for civil servants and a declaration of assets bill for high-raked personnel in the administration. The new Government, appointed in 2007, has continued along this path and adopted a law penalizing slavery, and made the public announcement of the willingness to acknowledge the human rights violations against black African Mauritians during the 1989-91 period, including the repatriation of refugees. In light of this promising environment, the report notes that this is an opportune time for World Bank and other donors to support the government to finalize the anti-corruption strategy and to assist in the implementation of recently enacted governance and anti-corruption measures through monitoring, knowledge-dissemination and capacity-building initiatives.

8. **Chapter 3: corruption in public procurement.** Procurement is considered one of the areas of government activity most prone to corruption as it involves a large share of public resources. Corrupt procurement affects government spending in all sectors, and its consequences can be far-reaching. One of the difficulties of detecting corruption in procurement lies in the many forms in which corrupt activities can occur. Corruption in procurement can occur at various points in the process, including: project identification and design; advertising, pre-qualification, bid document preparation and submission of bids; bid evaluation and award of contract; and contract performance, administration and supervision. Corruption thrives in environments where transparency is weak – as in
many procurement systems – where information is restricted to a small circle of people due to the “confidential” nature of the data.

9. In general, the costs of corruption in procurement are high in Mauritania. A recent OECD report puts Mauritania 118th out of 135 countries regarding the extent of irregular payments for public contracts. Controls are weak. Even though the Central Procurement Commission (CCM) is supposed to review every contract, it is neither able nor willing to do so in a competent way. While ex post audit has improved somewhat with the strengthening of the Audit Office (Cour des Comptes) and the General State Inspectorate (IGE), controls during the procurement process are still insufficient. Capacity of procurement personnel is insufficient. Staff is not familiar with the rules and procedures established by the procurement code. Finally, effective complaint mechanisms are virtually non-existent. Bidders who feel that they have been treated unfairly have currently little chance of having their grievances addressed.

10. Mauritania’s current procurement code is relatively comprehensive in coverage, but is not considered an international best-practice. More importantly, significant challenges exist on the implementation side. Currently, the responsibility for public procurement for contracts under a certain threshold is decentralized to procurement commissions at the department level. Larger contracts fall under the jurisdiction of the CCM, which is made up of senior representatives from across the central government. In addition, the CCM retains the responsibility of regulation, control, recourse (complaint), evaluation and award of contract with regards to the procurement conducted by the departmental commissions. This high level of centralization reduces the transparency of the decision making process, thus providing ample opportunities for corruption. The report recommends that the procurement code be revised and improved taking these shortcomings into account. The effective implementation of the legislation ought to be assured by ensuring proper training of staff involved in procurement, as well as strengthening audit and reporting mechanisms, and enforcing punitive measures against those who engage in corrupt practices.

11. In recent years, there have been several important innovations in the area of public procurement around the world which have shown good results in the fight against corruption. The so-called Integrity Pacts (IPs), championed by Transparency International as a key instrument to prevent corruption in procurement, are agreements between the government and bidders that commit all sides to refrain from giving or receiving bribes or from engaging in other unethical behavior. By providing such an assurance, the incentives for corruption are removed, paving the way for a fair and cost-effective procurement process. E-Procurement solutions, i.e. the use of information technology in the procurement process, have become popular around the world. Their main advantages include greater transparency, reduced opportunities and incentives for corruption, and improvements in the efficiency of procurement. E-Procurement systems differ between countries in terms of content (providing only information or also a transaction interface) and coverage (central, regional and/or local governments) and can be tailored to the specificity of the Mauritanian context.

12. Chapter 4: corruption in the judicial sector. The central role played by the judiciary in the fight against corruption is increasingly being recognized by governments,
An independent, well-functioning judicial system plays a key role in a country’s governance system. It provides legal recourse to all citizens without consideration of social status or financial means; in democratic systems it also acts as a check on the executive and legislative branches of government. Corrupt judicial systems, on the other hand, fundamentally undermine good governance. When power and wealth determine the outcome of the judicial process, a large part of the population is deprived of its rightful access to justice. Such impunity sends a strong signal that corruption is tolerated and even encouraged, which helps it spread throughout the government, the economy and society in general.

13. Corruption is rampant in the judicial system in Mauritania. Four areas stand out. 

   Selective access to justice. In practice, access to justice depends to a large extent on personal connections. Those without the necessary links have to pay to have their cases heard. Manipulation of facts. Evidence and statements recorded by the judicial policy are frequently falsified. Varying speeds of processing. Some cases remain unprocessed for long periods, while others are swiftly tried and executed, without any plausible explanation. Hidden charges. Official charges (e.g. stamp duties) are levied on the basis of an official decree. However, seven years after the promulgation of the applicable law, the decree has not been adopted. Hence, arbitrary amounts are collected by those that control access to judicial services. Once a case has reached the court room, corrupt practices continue, including violation of the rights of the defense (e.g. use of coercion, arbitrary arrests) and excessive recourse to non-standard procedures (e.g. summary judgments).

14. Other factors contribute to the practice of corruption in the judicial sector in Mauritania.

   Pressure is exerted through the executive’s control over the promotion, sanction and transfer of judges. Many judges are active members of political parties representing tribal and/or regional interests, affecting their impartiality. Moreover, there is uncertainty on what is the applicable law: Mauritania’s dual tradition (the “modern” French law and the “traditional”, religious or customary, law) create tension at times. While modern law is the official law, it is often not effectively used; traditional law, on the other hand, is better known and understood by the citizens, but not reflected in the formal legal system. Illiteracy, lack of a systematic codification of legal texts, lack of reliable sources of legal documentation and information, and difficult public access to legal information are all factors that create an environment in which the law remains opaque. To help alleviate these weaknesses in the judiciary, the report recommends a number of steps including harmonizing traditional and modern law systems; rendering the law and the court decisions publicly accessible in French and Arabic through the Mauritanian Global Legal International Network (GLIN); enforcing a strict merit-based appointment and promotion process for judges; and improving the general working conditions for judges and court clerks.

15. International experience shows that a number of reforms have helped reduce the opportunities of corruption in the judiciary. These include the following. Codes of Conduct. The Bangalore Principles of Judicial Conduct (i.e. independence, impartiality, integrity, equality, propriety, and competence and diligence) represent one of the few international attempts at designing internationally recognized accountability mechanisms for the judiciary. Salaries. There is a general consensus that judges and other court
personnel need to be remunerated in accordance with the important role they play. This will not automatically lead to less corruption but it will reduce judges’ financial dependence on bribes, thus reducing one of the incentives for corrupt behavior. *Merit-based Appointments.* In several countries, especially in Latin America, judicial councils have been created to appoint judges at various levels. The main objective of these councils is to ensure that appointments are made on a merit basis and not on political considerations, thereby strengthening judicial independence. These councils have shown mixed results, emphasizing the need for broader governance reforms and oversight of judicial performance.

16. **Chapter 5: corruption in the extractive industries.** Corruption in the oil sector takes place through different channels. *Grand corruption* at the legislative and political level can influence the design of sector policies, as well as the enactment of particular sector laws and taxes. It may also involve the direct theft of important sums of money through diversion of production, products, or revenues. *Administrative corruption* leads to illegal benefits in exchange for approvals covering a wide range of commercial and operational activities. This also includes the broad area of procurement abuse, including tender rigging, kickbacks, and cost inflation. Oil sector corruption can involve a wide range of institutions and individuals engaged in the sector, including governments, oil companies, “big men” and banks. Vulnerability to corruption is present in each segment of the oil sector value chain from the award of exploration rights, development phase, production phase, trading, transport, and refining and marketing.

17. Oil production in Mauritania begun in February 2006. The actions taken to date by the authorities to set up an institutional framework for the transparent and effective management of oil revenue have been encouraging. Oil revenues have been treated transparently in the 2006 and 2007 budgets. The authorities have engaged in prudent fiscal and monetary policies and set up the National Hydrocarbon Revenue Fund (FNRH). The government has created a National Oil Company (SMH), adhered to the Extractive Industry Transparency Initiative (EITI) and agreed to implement all its steps. The FNRH is a financing fund. The fund covers the financing needs identified in the annual government budget, reflecting the level of non-oil deficit net of available financing from sources other than from the domestic banking system (such as net external financing and privatization) and domestic debt management needs in support, among others, of foreign reserves of the central bank. Withdrawals from the Fund in any given year are limited to the ceiling authorized by the budget law, and must be deposited in the Treasury account at the central bank. The fund is audited by *Cour des Comptes* and by an independent international auditing company selected through competitive bids.

18. The SMH has the responsibility for managing the state participation in the oil sector and facilitate the development of national capacity in this sector. The SMH risks turning into an annex of the Ministry of Economy and Finance without appropriate safeguards, which could lead to: (i) the leakage of funds from the commercial enterprise and into the political patronage system; and (ii) the diminished capacity of SMH to execute its commercial responsibilities in the long-term national interest. On the EITI front, Mauritania released its first EITI report in March 2007 covering the mining and oil sectors and is currently preparing the second report.
19. Despite these positive steps, a number of shortcomings still exist. The current legal and fiscal regime applicable to the oil sector was adopted in 1988 and the PSA model in 1994. Both need to be revised and updated. Both the Ministry of Petroleum (MEP) and the SMH have a serious deficit of qualified staff. The report recommends strengthening capacity in the oil sector by hiring a specialized and adequately trained consultant team for both above-mentioned institutions; strengthening the framework for the management of oil revenues; and fostering transparency in the management of the oil sector.

20. Looking at the international experiences, corruption in the oil sector can be exceptionally strong and difficult to eradicate in that vested interests opposed to reform are usually transnational, very powerful and well financed. Therefore, only high level and sustained commitment can make a dent in corruption. Only anti-corruption campaigns that are part of broader country program promoting good governance and aiming at attacking corruption across the board are likely to succeed. The more concerted the effort of stakeholders – government, industry, civil society, the financial community, and development agencies – the greater the chances of success. The role and responsibilities of developed countries in particular are frequently overlooked in this context, even though some companies and institutions of the developed world, and the governments that host them, are frequently complicit, passively and actively, in developing world corruption cases. Fighting corruption in the petroleum sector requires human and financial resources. Resources requirements can be moderate (e.g. informational campaigns), substantial (e.g. technical assistance, capacity building in government agencies and civil society) or significant (e.g. complicated investigations and surveillance).

21. Chapter 6: corruption as an impediment to SME development. The development of the private sector in Mauritania has been mainly constrained by lack of competition due, inter alia, to the presence of powerful and well-connected business groups. A key feature of the modern sector is the high concentration of ownership by a few families of large businesses in trade and commerce. Large private trading monopolies skim rent from the urban economy at the expense of domestic (more competitive) private producers whose margins are shrunk by high factor costs. Monopolies also dominate bank credit and insurance services at the expense of small and medium-size businesses, potentially the most dynamic economic agents, who do not have preferential access to long-term credit and lack political connections. These factors, combined, have restrained the emergence of private sector activity and, notably, the expansion of small and medium enterprises, putting a lid on the growth potential in Mauritania beyond the exploitation of natural resources.

22. How does corruption affect the development of private sector enterprises in Mauritania? Data on the perception of corruption at the firm level show that: (i) corruption is not considered to be one the most taxing factor impeding firms’ growth in Mauritania, and (ii) the perception of corruption as an obstacle to growth is significantly lower that in neighboring countries. However, the cost of corruption to firms is significant – both when expressed as a percentage of firms’ annual sales or contract value – and higher than in the comparator group’s countries. By broadening the analysis
beyond perception, it is apparent that corruption is internalized by firms and considered common, accepted practice in Mauritania. Alternatively, firms refrain from reporting corruption for fear of retaliation.

23. Econometric evidence on bribe propensity and intensity suggests that medium-size firms are the ones that suffer most from corruption in Mauritania. Larger firms are more established and connected, do not fear exiting the market and are less likely to be harassed. Smaller firms are less visible and may be able to escape the control of public officials, by operating largely in the informal sector. The results add value to the hypothesis that these firms are disadvantaged in two fundamental ways in Mauritania: first of all, they are squeezed by the presence of powerful business groups/large firms which have de facto monopolies in important sectors of the economy. Secondly, they are the most likely firms to pay bribes and pay the highest amounts in percentage of their total annual sales, which places an additional burden on their ability to grow. The report makes several recommendations to reduce barriers to entry in the private sector, such as improving access to long-term credit for SMEs and adopting microeconomic measures to reduce the scope for corruption. Specific actions may include conducting regular surveys on the perception of corruption in the private sector; and swiftly implementing the recently-approved banking law and ethics code for civil servants who deal with private enterprises.
## Matrix of Main Recommendations

<table>
<thead>
<tr>
<th>Issues</th>
<th>Recommendations on specific sectors</th>
<th>Specific actions proposed</th>
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<tbody>
<tr>
<td>General (Chapter 2)</td>
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<tr>
<td>- Corrupt practices have deep social and historical roots</td>
<td>Finalize the Anti-Corruption Strategy</td>
<td>Conduct extensive consultations of civil society and other non-governmental actors, including to identify the role of civil society organizations in the monitoring system adopted for the Strategy</td>
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<tr>
<td>- The recently elected government has declared its commitment to reform</td>
<td>Begin implementation of recently enacted anti-corruption measures</td>
<td>Finalize and disseminate the strategy</td>
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<td></td>
<td>Actively monitor progress in the fight against corruption</td>
<td>Conduct regular surveys (such as those conducted by Global Integrity or Transparency International)</td>
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<td>Launch a far-reaching communications campaign</td>
<td>Conduct sector-specific diagnostics and institutional assessments (such as PEFA)</td>
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<td>Procurement (Chapter 3)</td>
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<tr>
<td>- The costs of corruption in procurement are high.</td>
<td>Carry out a detailed diagnostic of the governance problems in procurement</td>
<td>Use OECD-DAC model of a two-step evaluation</td>
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<td>- Controls on contracts are week</td>
<td>Improve the revised draft procurement code</td>
<td>Commit to Integrity Pacts (IPs) in a small number of high-profile procurement cases.</td>
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<tr>
<td>- The new draft code on procurement still contain some shortcomings</td>
<td>Improve transparency by making more procurement information available publicly</td>
<td>Separate the current functions of the CCM</td>
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<td>Stipulate competitive bidding as the default procurement method</td>
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<td>Clarify advertising requirements</td>
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<td>Establish a limit on change orders after contract award</td>
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<td>Improve information available on the CCM website and in public journals and newspapers</td>
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<tr>
<td>Issues</td>
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<td>Specific actions proposed</td>
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<tr>
<td>- The new draft code on procurement still contain some shortcomings</td>
<td>➢ Ensure that staff involved in procurement are properly trained</td>
<td>▪ Train staff in technical and ethical aspects of procurement</td>
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<td>➢ Strengthen audit and reporting mechanisms</td>
<td>▪ Better monitor the award of contracts as a result of the split of the CCM functions</td>
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<td>➢ Enforce strict and credible sanctions for those who engage in corrupt activities</td>
<td>▪ Enforce disciplinary measures against corrupt government officials</td>
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<td>▪ Blacklist / debar firms that have engaged in corrupt practices</td>
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<td><strong>Judiciary (Chapter 4)</strong></td>
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<td>➢ Harmonize traditional and modern law systems</td>
<td>▪ Launch a process of consultation among academics, clerical chiefs and other relevant stakeholders to compile a common and commonly acceptable law</td>
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<td>➢ Make the law and the courts decisions publicly accessible in French and Arabic through the Mauritanian Global Legal International Network (GLIN)</td>
<td>▪ Ensure that GLIN is regularly updated</td>
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<td>➢ Issue a code of conduct for the judiciary, based on the Bangalore Principles</td>
<td>▪ Draft a Code of Conduct that provides concrete, situation-specific guidance to members of the judiciary</td>
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<td>➢ Enforce a strict merit-based appointment and promotion process for judges</td>
<td>▪ Establish pilot mechanisms of exchange and control/feedback at end-user level (access and quality of services)</td>
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<td></td>
<td>➢ Improve the general working conditions for judges and court clerks</td>
<td>▪ Implement recent ordinance on minimum qualifications for members of the judiciary</td>
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<td>▪ Establish continuing education program for judges once they are appointed</td>
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<td><strong>Extractive Industries (Chapter 5)</strong></td>
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<td>- Authorities have adopted measures for transparency of oil revenues. Their implementation needs to be monitored.</td>
<td>➢ Strengthen the framework for the management of oil revenues</td>
<td>▪ Elaborate, adopt and enact general Hydrocarbon Revenue Management Law</td>
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<td>▪ Elaborate, adopt and enact an Oil Sector Policy Letter and translate it into modern sector law and contracts</td>
</tr>
<tr>
<td>Issues</td>
<td>Recommendations on specific sectors</td>
<td>Specific actions proposed</td>
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</table>
| - Authorities have adopted measures for transparency of oil revenues. Their implementation needs to be monitored. | **Foster transparency in the management of the oil sector** | ▪ Finalize and adopt the long-term strategy of the SMH, which should clarify its role and mandate  
▪ Ensure Parliament’s approval of the SMH budget every year, in conjunction with the State budget  
▪ Publish routinely the audited accounts of the SMH  
▪ Produce and disseminate first EITI report for 2007 and following years (yearly basis) |
| - Strengthen capacity in the oil sector | | ▪ Recruit a consultant team for both SMH and MEP that follows a learning program based upon an “on-the-job-training” approach.  
▪ Train civil society representatives on basic oil industry and macroeconomic concepts  
▪ Launch the communication campaign to manage the expectations of the general public  
▪ Publish the production sharing contracts with the main oil operators |

**Corruption and Private Sector Development (Chapter 6)**

| - Private sector activities, including bank credit and insurance services, are dominated by monopolies  
- Corruption is internalized by firms | **Analytical work on corruption** | ▪ Conduct regular surveys on the perception of corruption in private sector and on ways of reducing rent seeking activities (e.g. political stakeholder analysis, sectoral corruption studies, etc.).Train civil society representatives on basic oil industry and macroeconomic concepts |
| - Improve access to long-term credit for SMEs | | ▪ Implement swiftly and effectively the recently-approved banking sector law |
| - Microeconomic measures to reduce scope for corruption | | ▪ Implement an ethic code for civil servants who deal with private enterprises  
▪ Ensure that sanctions are delivered and applied  
▪ Review of the salary scale of civil servants with a view to provide better remuneration for specific categories of employees |
1. Introduction

1. **Origin of the report.** This report is based on a number of background papers prepared jointly by a group of donors (EU, UNDP and the World Bank) and government counterparts. These papers were discussed in country and condensed in a Policy Note on fighting corruption, which was delivered to the authorities in April 2007. The Policy Note has been in turn used by the authorities to prepare a draft National Anti-corruption Strategy (NACS), which is currently being finalized. This report also benefits from research conducted at the World Bank on the economics of rent seeking in Mauritania and the impact of corruption on the development of private local and foreign firms. The study therefore builds on the Policy Note by analyzing more in depth corruption practices in the country in selected areas.

2. **Aims and structure of the report.** The overarching aim of the report is to provide analytic support to the finalization of the NACS, offer lessons from international experience in the areas of governance and anti-corruption (GAC) and generally support the Government and its development partners to better understand the phenomenon of corruption in Mauritania. The report is structured as follows: Chapter 2 focuses on the definition and measurement of corruption and the Mauritanian political economy. Chapter 3 focuses on corruption in public procurement. Chapter 4 concentrates on corruption in the courts of law. Chapter 5 deals with the extractive industries. Chapter 6 focuses on corruption as perceived by the private sector, based on the data of the recent Investment Climate Assessment (ICA).

3. **Link with Government and World Bank agendas.** Since it took office in April 2007, the Government has taken important steps to improve governance. The Parliament has recently approved an ethics code for civil servants and a declaration of assets bill for members of the government. The findings of this study can help the authorities to shape their anti-corruption interventions and improve synergy. On the Bank’s side, the new CAS (2007-2010) supports, inter alia, the establishment of more transparent economic governance. This study will help to identify entry points for the delivery of programs and projects in the domain of governance, and strengthen the potential synergies among on-going projects that touch upon governance issues (e.g. PRECASP, PSD) and GAC interventions.

4. **The GAC framework in Mauritania.** As mentioned, the present study is designed to provide analytic value and guidance on GAC interventions to the Mauritanian government. The World Bank is providing follow up support to the Mauritanian GAC through activities financed by trust funds, which include a political stakeholder analysis and a quantitative diagnostics on corruption. The former focuses on the mapping of stakeholders (i.e. identifying winners and losers from reforms in selected sectors) and provides technical assistance for coalition-building. The latter focuses on quantifying corruption risks and identifying mitigation measures in public procurement, transport and construction sectors (see Figure 1.1).

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1 Mauritania held a series of elections that began in November 2006 with a parliamentary vote and culminated March 25, 2007 with the second round of the presidential election. Sidi Ould Cheikh Abdellahi was elected President.
Figure 1.1: MRT GAC Framework: Synergy and coordination of World Bank GAC Interventions

**BROADER POLICY DRIVEN MRT GAC PILLARS/PRIORITIES**

Core twin pillars of GAC in MRT derives from:
- NACS (evolving, details to be determined), WB
- CAS, PRSPIL, ICA efforts

**Private Sector**

- Non-oil private sector led growth
  - Understand mechanism fuelling rent seeking and reduce it;
  - Diversify non-oil sources of growth by improving overall business environment; enhance investment climate and investor confidence.

**Public Sector**

- Efficient and Transparent Public Administration
  - Improve two core areas:
    1. Public administrative norms that cut across sectors – public expenditure management, public procurement, government personnel management, etc.
    2. Reduce corruption in high value and GAC vulnerable public sectors like transport

**MRT (Norwegian TF) Sector Governance Diagnostics**

- Quantitative and qualitative data interventions to provide analytical evidence to national and international (partners) development practitioners and policymakers on corruption risks and mitigation in:
  - Public procurement across economic and social sectors
  - Transport sector
  - Construction industry firms in the private sector

- Designed to provide operational value to policymakers and project managers to improve governance in key infrastructure (and comparator social) sectors

**MRT (BNPP) Stakeholder Analysis and Coalition Building for Good Governance**

- Identifies winners and losers from reforms in selected sectors (Focus on Private Sector, Public Administration and Selected Topics, i.e. health end users, integrity poles, etc.)
- Provides technical assistance for coalition-building and capacity development outreach to stakeholders to facilitate participation in support of GAC process.
- Designed to map stakeholders and build capacity and support national GAC stakeholder groups and alliances.

**WBG SUPPORT TO MRT GAC**

**MRT (WB-UNDP-EU) Anti-corruption Study**

- Study to provide analytic support to the NACS formulation, offer lessons from international experience on GAC, and generally support the MRT government and its development partners to better understand the phenomenon of corruption at all levels in MRT.
- Designed to provide analytic value and guidance on anti-corruption interventions to the Mauritanian government.
2. Why the Analysis of Corruption Matters in Mauritania?

1. Mauritania is at a cross-road. With relatively good natural resource prospects (oil, iron ore, fisheries, copper and gold), the economy is poised to grow rapidly in the future potentially triggering a transition from low to middle-income country² (see annex 1). The key challenge confronting policy makers today is to diversify the sources of growth besides natural resources, and attract investment by creating an enabling environment for private sector development. However, the country displays already a distorted economy and dependent policy that tends to prioritize rent redistribution over wealth creation (Auty and Pontara 2008). Weak governance and corruption have become a central concern in Mauritania in recent times, as evidence emerged on the existence of significant extra-budgetary spending and embezzlement of public resources between the end of the 1980s and 2004.

2. Governance has become an increasingly important issue for policy makers focusing attention on the structure created by the complex relationships between a country’s institutions and traditions. The problem of corruption, and ways of measuring it, has also received much attention. This chapter will begin with a brief review of the notions of governance and corruption conceptual framework (Section 2.1). Section 2.2 looks at the definitions of corruption. Section 2.3 discusses of the political economy of Mauritania in recent years and the state of governance and corruption, based on the available evidence. Section 2.4 presents a number of recommendations aimed at strengthening governance and anti-corruption efforts in the country.

GOVERNANCE AND CORRUPTION: CONCEPTUAL FRAMEWORK

3. A national governance system includes all the different components and procedures that together determine how the state acquires and exercises its authority to provide public goods and services. As such, a national governance system includes: (i) effective and transparent management of the public sector; (ii) the strength of political accountability, including political competition and transparency; (iii) the role played by non-governmental actors, including the extent to which civil society can hold government accountable; (iv) the level of media freedom and the way the private sector interacts with government; (v) the role of local participation and community empowerment; and (vi) the strength and capacity of formal oversight institutions (including parliament, independent oversight agencies, etc.) (Figure 2.1).

4. Corruption thrives where governance is weak, hence strengthening the governance system as a whole is a way to fight corruption. Weak governance implies a breakdown in one or more parts of this structure and a symptom of such a breakdown is widespread corruption. Promoting good governance is therefore key in the fight against corruption. Evidence shows that countries that succeeded in establishing a good

² Mauritania has a population of 2.9 million people and a per capita GDP of US$ 933 (World Bank, 2007). The non-oil (oil) GDP growth rate in 2006 was 4.1 percent (11.4 percent with oil).
governance framework and sound investment climate have attracted foreign direct investment (FDI) and benefited from sustained economic growth. Per capita income and the quality of governance are strongly and positively correlated across countries (Kaufmann and Kraay, 2003).

Figure 2.1: Components of a balanced national governance system

Source: World Bank (2006c)

DEFINING CORRUPTION

5. As the issue of governance has gained prominence in the development community, several definitions trying to capture the full spectrum of corrupt activity have emerged. One of the most common, and the one we will be using throughout this report, is that corruption is “the use of public office for private gain” and is explicitly the result of a breakdown in good governance practice. This general definition implies the role of both public agents and private citizens in the abuse of public sector mechanisms to extract personal gain, as most forms of corruption involve at least two parties, and can be initiated from either side. Personal gain, in turn, can be defined as financial (bribes, kickbacks etc.) or other benefits (gifts, privileges etc.).

6. Broadly speaking, corruption falls into two main categories: The first is “grand” or “upstream” corruption – involving the manipulation of legal and policy decisions for private gain. As stewards of the public trust, political leaders should allocate resources according to the best interests of the general public. Grand corruption occurs when leaders deviate from this guiding principle and instead make policy decisions that sacrifice returns to the public for private benefit (see Barro, 1973, Becker, 1983, Grossman and Helpman, 1994, and Rose-Ackerman, 1999). Grand corruption can be further broken down into the following sub-types:
• **State capture**, referring to the use of undue influence at the regulatory and policy making levels to ensure unfair benefits for certain actors. This can be measured, in part, by the extent to which bribes are paid to change the content of decrees or regulations, and economic or financial policies. Such influence is typically directed toward the executive branch at the ministerial level.

• **Legislative corruption** is a type of state capture distinguished by its focus on representatives in the legislative branch and typically involves the way in which the voting behavior of legislators is influenced. For example, legislators can receive bribes from interest groups to enact legislation that can change the economic rents associated with their assets.

7. The second category is “*administrative*” or “*downstream*” corruption, in which actors at the administrative level (rather than the policy making level) extract gains by manipulating personnel, budget and contract procedures as well as through the “traditional” bribe-for-services mechanism broadly referred to as “petty corruption”. The following provides an abbreviated typology of corruption under this definition:

• **Corruption in personnel** involves decisions in the hiring, promotion, discipline and dismissal of state agents that are influenced by illegal payments and nepotism. Corruption in personnel is facilitated by poor governance and a lack of transparency in hiring and promotion decisions where the practice of meritocracy is subjugated to personal or social ties.

• **Corruption in budgets and contracts**: Where the allocation of funds at the operational level (as opposed to the national allocation which occurs at the parliamentary level) is diverted to benefit particular interests. Abuse of extra-budgetary or “emergency funds” is a common manifestation along with budget allocations for phantom services. This sub-type also includes budgetary funds misused in contracts where interference with the bidding, award, or verification processes is used to favor certain firms at the expense of creating the best return for investment to the public.

“*Petty corruption*” also falls under administrative corruption, and indeed is sometimes discussed interchangeably. The term “bureaucratic corruption” is also used. Here, petty corruption serves as a catch all for the unofficial-payments-for-services which services which characterize the most common type of corruption and which most directly affects the poorest citizens. Three variants of bribes that constitute bureaucratic corruption can be identified: (a) those that equate supply and demand; (b) those that demand; (b) those that work as incentive payments for bureaucrats; and (c) those that lower costs that lower costs and expedite processes for “consumers” (Rose-Ackerman, 1998). *(Annex 1:)*

*(Annex 1: Macro-economic Context and Outlook)*

Since the early-1970s, the economy has grown slowly, and Mauritania remains a low-income country, with a poverty incidence of 46.7 percent (2004 data) and nearly half of its 2.9 million people living in poverty. The country is on track to achieve the Millennium Development Goals (MDGs) in gender parity in education, but off-track on child and maternal health and nutrition. The country’s economy is characterized by a narrow production base, low levels of industrialization, and a GDP composed of 40 percent services; 30 percent agriculture and livestock; 12 percent mining; 12 percent oil; and 6 percent fisheries.
Government continued stabilization efforts in 2005–06, and first results began to show. In 2006 growth reached 11.7 percent mostly due to the start of oil production. Strict observance of the fiscal and monetary policy stances was instrumental in bringing 12-month inflation down to an average of 6.2 percent in 2006. Fiscal performance has been strong, reflecting the government’s revenue collection efforts and sustained spending discipline. As a result, by end-2006, the basic non-oil fiscal deficit was limited to 4.4 percent of non-oil gross domestic product (GDP). The external position has begun to strengthen: gross official reserves increased from US$70 million in 2005 (0.7 months of imports) to US$194 million in 2006 (2.6 months of imports, year-end). Moreover, by the end of 2006, the parallel foreign exchange market premium was brought down to insignificant levels.

The medium-term outlook for the economy is relatively favorable. The recent stabilization of the macro-framework combined with the discovery of oil and the relatively good natural resource prospects yields a positive medium-term outlook. However, oil production has improved economic prospects to a lesser extent than first predicted. Indeed, overall GDP growth decelerated from 11.4 in 2006 to 0.9 in 2007, due to the reduction in oil production. Lower than expected production figures from the Chinguetti field have furthermore dampened expectations. Oil production will not push GDP growth above 9 percent until 2012, when production is expected to begin in the two additional oil fields (Tiof and Tevet). In contrast, non-oil GDP growth increased from 4.1 percent in 2006 to 5.7 percent in 2007, and is expected to register an average annual growth of 4.6 percent between 2007 and 2012 (see Macroeconomic indicators below).

Per capita gross national product (GNP) is projected to reach the US$1,000 mark in 2011. The consumer price index (CPI) inflation is expected to be brought below 5 percent within the next 2 years, and official cash reserves are expected to reach 3 months of import cover starting in 2008. On the fiscal side, the adjustment achieved in 2005–06 will facilitate a substantial reduction of domestic arrears under conservative revenue and realistic spending assumptions. The overall fiscal position will begin to improve slightly in 2009, and will turn positive as oil production pick up in Tiof and Tevet in 2012. The basic non-oil fiscal balance – excluding oil revenue, foreign-financed spending, and interest due on external debt – registered an unexpected surplus of 0.5 percent of non-oil GDP at end-June 2007, owing mainly to high fiscal revenues and delays in implementing investment projects related to the change of government. Oil revenue is unlikely to pick up significantly in 2008-09; as a consequence, the budget is expected to move into deficit, equivalent to 3.2% of GDP, in 2008.

The revised oil production figures will affect Mauritania’s external position for the next three years. The current account balance will decline through 2010 then significantly improve from 2011 onwards. The current account will benefit in the short term from the continued strength of Mauritania’s iron ore exports along with the beginning of operations at Akjoujt (copper and gold) and Tasiast (gold). From 2008, however, the projected decline in the world prices of these commodities will reduce their positive contribution to the balance of payments. The recent debt sustainability analysis (DSA) points to a moderate risk of debt distress. As all critical external and fiscal ratios remain below the applicable thresholds over the entire DSA horizon, the DSA suggests a relatively positive outlook for sustainability. However, negotiations for debt relief have stalled with a number of bilateral creditors (Algeria, Iraq, Kuwait, Libya, and the United Arab Emirates), causing Mauritania to build up substantial arrears.

Key Macroeconomic Indicators, 2006–11

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<tr>
<td>Real GDP growth (%)</td>
<td>11.4</td>
<td>0.9</td>
<td>4.5</td>
<td>4.1</td>
<td>3.5</td>
<td>4.8</td>
<td>9.9</td>
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<td></td>
<td>2003</td>
<td>2004</td>
<td>2005</td>
<td>2006</td>
<td>2007</td>
<td>2008</td>
<td>2009</td>
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<tr>
<td>Non-oil real GDP growth (%)</td>
<td>4.1</td>
<td>5.7</td>
<td>5.0</td>
<td>4.8</td>
<td>4.1</td>
<td>3.9</td>
<td>4.2</td>
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<tr>
<td>CPI (period average, %)</td>
<td>6.2</td>
<td>7.6</td>
<td>5.3</td>
<td>5.5</td>
<td>5.0</td>
<td>5.0</td>
<td>5.0</td>
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<tr>
<td>Current account balance (% of GDP)</td>
<td>-1.3</td>
<td>-6.7</td>
<td>-6.7</td>
<td>-9.2</td>
<td>-16.2</td>
<td>-24.7</td>
<td>-2.3</td>
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<tr>
<td>Overall non-oil balance incl. grants (% of GDP)</td>
<td>-4.7</td>
<td>-6.3</td>
<td>-6.2</td>
<td>-4.9</td>
<td>-4.1</td>
<td>-4.6</td>
<td>-5.1</td>
</tr>
<tr>
<td>Overall non-oil balance excl. grants (% of GDP)</td>
<td>45.7**</td>
<td>-8.2</td>
<td>-9.2</td>
<td>-7.0</td>
<td>-5.4</td>
<td>-5.5</td>
<td>-5.7</td>
</tr>
<tr>
<td>Overall balance (% of GDP)</td>
<td>2.6</td>
<td>-3.0</td>
<td>-3.0</td>
<td>-2.4</td>
<td>-1.6</td>
<td>-1.4</td>
<td>2.7</td>
</tr>
<tr>
<td>Gross official reserves (in months of imports)</td>
<td>2.7</td>
<td>2.3</td>
<td>3.2</td>
<td>3.4</td>
<td>3.4</td>
<td>3.7</td>
<td>4.2</td>
</tr>
<tr>
<td>GDP per capita (US$)</td>
<td>938</td>
<td>933</td>
<td>983</td>
<td>972</td>
<td>952</td>
<td>1,003</td>
<td>1,237</td>
</tr>
<tr>
<td>Nominal GDP (US$ billion)</td>
<td>4.1</td>
<td>2.8</td>
<td>3.0</td>
<td>3.0</td>
<td>3.0</td>
<td>3.2</td>
<td>4.1</td>
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*Source: International Monetary Fund (2007). Notes: * Preliminary; ** This is due to MDRI relief, oil signature bonuses and the sale of a third telecom license.*
Annex 2 looks at the effects of corruption on development and measurement issues)

**THE MAURITANIAN CONTEXT: A SNAPSHOT OF THE POLITICAL ECONOMY**

8. On April 19, 2007, Mauritania entered arguably the most promising phase of its post-colonial evolution. On that day, its transition from a 19-month military regime to its “Third Republic” was completed, and Sidi Mohammed Ould Cheikh Abdallahi was nominated President following elections considered the fairest presidential poll in the country’s history. Prior to this, on November 19 and December 3, 2006, a new National Assembly – the most politically plural ever – was also elected, and started its five year-mandate in May 2007. Overall, since the demise of Ould Taya in August 2005, important steps have been taken to improve the governance and anti-corruption (GAC) framework in Mauritania. Despite progress, significant improvements are still needed. The remaining part of this section attempt to provide a snapshot of the political economy of Mauritania in recent years, and evaluate – despite evident data limitation – the extent to which poor governance and corruption are perceived as significant phenomena in today’s Mauritania.

**The era of democracy by decree (1984-2005)**

9. Corrupt practices have deep social roots in Mauritania and reflect decades of rent-driven development during the era of Maaouiyi Ould Sidi Ahmed Taya, who came to power on the 12th of December 1984 by military coup. “Guided democracy”, “managed democratization”, “paper democracy”, “authoritarian restoration” – accompanied by “shuffle-mania” in the rotation of office holders have been used to describe the Taya’s years (Marianne 2001, Jourde 2001, Marchesin 1994, Ould Cheick 1994, Ould Ahmed Salem 1999). Taya’s regime has profoundly marked the history of Mauritania. Under his rule, the Parti Républicain Democratique et Social (PRDS) was created to “civilianize” the military regime. A new Constitution – building a powerful presidential system – was submitted to a national referendum and approved in 1991, marking the beginning of the second Republic. Taya successfully controlled the coup-prone army, secured the support of the business community while embracing the democratization process and the economic reform bandwagon of the 1990s (Ould Ahmed Salem, 1999, N’Diaye, 2006).

10. Taya forged a “grand compromise”, an arrangement that brought together powerful Arab-Berbers groups as well as some of the ruling black African elites, which together formed the backbone of the PDRS. His regime was characterized by a military

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4 According to Ould Ahmed Salem (1999) the frequent rotation of office holders in key position gave value to the popular saying that “all Mauritians need to have their part of the cake”. The speed of office holders’ rotation picked up significantly in the last years of the regime.

5 Marianne (2001) and Jourde (2001) maintain that the “conversion” to democracy was made necessary by the need to reconcile with the country financial sponsors, after Taya supported Saddam Hussein during the first Gulf war and after the 1989-90 Senegalese-Mauritanian conflict.

6 Ethnically and culturally, Mauritania is made up of Arabic-speaking tribes (or Bidhân), from which political, economic and military elites have asserted their control over the country’s political system, and
oligarchy based on neo-patrimonialism – i.e. a system where relationship of loyalty and dependence pervade a formal political and administrative system – though a predominant party system using the same way of governing (Marianne 2001). Regionalism and tribal solidarities and conflicts played an important part, while tribal identity enjoyed a revival alongside the establishment of political pluralism. Legislative and Presidential elections were held in 1992 and 1997 and 2003. Although Mauritania has had party pluralism and not a hegemonic party system as elections were contested, the widespread control of state resources by the PDRS prevented the rise of any challenge from the splintered and fractioned opposition.

11. Under Taya, the increasing income disparity between the elite and the rest of the population fostered a process of wealth redistribution towards a clientele chosen because of “ethnicity”, “tribalism” or “status” within the cast system of the Mauritanian society. Fractiousness within the dominant groups encouraged the leadership to maintain power by using state control of productive activity in order to generate resources to sustain a clientelistic patronage system. Large private trading monopolies and inefficient state-owned water and electricity companies were allowed to skim rent from the urban economy at the expense of domestic private producers whose margins were shrunk by high-cost water and intermittent power. The monopolies also dominated bank credit at the expense of small and medium-size businesses (potentially the most dynamic economic agents), whose perceived ‘high risk’ elicited high interest rates. Large firms with political connections dominated state procurement contracts and reserved domestic markets for imports, even when local producers were cheaper.

12. The government’s recourse to negotiating access to patronage in order to retain political power had strong appeal for the Mauritanian elite. As members of a society with deep roots in trade, some enterprising members of Mauritania’s elite sought high returns through the short-term. Foregoing long-term investment in production such as cropping and fabrication, manufacturing the business class tended to look to the Gulf States as a model for rent deployment: the expectations being that Mauritania should function as a trading nation, building an entrepôt service economy, supported by a rapid transformation of the mineral rent into human capital. Yet Mauritania’s likely ratio of oil reserves to population and number of years of expected production are almost certainly far too small/few to sustain that ambition. Meanwhile, the preference for trading based on political links encouraged monopolies and diminished domestic competition. The phenomena described above have also had an impact on undermining the governance framework (see below).”

7 non-Arab speaking Mauritanians (Haalpulaar, Soninke, Wolof, and Bambara) who were persecuted and marginalized during most of Ould Taya’s reign, though the latter has co-opted a number of non-Arab speaking politicians and notables within its ranks. A third socio-cultural group, the Haratins, is made up of descendents of enslaved Africans and constitutes arguably the largest group.

7 Ould Ahmed Salem describes the practice of “Tcheb-Tchib”, which has become a legitimate way of doing business though personal connection, given that a good part of the Mauritanian elite is made up of “Tcheb-Tchaba”, i.e. those who practice Tcheb-Tchib (Ould Ahmed Salem 2001).
The return to democracy: A new beginning? Limitations of the current governance and anti-corruption framework

13. Mauritania’s second republic terminated on August 3, 2005, when Taya was ousted in a bloodless coup. The coup leaders established a Military Council for Justice and Democracy (CMJD) headed by Colonel Ely Ould Mohamed Vall (Taya’s Chief of Security), dissolved parliament, and formed a new transitional government. The transition authorities is in the process of finalizing a National Anti-Corruption Strategy (NACS), ratified UN and African Union’s anti-corruption conventions, joined the Extractive Industries Transparency Initiative (EITI), issued a public sector ethics code, and created a State Inspection Agency. In June 2006, the country held a successful referendum on constitutional amendments, including: the limitation of future president to two consecutive terms of five years; the introduction of a maximum age limit of 75 for future presidents; the reduction of the executive’s power to rule by decree; and the introduction of mechanisms that would make it impossible for the parliament to reverse changes.

14. The current government, appointed in April 2007, continued the work done by the transition authorities: it established an Anti-Corruption commission in December 2007, adopted a decree for declaration of assets for high-level civil servants, announced a national day for fight against corruption, and is working closely with donors to finalize NACS. But what is the current status of governance in Mauritania? How much is corruption a problem? What follows is an attempt to answer these questions, by using the available data and information. First of all, by looking at Table 2.1, the following aspects can be highlighted:

- Transparency International Corruption Perception Index ranks Mauritania in the bottom quarter of the countries considered (123rd out of 180)
- The World Bank’s Country Policy and Institutional Assessment classifies Mauritania amongst those countries characterized by fragile policies and institutions. The specific ranking on transparency, accountability and corruption is still low, at 2.5 out of a possible 6.
- The Doing Business report places Mauritania in the bottom quintile (148 out of 175 countries) and note that the country performs particularly poorly under the “starting a business” heading.
- The recently-completed Investment Climate Assessment (ICA) shows that perceptions of corruption can be potentially misleading. Corruption is not considered to be one the most taxing factor impeding firms’ growth in Mauritania. Yet its cost to firms is significant and higher than in the comparator group’s countries. This means that corruption is internalized by firms and considered common, accepted practice.

8 A Road Map was agreed with representatives of political parties, which have regained freedom of speech and association and civil society, focusing on the following key issues: (a) the return to democracy within 24 months, establishing key milestones; (b) the improvement of the judicial system, and (c) the deepening of reforms in the public finance sphere, including the transparent management of oil rents.
In addition, looking at the KKK indicators (voice and accountability; political stability and absence of violence; government effectiveness; regulatory quality; rule of law and control of corruption, see Figure 2.2), most indicators show a deterioration since 2000 (N.B. The performance of KKM indicators for 2002 and 2004 is likely to be inflated, as misreporting on key economic data was confirmed in 2005).
Table 2.1 Mauritania: main governance indicators (latest available figures)

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Definition/Explanation</th>
<th>Latest Year Available</th>
<th>Mauritania’s Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Aggregate Governance Indicators</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>T-I Corruption Perception Index (CPI)</td>
<td>Composite index that relates to perceptions of the degree of corruption as seen by business people and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt).</td>
<td>2007</td>
<td>123rd out of 180 countries</td>
</tr>
<tr>
<td>Country Policy and Institutional Assessment (CPIA)</td>
<td>Evaluates country’s policies and institutions by analyzing 16 dimensions. Governance-related dimensions are: Property rights and rules-based governance; Quality of public administration; Transparency, accountability &amp; corruption in the public sector (Also serves as one of the sources for the KK and CPI)</td>
<td>2006</td>
<td>On a scale from 1 (worst) to 6 (best), Mauritania scored: 3.0 for property rights and rules-based governance; 2.0 for quality of budgetary management; 3.0 for quality of public administration; 2.5 for transparency, accountability &amp; corruption</td>
</tr>
<tr>
<td><strong>Business Environment Indicators</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investment Climate Survey (ICS)</td>
<td>Survey of private sector firms and employees to evaluate the overall business environment.</td>
<td>2006</td>
<td>29.1% of firms say corruption is major or severe constraint 6.6% of yearly turnover spent on informal payments</td>
</tr>
<tr>
<td><strong>Political and press freedom</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Polity IV Country Report</td>
<td>Records annual information on political regime and authority characteristics. Includes indicator on executive constraints, defined as the extent of institutionalized constraints on the decision-making powers of chief executives.</td>
<td>2004</td>
<td>On a scale from 1 (worst) to 7 (best): Executive constraints: 3.0</td>
</tr>
<tr>
<td>Freedom House</td>
<td>Status of civil liberties</td>
<td>2006</td>
<td>“Partly free”</td>
</tr>
<tr>
<td>Reporters without Borders</td>
<td>Press freedom index</td>
<td>2007</td>
<td>55th out of 169 countries</td>
</tr>
</tbody>
</table>

Figure 2.2 Kaufmann-Kraay-Mastruzzi Index

Note: The governance indicators presented here aggregate the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, and international organizations. The aggregate indicators do not reflect the official views of the World Bank, its Executive Directors, or the countries they represent. Countries’ relative positions on these indicators are subject to indicated margins of error that should be taken into consideration when making comparisons across countries and over time.
15. There is secondary evidence on the extent of poor governance and corruption in Mauritania. A report prepared by an Inter-Ministerial Committee on Governance during the transition (GIRM 2006) concluded that the phenomenon of corruption has evolved significantly over the last decade, encouraged by a feeling of general impunity. Against the yardstick of what can be called a “National Governance System” (see again Figure 2.1), in which each of the actors (citizens, businesses, media, NGOs, politicians, legislators and bureaucrats) has an active role to play, Mauritania’s weaknesses can be summarized as follows:

- **Public Sector Management** remains a key constraint: civil service management is overly centralized; recruitment and promotion practices are not based on merit; and overlapping functions of ministries reduce government effectiveness. Off-budget spending was rampant in the recent past, but decisive steps have been taken to bring all expenditures on-budget and improve expenditure tracking. Public procurement is characterized by a complete lack of transparency and oversight. An Ethics Code and a decree mandating the declaration of assets of public officials have recently been adopted. The extractive industries sector, on the other hand, has been subject to several transparency initiatives, including the government’s adherence to EITI, the creation of an oil revenue fund, and the transparent handling of oil revenues in the budget).

- **Political Accountability** has recently been strengthened. The recent elections have resulted in the most politically diverse parliament in Mauritania’s history, though still revealing the continuation of political patterns that have deep historical roots. First, the coalition of opposition parties (“opposition” refers to their status under the previous regime) failed to gain a majority in the Assembly (41 of the 95 seats). Second, political parties that were officially affiliated to the “presidential coalition” in the previous Ould Taya regime (including some splinters of these parties) won a total of 16 seats. Third, “independent candidates,” that is, people with no affiliation to political parties, won a total of 39 seats. Despite the greater pluralism, some observers note that the bloc of deputies linked to the “old guard” is still significant, controlling 57% of the seats in the new Assembly (that is 54 seats in total) (N’Diaye and Jourde 2007).

- The role of **Civil Society, Media and the Private Sector** is also beginning to change. Significant improvements have been made with regards to media freedom – Mauritania is now considered “partly free” according to Freedom House (www.freedomhouse.org). Civil society organizations (CSOs) suffer from limited capacity, lack of independence and lack of permanent financing. Access to policy making remains limited, even though access to information has improved somewhat. Some recent citizen initiatives (such as the Citizen Initiative for Change), however, show that landscape is quickly changing. On the private sector side, the recent ICA shows that the cost on corruption on the economy appears to be high.

- Programs aimed at **Local Participation and Community Empowerment** are limited. Decentralization of resources and decision making authority remains limited. Donor-funded community-driven development (CDD) projects are under
way in several regions, but there is no national-level framework for community involvement in development.

- **Formal Oversight Institutions** are currently not effective. Parliament has limited human resources and capacity to perform effective oversight function. Mauritania’s courts are considered to be among the most corrupt institutions in the country. Corruption in the judicial system is rife according to an interministerial report published in 2005. The feeling of general impunity has been also promoted by the precariousness of the justices’ and court personnel’s living conditions. Therefore, rather than being a symbol of law and order, courts are seen as part of the problem – as they do not enforce laws (thereby protecting citizens from the corrupt behavior of others) and can be prone to bribery to influence the outcome of a case. Despite its clearly defined roles and responsibilities, the Audit Court (*Cour des Comptes*) remains largely ineffective. The General State Inspectorate (IGE), which reports directly to the Prime Minister, was established in 2005 and has a broad mandate of control and oversight of public administration.

16. As mentioned in the introduction, the topics covered in this report were chosen given their criticality for the anti-corruption and governance agenda and in order to align the analysis and recommendations to the draft anti-corruption strategy, which focuses on: (i) the socio-cultural aspect of corruption (Chapter 2); (ii) corruption in the public administration sphere (notably procurement, Chapter 3); (iii) corruption in the extractive industries (Chapter 5); and (iv) the re-establishment of the rule of law (Chapter 4). The inclusion of additional work on corruption as an obstacle to private sector development (Chapter 6) was motivated by the availability of the recently completed ICA. Clearly, corruption in Mauritania is not confined to the topics covered here, which therefore do not represent an exclusive list of problematic areas. Follow up work on other issues of corruption and governance is currently being undertaken with support from the World Bank, including a governance diagnostics in transport, procurement, and public works, and a stakeholder analysis and civil society coalition-building activities for good governance.

Moreover, this report is based on surveys of relevant stakeholders and analysis of institutional features (see Annex 1: Macro-economic Context and Outlook)

Since the early-1970s, the economy has grown slowly, and Mauritania remains a low-income country, with a poverty incidence of 46.7 percent (2004 data) and nearly half of its 2.9 million people living in poverty. The country is on track to achieve the Millennium Development Goals (MDGs) in gender parity in education, but off-track on child and maternal health and nutrition. The country’s economy is characterized by a narrow production base, low levels of industrialization, and a GDP composed of 40 percent services; 30 percent agriculture and livestock; 12 percent mining; 12 percent oil; and 6 percent fisheries.

**Government continued stabilization efforts in 2005–06, and first results began to show.** In 2006 growth reached 11.7 percent mostly due to the start of oil production. Strict observance of the fiscal and monetary policy stances was instrumental in bringing 12-month inflation down to an average of 6.2 percent in 2006. Fiscal performance has been strong, reflecting the government’s revenue collection efforts and sustained spending discipline. As a result, by end-2006, the basic non-oil fiscal deficit was limited to 4.4 percent of non-oil gross domestic product (GDP). The
external position has begun to strengthen: gross official reserves increased from US$70 million in 2005 (0.7 months of imports) to US$194 million in 2006 (2.6 months of imports, year-end). Moreover, by the end of 2006, the parallel foreign exchange market premium was brought down to insignificant levels.

**The medium-term outlook for the economy is relatively favorable.** The recent stabilization of the macro-framework combined with the discovery of oil and the relatively good natural resource prospects yields a positive medium-term outlook. However, oil production has improved economic prospects to a lesser extent than first predicted. Indeed, overall GDP growth decelerated from 11.4 in 2006 to 0.9 in 2007, due to the reduction in oil production. Lower than expected production figures from the Chinguetti field have furthermore dampened expectations. Oil production will not push GDP growth above 9 percent until 2012, when production is expected to begin in the two additional oil fields (Tiof and Tevet). In contrast, non-oil GDP growth increased from 4.1 percent in 2006 to 5.7 percent in 2007, and is expected to register an average annual growth of 4.6 percent between 2007 and 2012 (see Macroeconomic indicators below).

Per capita gross national product (GNP) is projected to reach the US$1,000 mark in 2011. The consumer price index (CPI) inflation is expected to be brought below 5 percent within the next 2 years, and official cash reserves are expected to reach 3 months of import cover starting in 2008. On the fiscal side, the adjustment achieved in 2005–06 will facilitate a substantial reduction of domestic arrears under conservative revenue and realistic spending assumptions. The overall fiscal position will begin to improve slightly in 2009, and will turn positive as oil production pick up in Tiof and Tevet in 2012. The basic non-oil fiscal balance – excluding oil revenue, foreign-financed spending, and interest due on external debt – registered an unexpected surplus of 0.5 percent of non-oil GDP at end-June 2007, owing mainly to high fiscal revenues and delays in implementing investment projects related to the change of government. Oil revenue is unlikely to pick up significantly in 2008-09: as a consequence, the budget is expected to move into deficit, equivalent to 3.2% of GDP, in 2008.

**The revised oil production figures will affect Mauritania’s external position for the next three years.** The current account balance will decline through 2010 then significantly improve from 2011 onwards. The current account will benefit in the short term from the continued strength of Mauritania’s iron ore exports along with the beginning of operations at Akjoujt (copper and gold) and Tasiast (gold). From 2008, however, the projected decline in the world prices of these commodities will reduce their positive contribution to the balance of payments. The recent debt sustainability analysis (DSA) points to a moderate risk of debt distress. As all critical external and fiscal ratios remain below the applicable thresholds over the entire DSA horizon, the DSA suggests a relatively positive outlook for sustainability. However, negotiations for debt relief have stalled with a number of bilateral creditors (Algeria, Iraq, Kuwait, Libya, and the United Arab Emirates), causing Mauritania to build up substantial arrears.

<table>
<thead>
<tr>
<th>Key Macroeconomic Indicators, 2006–11</th>
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<tbody>
<tr>
<td><strong>2006</strong></td>
</tr>
<tr>
<td>Real GDP growth (%)</td>
</tr>
<tr>
<td>Non-oil real GDP growth (%)</td>
</tr>
<tr>
<td>CPI (period average, %)</td>
</tr>
<tr>
<td>Current account balance (% of GDP)</td>
</tr>
<tr>
<td>Overall non-oil balance incl. grants (% of GDP)</td>
</tr>
<tr>
<td>Overall non-oil balance excl. grants (% of GDP)</td>
</tr>
<tr>
<td>Overall balance (% of GDP)</td>
</tr>
<tr>
<td></td>
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<tr>
<td>--------------------------------</td>
</tr>
<tr>
<td>Gross official reserves (in months of imports)</td>
</tr>
<tr>
<td>GDP per capita (US$)</td>
</tr>
<tr>
<td>Nominal GDP (US$ billion)</td>
</tr>
</tbody>
</table>

Source: International Monetary Fund (2007). Notes: * Preliminary; ** This is due to MDRI relief, oil signature bonuses and the sale of a third telecom license.
17. Annex 2) and a mix of qualitative (e.g. focus group discussion, open questionnaires) and quantitative (e.g. closed questionnaires, econometrics) methodology. Chapters 2-5 draw on the existing institutional analyses in the sectors covered as well as fresh information collected during February-April 2007 by research from the relevant stakeholders. Chapter 6, by contrast, presents econometric evidence on the impact of corruption at the firm level using the ICA dataset.
RECOMMENDATIONS

18. On the basis of the analysis conducted in this chapter, it is recommended that the authorities:

- **Finalize the Anti-Corruption Strategy.** The strategy, a draft of which is currently being discussed in Mauritania, will provide a framework for ongoing and future measures aimed at fighting corruption. It should be finalized in an open and transparent way, involving civil society, donors and other non-governmental actors, and its implementation should be constantly monitored and periodically updated.

- **Begin implementation of recently enacted anti-corruption measures.** The recently-adopted public sector Ethics Code and a Declaration of Assets of public officials can be crucial tools for the prevention of corruption and should be a central component of the Anti-Corruption Strategy. It is important to ensure that they can be effectively implemented, and for that purpose it is recommended that the implementing regulations be drafted with care, taking into account international experience. The Ethics Code should be complemented by specific Codes of Conduct for individual functions of the public administration (justice, procurement, customs, health, education, etc.), which can provide concrete guidance for behavior in specific situations. In addition, implementing regulations for Ethics Code should include pilot mechanisms of exchange and control/feedback at end-user level in selected sectors.

- **Actively monitor progress in the fight against corruption.** Overseeing the implementation of the strategy will require adequate monitoring and evaluation mechanisms, such as surveys (such as those conducted by Global Integrity and Transparency International), sector-specific diagnostics (as currently prepared by the World Bank Institute) and in-depth institutional assessments such as the Public Expenditure and Financial Accountability (PEFA) assessment. It will also require active implication of civil society organizations, which should be encouraged and supported to play their role as promoters/defenders of good governance.

- **Launch a far-reaching communications campaign.** Convincing the public that the government is committed to fighting corruption and promoting public support for anti-corruption efforts will be a key prerequisite. Television or newspaper advertisements and public events can be used to inform citizens of their rights and responsibilities and encourage them to stand up against corrupt behavior. More efforts need to be put into liberalizing the factot the media. Recent attempts (pilot experience) made to increase the participation of listeners to debate on the public radio (e.g. through the experience of Citizen Radio, led by Citizens for Change Initiative) should be expanded and consolidated.
3. Fighting Corruption in Public Procurement

1. Corruption in the public sector is particularly harmful as it can have significant economic and social costs. This chapter looks at a key function performed by every part of the public sector: procurement. As the main interface between the public and private sectors, procurement tends to present a particularly complex pattern of governance challenges. This is also true for Mauritania, which has experimented with procurement reforms since the late 1990s but still suffers from widespread corruption in this area. The following analysis is aimed at contributing to the ongoing procurement reforms, including the revision of the procurement code.

2. The problem of corruption in procurement has received much attention in recent years by organizations such as the OECD, Transparency International and the World Bank. Thanks to recent analytical work, there is a better understanding of the extent and mechanisms of this problem, as well as of different remedies implemented around the world. This chapter will present a short overview of the main literature on the topic (Section 3.1), to be followed by a diagnostic of the problem in Mauritania (Section 3.2), as well as a section on international experience (Section 3.3). Section 3.4 presents a number of recommendations aimed at strengthening governance in public procurement.

**LITERATURE REVIEW**

3. In many countries, procurement is considered one of the most corrupt areas of government activity, not least because it involves a large share of public resources, representing between 10 and 20 percent of a country’s GDP (Campos et al., 2007). Private sector survey data shows that in every region of the world, except for the former Soviet Union, procurement is considered to be the public function in which bribery is most rampant (Figure 2.1). Even in OECD countries, where bribery is perceived to be less widespread, the frequency of bribes paid for procurement is more than double that for utilities, taxation, and the judiciary.

4. Corrupt procurement can affect government spending in all sectors, which means that its consequences can be far-reaching. When private interests take precedence over the public interest, competition revolves around bribes rather than quality or cost, which can have significant negative consequences for public service delivery. There are also costs for the private sector: corruption in procurement can “provide an unfair, unstable and risky competitive advantage and will create a sort of market-entry cost or non-tariff barrier, at least for those companies who do not wish, or cannot afford to, bribe their way in” (Transparency International, 2006a).

5. One of the difficulties of detecting corruption in public procurement lies in the many forms in which corrupt activities can occur. Probably the most easily detectable forms are straightforward bribes and kickbacks to officials, either financial or in kind. But corrupt procurement schemes often display considerable creativity and innovation on the part of bidders and/or procurement officials, ranging from collusion and bid rigging,
to the creation of shell companies to obscure ownership, and the provision of fraudulent information in bidders’ offers (see Campos et al., 2007).

6. Just as corruption in procurement can take many different forms, it can also occur at various points in the process. Campos et al. (2007) identify a range of potential opportunities for corruption grouped by the four main stages:

- **Project identification and design.** This early stage sets the tone for the rest of the procurement process. If political influence, rather than objective needs assessments, determines which projects get approved and funded, there is a danger that subsequent stages may also be unduly influenced by considerations other than cost effectiveness and quality.

- **Advertising, pre-qualification, bid document preparation and submission of bids.** Invitations to bid should be widely advertised, and adequate time needs to be allowed in order for potential bidders to meet deadlines. The pre-qualification stage, which is designed to filter out unqualified candidates, may be used to favor certain bidders and disqualify others that are equally or more qualified. Bidding documents can be written in a way that precludes a large number of bidders from meeting the necessary requirements (by over-specifying the technical specifications, excessive fees to obtain the bid documents etc.). Finally, at the submission stage, collusion among bidders, or the sale of privileged information to selected bidders, can lead to distortions in the content and number of bids submitted.

- **Bid evaluation and award of contract.** This is a crucial stage in the procurement process as it is here that the main decisions are made. Price is generally the main
criterion used in the evaluation, while quality and other variables also play a role. In some systems, subjective, non-price criteria are given excessive weight, making those evaluations particularly prone to corruption.

- **Contract performance, administration and supervision.** Once the contract has been awarded, mechanisms need to be in place to ensure that the funds are spent according to the contract. This requires the preparation of regular and accurate records, as well as periodic forensic spot checks to verify the information provided in the records.

7. In short, corruption thrives in environments where transparency is weak – which is the case with many procurement systems, which restrict information to a small circle of people due to the “confidential” nature of the data.

**DIAGNOSTIC**

8. Like in other countries in the region, procurement in Mauritania is considered to be one of the most corrupt areas of government. The current procurement code, which was approved in 2002, is not considered up to international standards, despite being relatively comprehensive in coverage, applicable to all levels of government and state-owned enterprises, and based on the concept of open competition and the efficient use of public resources. In addition, serious challenges exist on the implementation side, at all stages of the procurement process. Since 2002, there has been a dialogue with the World Bank on the need to improve the existing procurement code, and ensure implementation (see Box 3.1). Recently, the authorities have proposed a new procurement code, and the bank has responded with a series of comments and recommendations (see Paragraph 22 below). It is hoped that a final procurement code is approved in the next Parliamentary session.

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**Box 3.1 A snapshot of procurement reforms in Mauritania**

The reform of the public procurement system in Mauritania was initiated in 1998 following a Country Portfolio Performance Review (CPPR) in 1997. This CPPR identified a number of serious deficiencies, including the lack of a sound procurement policy, long delays in the preparation of bidding documents, lack of confidentiality in the bid evaluation process, and inefficient contract management, leading to many complaints and further delays. An IDF Grant to strengthen the system was approved in 1998, to:

(i) improve the legal and institutional procurement framework, including the preparation of a new procurement code and the restructuring of the Central Tender Board (CTB);
(ii) start a first phase of creating the necessary tools for improving the preparation, planning, execution and follow-up of the procurement process; and
(iii) train staff in procurement and disbursements. A CPAR was finally carried out in 1999.

In 1999, a Country Procurement Assessment Report (CPAR) was carried out to accompany the execution of the IDF. However, the execution of the IDF was slow and was closed in October 2002. Under the IDF, a new procurement code was prepared and approved by Decree in February 2002, but was not deemed up to best-practice standards. In addition, other essential aspects such as the proposed reorganization of the Central Tender Board (CTB, Commission Centrale des Marchés, CCM), installation of procurement planning and a monitoring and evaluation system, the effective application of proposed thresholds for procurement approvals, and especially the development and execution of a procurement training program, did not fully materialize. The preparation of standard bidding documents
and general conditions of contract was also not fully completed. A desk study/CPAR update was prepared in June 2002 and sent to the Government. The CPAR Update provided, inter alia, detailed comments for improvement of the procurement code.

Since then there have been exchanges between the Bank and the authorities on the procurement code and partially-implemented reforms. The Bank has provided examples of procurement codes for francophone countries based on civil law. An action plan was laid out to revise the procurement code, reorganize the procurement function and launch a broad capacity building effort. A second IDF was approved in 2004 to support the following key actions: (i) the review and upgrade of the procurement code (in particular the separation of the public procurement functions such as ex-ante control, regulation and complaints; the preparation and adoption of regulatory and implementation texts, etc.); and (ii) the strengthening of institutional capacity (in particular the setting up of a Permanent Procurement Unit for training and monitoring purposes, the reorganization of CTB, the consolidation of Ministerial Procurement Units, the publication of all information on public procurement in newspapers and the internet).

Despite some progress achieved under the 2nd IDF procurement – including the establishment of a Steering Committee for procurement reforms, the elaboration of a new (draft) code and the recruitment of a specialized center for the establishment of permanent capacity on procurement issues in Mauritania – there are still significant steps that needs to be taken (see Section 3.4).

9. Under the current code, the responsibility for public procurement for contracts under a certain threshold (see Table 3.1) is decentralized to procurement commissions at the department level. Larger contracts fall under the jurisdiction of the Central Procurement Commission (CCM), which is made up of senior representatives from across the central government. In addition, the CCM also retains the responsibility of regulation, control, recourse (complaint), evaluation and award of contract with regards to the procurement conducted by the departmental commissions. In fact, the CCM is required to be involved a priori in every contract award, as it has to review all decisions made by the departmental commissions. This high level of centralization reduces the transparency of the decision making process, thus providing ample opportunities for corruption.

10. According to the CCM website, of the 69 contracts awarded until mid-2007, 87 percent were awarded through competitive bidding, 6 percent through direct contracting (gré à gré) and 7 percent through shopping (consultation simplifiée). The website also provides information on contract value, contracting agency and financing source for the 10 most recent contracts of the current year, as well as the minutes of recent CCM meetings. However, more comprehensive data on procurement, including annual procurement plans, are currently not available on the internet.

11. In general, information on the extent of corruption in public procurement is scarce. According to the first annual report of the Supreme Audit Court (Cour des Comptes) for the year 2005 (published in 2007), and the audits conducted by the newly established General State Inspectorate (Inspection Générale de l’Etat –IGE), corruption in public contracting is rife (Cour de Comptes, 2007, IGE, 2007).
### Table 3.1: Thresholds under the 2002 procurement code

<table>
<thead>
<tr>
<th>Procurement method (responsibility)</th>
<th>Central administration</th>
<th>Public commercial and industrial enterprises</th>
<th>Urban local governments Nouakchott &amp; Nouadhibou</th>
<th>Other local governments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shopping</strong>&lt;br&gt;(Minister/Director/ project coordinator)</td>
<td>&lt; UM8 million for public works&lt;br&gt; &lt; UM6 million for goods&lt;br&gt; &lt; UM5 million for consultant’s services</td>
<td>&lt; UM15 million for public works&lt;br&gt; &lt; UM10 million for goods&lt;br&gt; &lt; UM8 million for services</td>
<td>&lt; UM8 million for public works&lt;br&gt; &lt; UM6 million for goods&lt;br&gt; &lt; UM5 million for consultant’s services</td>
<td>&lt; UM1.2 million</td>
</tr>
<tr>
<td><strong>Competitive bidding</strong>&lt;br&gt;(decentralized procurement commission of departments, municipalities etc)</td>
<td>UM8-&lt;100 million for public works&lt;br&gt; UM6-&lt;50 million for goods&lt;br&gt; UM5-&lt;40 million for consultant’s services</td>
<td>UM8-&lt;75 million for public works&lt;br&gt; UM6-&lt;30 million for goods&lt;br&gt; UM5-&lt;25 million for consultant’s services</td>
<td>UM8-&lt;75 million for public works&lt;br&gt; UM6-&lt;30 million for goods&lt;br&gt; UM5-&lt;25 million for consultant’s services</td>
<td>UM1.2-9 million</td>
</tr>
<tr>
<td><strong>Competitive bidding</strong>&lt;br&gt;(Central Procurement Commission)</td>
<td>≥ UM100 million for public works&lt;br&gt; ≥ UM50 million for goods&lt;br&gt; ≥ UM40 million for consultant’s services and all direct contracting</td>
<td>≥ UM150 million and all direct contracting</td>
<td>≥ UM75 million for public works&lt;br&gt; ≥ UM30 million for goods&lt;br&gt; ≥ UM25 million for consultant’s services and all direct contracting</td>
<td>≥ UM10 million and all direct contracting</td>
</tr>
</tbody>
</table>

*Source: Decree No. 1176*
12. In practice, there is very little control and oversight of public procurement under the current system. Even though the CCM is supposed to review every contract, it is clear that it is either not able or not willing to do so in a competent way. In fact, audits show that in many cases, not even the departmental procurement commissions were involved in the contract award, even though the value exceeded the threshold for competitive bidding. While ex post audit has improved somewhat with the strengthening of the Cour des Comptes and the IGE, controls during the procurement process are still very insufficient.

13. Little is known about the specific challenges in the first stage of the procurement cycle (project identification and design, see previous section); however, recent studies commissioned by the EU and the Mauritanian government under the PRECASP project (Blundo, 2007; Vallee & Sidatt, 2007) allow for the identification of a number of specific weaknesses at the following stages. It should be noted that the following list, noted in the 2002-08 decree, is by no means comprehensive:

1. Advertising, bid document preparation and submission of bids
   - Avoidance of competition by (i) breaking larger contracts into several smaller ones below the thresholds for competitive bidding; and (ii) setting the contract value just below the threshold.
   - Failure to advertise contracts that are above the minimum threshold for competitive bidding;
   - Ex-post use of fake competitive bidding procedures, while contract has already been awarded to favored bidder in advance;
   - Frequent use of “emergency” procedures which allow for “short cuts”, i.e. non-competitive practices;
   - Non-observance of stipulated minimum periods for advertising, submission of expressions of interest, distribution of bidding documents etc.;
   - Frequent participation of shell companies and otherwise unqualified companies in the bidding process. Companies can easily buy a supplier certificate on the black market (cost approximately 50,000 ouguiya).

2. Bid evaluation and award of contract
   - Contact awardees whose existence cannot be confirmed from the information provided in the documents. For instance, in the case of SOCOGIM (Société de Construction et de Gestion Immobilière de Mauritanie), 36 out of 57 “habituels” contractors who were awarded contracts were unknown to the administrative and financial officers of the society, and their invoices lacked key information (provider number, headquarters address) that would have made their identification possible;
   - Award of contracts to seemingly different companies, who turn out to have the same contact information;
• Frequent recourse to individual contact between bidders and decision-makers (instead of arm’s length transaction);
• Excessive weight given to subjective criteria in the evaluation (technical vs. cost criteria).

3. **Contract performance, administration and supervision**
• Large advances given to contractors upon award of contract, sometimes up to 50 percent;
• Payments made to contractors without ensuring that services were completed or goods delivered;
• For firms, need for continued payment of bribes in interactions with government during contract implementation (for instance, in order to get invoices paid).

Beyond these technical aspects of the procurement process, the studies also provide qualitative evidence of corrupt practices, ranging from the frequent use of special “middlemen” who help companies win contracts in exchange for a fee, to a complete institutionalization of the bribing of procurement officials, who have virtually complete autonomy over the size of the “commission” they request (Blundo, 2007, Vallee & Sidatt, 2007). The studies also show that the capacity of procurement personnel is insufficient: staff is not familiar with the rules and procedures established by the procurement code, and too few staff is involved in procurement to ensure an effective implementation of these procedures (World Bank, 2006a). In addition, effective complaint mechanisms are virtually non-existent. Bidders who feel that they have been treated unfairly have currently little chance of having their grievances addressed.

15. Rampant corruption in procurement has serious economic consequences, as a recent Investment Climate Survey (ICS – conducted in 2006) shows. According to its findings, the costs of corruption in procurement are high. For manufacturing firms, when they do business with the government, over 10 percent of the contact value is spent on informal payments, while the percentage is smaller for firms in other sectors (7.4 percent for commerce, and 8.7 percent of other sectors) (World Bank 2007, for a more detailed analysis of the ICS results, see Chapter 5). Other sources claim that the value of a “commission” can reach up to 40 percent (Blundo, 2007). A recent OECD report (based on three different surveys) puts Mauritania 118th out of 135 countries regarding the extent of irregular payments for public contracts.

16. While recent work has thus provided some insights into the most common forms of corruption in public procurement in Mauritania, much remains unknown. A comprehensive diagnostic of this issue, to be conducted in cooperation between the government, civil society and the World Bank, would shed more light on the specific governance weaknesses in this area. In addition, a CPAR is envisaged for FY08 under the Bank’s new Country Assistance Strategy (CAS).
INTERNATIONAL EXPERIENCE

17. As the previous section shows, public procurement in Mauritania is characterized by a number of weaknesses, especially by a lack of transparency and oversight, as well as the institutionalization of corrupt practices. There have been several important innovations in the area of public procurement in recent years which have shown good results in the fight against corruption. This section describes two approaches – the first based on information technology, and the second one on a voluntary, ethics-based mechanism. The idea that transparency is crucial in reducing opportunities for corruption is central in both approaches.

18. **E-Procurement** solutions, i.e. the use of information technology in the procurement process, have become popular around the world. Their main advantages include greater transparency, reduced opportunities and incentives for corruption, and improvements in the efficiency of procurement. E-Procurement systems differ between countries in terms of content (providing only information or also a transaction interface) and coverage (central, regional and/or local governments). Two country examples demonstrate the beneficial effects of such systems: in South Korea, the e-Procurement system, introduced as part of broader e-government reforms in the late 1990s, centralizes all procurement information, including bid notices and results with price data (Cho and Byeon 2004). Chile, one of the pioneers of e-procurement, already has a second-generation system in place (*Chilecompra*), which applies to the procurement of goods and services for all agencies of the executive branch, regional and provincial governments, municipalities, the Armed Forces and the Central Bank. While the responsibility for procurement remains at the agency level, *Chilecompra* centralizes and standardizes the process, thereby ensuring greater transparency (World Bank, 2004).

19. The so-called Integrity Pacts (IPs), championed by Transparency International as a key instrument to prevent corruption in procurement, are agreements between the government and all bidders that commit all sides to refrain from giving or receiving bribes or from engaging in other unethical behavior. By providing such an assurance, the incentives for corruption are removed, paving the way for a fair and cost-effective procurement process. IPs also offer the opportunity to involve civil society organizations by giving them the responsibility for overseeing the implementation and observance of the pact. By combining greater transparency with the use of ethical standards, IPs have been successfully used by local and national governments around the world in the context of specific large scale contracts. Experience shows that IPs can result in significant savings for the government thanks to lower bids (for more information on IPs, see http://www.transparency.org/global_priorities/public_contracting/integrity_pacts).

20. In addition to these changes, the government should consider a number of other reforms. Box 3.2 presents a list of minimum standards developed by Transparency International that can serve as a general guideline in this process. As a first step, given the scarcity of information, it would be useful to conduct a more detailed diagnostic of the governance problems in procurement. There are a number of instruments available to assist in this process. First, the OECD-DAC has developed a survey to evaluate a
country’s procurement system along a standardized set of indicators, which could be a relatively easy and quick way of benchmarking the Mauritanian system. Second, the World Bank Institute is in the process of developing in-depth sectoral governance diagnostics (incl. in public procurement) and could to pilot this new instrument in Mauritania over the next year.

Box 3.2: Transparency International’s minimum standards for public contracting

1. Implement a code of conduct that commits the contracting authority and its employees to a strict anti-corruption policy. The policy should take into account possible conflicts of interest, provide mechanisms for reporting corruption and protecting whistleblowers.

2. Allow a company to tender only if it has implemented a code of conduct that commits the company and its employees to a strict anti-corruption policy.

3. Maintain a blacklist of companies for which there is sufficient evidence of their involvement in corrupt activities; alternatively, adopt a blacklist prepared by an appropriate international institution. Debar blacklisted companies from tendering for the authority’s projects for a specified period of time.

4. Ensure that all contracts between the authority and its contractors, suppliers and service providers require the parties to comply with strict anti-corruption policies. This may best be achieved by requiring the use of a project integrity pact during both tender and project execution, committing the authority and bidding companies to refrain from bribery.

5. Ensure that public contracts above a low threshold are subject to open competitive bidding. Exceptions must be limited and clear justification given.

6. Provide all bidders and also preferably the general public with easy access to information about: (i) Activities carried out prior to initiating the contracting process; (ii) Tender opportunities; (iii) Selection criteria; (iv) The evaluation process; (v) The award decision and its justification; (vi) The terms and conditions of the contract and any amendments; (vii) The implementation of the contract; (viii) The role of the intermediaries and agents; and (ix) Dispute-settlement mechanisms and procedures. Confidentiality should be limited to legally protected information. Equivalent information on direct contracting or limited bidding processes should also be made available to the public.

7. Ensure that no bidder is given access to privileged information at any stage of the contracting process, especially information relating to the selection process.

8. Allow bidders sufficient time for bid preparation and for pre-qualification requirements when these apply. Allow a reasonable amount of time between publication of the contract award decision and the signing of the contract, in order to give an aggrieved competitor the opportunity to challenge the award decision.

9. Ensure that contract “change” orders that alter the price or description of work beyond a cumulative threshold (for example, 15 percent of contract value) are monitored at a high level, preferably by the decision-making body that awarded the contract.

10. Ensure that internal and external control and auditing bodies are independent and functioning effectively, and that their reports are accessible to the public. Any unreasonable delays in project execution should trigger additional control activities.

11. Separate key functions to ensure that responsibility for demand assessment, preparation, selection,
contracting, supervision and control of a project is assigned to separate bodies;

12. Apply standard office safeguards, such as the use of committees at decision-making points and rotation of staff in sensitive positions. Staff responsible for procurement processes should be well trained and adequately remunerated.

13. Promote the participation of civil society organizations as independent monitors of both the tender and execution of projects.


RECOMMENDATIONS

21. On the basis of the analysis conducted in this chapter, it is clear that procurement systems in Mauritania are far from optimal and continue to be affected by corrupt practices. The following recommendations emerge:

- **Improve transparency** by making more procurement information available publicly. Mauritania may not yet be ready for a full-blown e-procurement system, but it could take a first step by improving and expanding the information available on the CCM website and in public journals and newspapers.

- **Ensure that staff involved in procurement are properly trained**, both on the technical aspects of the work, and on general public sector ethics. Staff has to be familiar with the procurement code and any other relevant regulations and receive guidance in terms of applying these rules in real life situations.

- **Strengthen audit and reporting mechanisms**. This would increase the likelihood of corrupt practices being discovered, and thus raise the potential cost of corruption. The Cour des Comptes has uncovered a wide range of unsound practices in procurement, but it is currently not capable of providing timely and comprehensive audits. The division of labor between the CCM and the newly established entities – as envisaged by the draft revised Procurement Code – could result in a better monitoring of contract awards.

- **Carry out a detailed diagnostic of the governance problems in procurement**, using a two-step approach (e.g. general and sectoral evaluation using the tools developed by OECD-DAC and the World Bank). These two steps would not only provide valuable information that could inform future reforms; they would also signal a political commitment to improve transparency. At the same time, the Mauritanian government and private sector partners could commit to IPs in a small number of high-profile procurement cases. All these steps could be completed fairly quickly and thus offer quick wins in the fight against corruption.

22. The draft procurement code, which was sent to the World Bank in August 2007, should be revised and approved in the next parliamentary session. Detailed comments were sent to the authorities on October 15. Inter alia, particular emphasis needs to be put on:
The separation of the current functions of the CCM. A new, independent entity (Autorité de Régulation des Marchés Publics) should be established to advise the government on procurement-related regulation, collect statistics on procurement, assess and build capacity, and order independent audits. It will include commissions in charge of sanctions (Commission Disciplinaire) and of resolving disputes (Commission de Règlement des Differends). In addition, the code envisages the creation of a National Procurement Control Commission (Commission Nationale de Contrôle des Marchés Publics), which will report to the Prime Minister and be in charge of reviewing procurement conducted by the departmental commissions, as well as directly conducting procurement for large-value contracts.

Emphasis on competitive bidding (Appel d’offres) as the default procurement method. Other forms of procurement can only be used under special conditions, which are specified in the code.

Clearer stipulations on advertising requirements. All contracts subject to competitive bidding are to be advertised in the Public Procurement Journal, or other national or international publication as well as electronically, according to a sample format to be issued by regulation. Failure to publicize as stipulated will result in the cancellation of the procurement process.

Limits on change orders after contract award. The contract value cannot increase by more than 20 percent.

23. Once the new code has been revised and approved, the Government may want to establish a Pilot Procurement within the MoF to facilitate the implementation of the new procurement code. This experiment should be then extended to other ministries to make sure that the new procurement code is properly applied at the sectoral level.
4. Fighting Corruption in Mauritania’s Courts

1. An independent, well-functioning judicial system plays a key role in a country’s governance system. It provides legal recourse to all citizens without consideration of social status or financial means; in democratic systems it also acts as a check on the executive and legislative branches of government. Corrupt judicial systems, on the other hand, fundamentally undermine good governance. When power and wealth determine the outcome of the judicial process, a large part of the population is deprived of its rightful access to justice. Such impunity sends a strong signal that corruption is tolerated and even encouraged, which helps it spread throughout the government, the economy and society in general (Pepys, 2003). At some point, corruption itself becomes the central organizing principle, rather than the rule of law (Transparency International, 2007).

2. The central role played by the judiciary in the fight against corruption is increasingly being recognized by governments, donors and researchers. In the last decade, anti-corruption measures have become a core component of most donor-funded rule of law projects (World Bank Institute 2006). The judiciary has also become the focus of anti-corruption research and advocacy, to the extent that Transparency International dedicated its 2007 Global Corruption Report (GCR) to this subject. After a short review of the available literature (Section 4.1), this chapter presents a diagnostic of the problem of corruption in the judicial sector in Mauritania (Section 4.2). It will then consider some of the experience with reforms in other countries (Section 4.3), before presenting a number of recommendations for priority action in the Mauritanian context (Section 4.4).

**Literature Review**

3. In many countries, corruption in the judiciary is facilitated by factors identical to those in other parts of the public sector: low salaries; recruitment and promotion systems not based on merit; little formal oversight; political influence and clientelism; and a negative image among the general public. There may be other characteristics more particular to the judiciary that can lead to corrupt acts: the absence of alternative legal dispute resolution mechanisms, creating a virtual monopoly; excessive discretion on the part of judges; and limited accountability and access to information (Reiling et al. 2007).

4. The problem of weak governance and corruption in the judicial system has at least three distinct dimensions: (i) the characteristics of the overall legal framework, which may be insufficient or unclear; (ii) weaknesses in the administration of justice by the courts; and (iii) the inability of the judiciary to serve as a check on the executive and legislative branches of the government (Rose-Ackermann, 1999). In many less developed countries, all three dimensions are weak, which makes fighting corruption in the judiciary particularly challenging.

5. According to the GCR 2007, detailed analysis from 32 countries shows that the justice sector is especially prone to two types of corruption: (i) political interference in
judicial processes, through threats, intimidation or other manipulation; and (ii) bribery at all stages of citizens’ interactions with court personnel. The report identifies the following areas as those that are the most problematic (Transparency International, 2007):

- **Judicial appointments.** Judges not selected based on merit may be prone to political influence and corruption;
- **Terms and conditions.** Low salaries and insecure working conditions, including unfair processes for promotion and transfer, as well as a lack of continuous training for judges, can make court personnel and judges likely to accept bribes;
- **Accountability and discipline.** Unfair or ineffective processes for the discipline and removal of corrupt judges can often lead to the removal of independent judges for reasons of political expediency; and
- **Transparency.** Complicated and opaque processes make it difficult for outsiders (media and civil society) to monitor court activity and expose judicial corruption.

6. Available survey data confirm the widespread existence of corruption in judicial systems. Transparency International’s Global Corruption Barometer maintains that the judiciary is among those institutions perceived to be most corrupt, ranking just behind political parties, parliament and the private sector, and on the same level as the police. In Africa, the judiciary is perceived to be the third most corrupt institution, after the police and political parties (Figure 4.1)

![Figure 4.1: Sectors and institutions most affected by corruption](image)

**Source:** Transparency International (2006b) African countries included are: Cameroon, Congo-Brazzaville, Gabon, Kenya, Nigeria, Senegal and South Africa (as well as Morocco).

7. Around 21 percent of African respondents who have had contact with the judiciary in the past 12 months said they had paid a bribe, compared to only 8 percent globally. Some 54 percent of respondents agreed with the statement “In order to be sure a
court passes a fair judgment in (my country) you need to bribe someone in some form”. The size of the bribes paid to the judiciary in Africa is, with an average of €73, the highest among all the institutions (Figure 4.2).

![Figure 4.2: Africa, average cost of the last bribe paid (€)](image)

**Source:** Transparency International (2006b)

**DIAGNOSTIC**

8. On first sight, the problem of corruption in Mauritania does not seem as acute as in other Sub-Saharan African (SSA) countries. The Kaufmann-Kraay-Mastruzzi (KKM) indicator for the “rule of law”\(^9\) places Mauritania above the SSA average, but below almost all of its immediate neighbors (Figure 4.3).\(^10\) In fact, Mauritania’s percentile rank and point estimate for this indicator worsened slightly every year between 2002 and 2005, indicating a lack of progress on reforms during that time.

9. In addition, the Doing Business Survey shows that Mauritania fares relatively well (i.e. above the SSA average) on the two indicators related to the functioning of the judicial sector: registering property and enforcing contracts. These results are supported by the ICS, which shows that the functioning of the courts is not among the most pressing concerns for businesses, although it is considered a bigger problem by manufacturing firms (23.5 percent said it was a severe or major constraint) than for firms in other sectors. It is also a greater concern for firms with foreign capital. However, the survey shows that private sector executives in the manufacturing sector have little confidence in the judicial system: only 44.2 percent consider the Mauritanian courts just, impartial and not corrupt. Around 51.8 percent think that the interpretation and application by officials

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\(^9\) Note that this indicator does not exclusively refer to the judiciary, but also includes measures for property rights, crime, black market, tax evasion etc.

\(^10\) Note, however, the big standard error (0.2), which is likely due to the relatively small number of data sources that are available for Mauritania (9 compared to 12 for Senegal and 13 for Morocco).
of laws and regulations affecting their firms are coherent and predictable, compared to 57.5 percent in Senegal and 64.7 percent in Mali (World Bank, 2007).

**Figure 4.3: KKM Indicators for the rule of law (2006)**

[Graph showing the rule of law indicators for different countries]

10. This perception is supported by the findings of the inter-ministerial committee report, prepared in 2005, which clearly acknowledges that the judicial system in Mauritania is severely dysfunctional. Despite several waves of reforms, and the existence of anti-corruption legislation (see Box 4.1), the judiciary has not been able to get out of the “vicious circle” in which it has been for decades, due to political manipulation and the lack of financial and human resources. On the economic level, the inefficiencies of the system result in lower investments; on the social level, they aggravate inequalities, contribute to the general feeling of injustice, and threaten social cohesion. On the political level, they affect the functioning of other state institutions and the judiciary’s roles as a check and counterweight to the other parts of the government. The report identifies the fight against corruption as the single most important action in order to strengthen justice and restore confidence in the system (Comité Interministeriel, 2005).

**Box 4.1: Mauritania’s legal framework against corruption**

- **Codification of Anti-Corruption Laws.** There is currently no single legislation that codifies anti-corruption laws. Instead, provisions against corruption are currently dispersed between the Penal Code, the Procurement Code and other legislation (such as sectoral laws and regulations). The Penal Code deals with corruption in the context of the abuse of power by public officials. It calls for prison terms and fines if a public official solicits or agrees to offers or promises, solicits or receives gifts in order to perform/not perform an act which is part of his/her public function. The 2002 Procurement Code has provisions that address corruption among bidders, but does not address corrupt acts committed by procurement personnel.
International Conventions. Mauritania signed the African Union Convention on Preventing and Combating Corruption in December 2005 and ratified the UN Convention against Corruption in October 2006. Through these two conventions, Mauritania pledged to adopt a wide range of short- and long-term reforms (merit-based civil service, code of conduct for public officials, freedom of information legislation, etc.) which have yet to be implemented through national laws.

11. One of the problems which may favor corruption is that there exists uncertainty on what is the applicable law (traditional Koranic rule or modern law), as well as the content of the law (lack of publicity and access, poor legal education and training). Mauritania’s dual tradition, which includes two parallel legal systems, namely the “modern” (French) law and the “traditional” (religious or customary) law, creates a tension at times. While modern law is the official law, it is often not very effectively used; traditional law, on the other hand, is better known and understood by the citizens, but not reflected in the formal legal system. In addition, there is a weak general understanding of legal rights. Illiteracy, lack of a systematic codification of legal texts, lack of reliable sources of legal documentation and information and difficult public access to legal information all create an environment in which the law remains opaque. What is more, there is a chronic shortage of judges (173), clerks (144) and other administrative personnel (54), according to the 2005 report on the judicial system. It is estimated that 60 percent more judges would be needed to run the courts effectively according to the current structure.

12. In addition, political interference prevents the judicial system from acting as an effective counterweight to the executive and the legislative branches of government. As the GCR shows, political interference is widespread in developing countries, and Mauritania is no exception. Interference takes place directly or indirectly:

- Political dependence of the judiciary. In law, the independence of the judiciary is guaranteed, but in practice it is virtually non-existent. The Inter-Ministerial Report goes as far as saying “in contempt of the principles enshrined in the texts, the political power has manipulated the judiciary by turning it away from its role as the guarantor of individual freedoms in order to serve as an apparatus of political repression” (Inter-ministerial Committee, 2005). Pressure is exerted through the executive’s control over the promotion, sanction and transfer of judges. The executive also has a tight grip on the court’s material and financial situation, which can be a significant factor affecting the exercise of the court’s function.

- Political affiliation of judges. Many judges are active members of political parties representing tribal and/or regional interests, which is against the law but tolerated in practice. This can affect their impartiality.

13. In addition to political factors, a general lack of resources dedicated to the sector contributes to an environment that is prone to corruption:
• **Economic dependence.** Until the recent raise in judges’ salaries, they would barely be enough to get by, and no allowances for transportation and accommodation were paid. Gifts in the form of cars or houses have therefore been very popular. While insufficient remuneration is not an excuse for corrupt behavior, it does explain the rampant corruption in this sector. The recently enacted obligation to declare assets may prevent some of the most blatant forms of gift-giving.

• **Insufficient training.** Judges are generally not well trained when they take up their job. They are either trained in Muslim or in modern law, neither of which provides sufficient knowledge for the profession, which operates in a dual context. There is also virtually no continuing education/training for judges, and no training on ethical standards.

• **Inadequate working conditions.** Working conditions are not conducive to the effective operation of courts. Buildings and equipment are dilapidated and judicial decisions are written by hand. It was not until 2006 that computers were first introduced, and they have since revolutionized the way courts operate. However, in most local low courts there is sometimes little more than a tent with no electricity, no paper and no furnishing.

14. The lack of independence caused by political and economic factors has led to the proliferation of corrupt practices in the judicial sector. A qualitative analysis of the corruption challenges in Mauritania’s judiciary, building on the assessment of the inter-ministerial committee, was conducted in early 2007 and provides some insights into the well-established corrupt practices throughout the judiciary which involve all the main actors (judges, clerks, lawyers, clients). The following summarizes the main findings.

**Access to justice**

15. Corruption begins at the first point of contact with the system – generally at the stage where citizens deal with court clerks or the judicial police.

1. **Selective access to justice**
   • **Access based on connections.** In theory, every citizen with a legitimate interest has free and open access to the courts. In practice, however, access depends to a large extent on social networks (family, friends, etc.). Those without the necessary links have to pay in order to have their cases processed by the court.
   
   • **Pre-screening of cases.** Scheduling of case files in the judicial calendar depends on payment and/or on personal connections, rather than on the order of receipt or subject matter of the case. As a consequence, some case files remain with the clerks for years without ever being scheduled, while others are processed immediately.
2. *Manipulation of facts*

- **Unreliable documents.** Official documents, such as identification cards, driver’s licenses, and even property titles, are not reliable forms of identification, partly due to the variation in the spelling of names. This can be exploited: people can essentially establish multiple personalities, each with his/her own papers. As for accounting and financial documents, standards are not widely followed and there is a low utilization rate of banking services, all of which means that there is little reliable paper trail when it comes to documenting financial transactions.

- **Falsification of facts by the police.** In criminal law cases, facts are established by the judicial police, which, according to general perception, is one of the most corrupt parts of the judicial apparatus. Records of statements (minutes, *procès verbaux*) are easily changed for a bribe, sometimes turning victims into offenders. Evidence is falsified. In theory, the judicial police is under the control of the prosecutor, but in practice it often eludes control. The recent reforms have given prosecutors a firmer grip over the police, but do not address the corruption problem.

3. *Varying speeds of processing*

- **Unequal treatment of case files.** Some cases remain unprocessed for years, while others are swiftly tried and executed, without any obvious reason. In some cases, those charged in criminal cases are held in prison without charge for several years; others are immediately released on bail (*liberté provisoire*) and quickly judged.

4. *Hidden charges*

- **Collection of arbitrary fees.** Official charges (stamp duties, registration fees, and other charges) may be levied based on an official decree. However, seven years after the promulgation of the applicable law, the decree has not been adopted yet. As a result, arbitrary amounts are collected by those that control access to judicial services; payment of “official” fees is often no more than a pretext for demanding or offering bribes. For those who cannot afford to pay, such charges represent a severe obstacle to access to justice.

*Corruption in the court room*

16. These conditions give rise to unfair and inconsistent practices, generally as a result of corruption. Observed practices include:

1. **Violation of the rights of the defense.**

- **Abusive use of coercion (contrainte).** In criminal cases, arbitrary arrests are made; in civil cases (such as non-payment of debt), the accused may be thrown into prison even before the claims against him/her have been verified.
• **Inconsistent decisions.** Judges sometimes make decisions by “default”, regardless of the context of each case. This gives rise to blatant contradictions in court decisions.

• **Shortcomings in motivations of judgments.** It is often difficult to understand the justification for the outcome of a case, as judges do not feel the need to explain how they came to their decisions. References to specific laws are often missing. This situation is due to a lack of training on the part of the judges, and a lack of awareness of the obligation to provide a justification for all judicial decisions.

2. **Excessive recourse to non-standard procedures.**

• **Abuse of emergency procedures.** The procedure of summary judgment (référé) was designed to take into account the urgency of a situation, and presents a provisional measure while waiting for a permanent decision. However, summary judgments are frequently used to harm another person, by shutting down a competing company, seizing perishable goods, etc. Summary judgment has become a common way for parties to satisfy their desire for immediate quid pro quo without going through the motions of the regular judicial process.

• **The “market” for stays of execution (sursis à execution).** The Supreme Court can, in exceptional circumstances, order the stay of execution of a decision made by a court if the execution would result in an irreparable situation. In practice, however, this exception becomes the rule, via payment or intervention on behalf of an influential person. Under the reform of the Code de Procédure Civil Commercial et Administratif (CPCCA), stays can no longer exceed 6 months and are non-renewable.

• **Inexhaustible possibilities for appeal.** There are three levels of appeal in the Mauritanian system. Recourse to the second and third levels is generally considered to be exceptional, and subject to clearly defined conditions. But in practice, it is commonly used to overturn decisions, with both sides having to offer bribes and the party offering the highest bribe winning the case. The Supreme Court has also often been involved in overturning lower court decisions, thus acting as a *de facto* third instance. The recent CPCCA reforms expressly forbid the involvement of the Supreme Court in the re-opening of cases. Furthermore, even though any decision arrived at by the Supreme Court should be final, the Minister of Justice can review any case “in the interest of the law” (due to a loophole in Mauritanian law). This step has been frequently used by individuals unhappy with court decisions. In short, any court decision – at any level – can be overturned, thus creating an environment of severe uncertainty.

**Other forms of corruption in the judiciary**

• **Justice brokers.** Bribes can be offered directly or through the use of intermediaries (“justice brokers”). These brokers used to be a common sight in the
hallways of the courts; they have now been removed from public view, following recent reforms, but they continue operating underground.

- **Intermediation by attorneys.** Despite the existence of strict ethics code for lawyers, attorneys have played a key role in the spread of corrupt practices. They often act as “suitcase carriers” in order to obtain decisions in favor of their clients. Fees for their legal services often reflect upfront the costs incurred for bribes.

- **Subjective choice of judicial experts.** Professional standards for such experts are virtually non-existent, which means that many of them are unqualified, provide faulty reports and falsify evidence. They can thus easily be used to sway the decision in one way or another. For example, the unlimited discretionary powers of the traditional judges (Cadis) have created massive channels for corruption, particularly stripping the most marginalized groups of society from accessing justice.

17. A number of steps have recently been taken that could lead to an improvement in the current situation. In July 2006, the transition authorities issued an ordinance (ordonnance No. 016.2006) that re-affirms the independence of the judiciary, prohibits judges from engaging in all kinds of political activity, defines the principles for assessing and promoting judges, limits the membership of the Higher Judicial Council (Conseil Superieur de la Magistrature) to professional judges for disciplinary cases, obliges judges to submit an annual asset declaration, and affirms the applicability of the Ethics Code for Judges issued by the Higher Judicial Council.

**INTERNATIONAL EXPERIENCE**

18. International experience shows that a number of reforms have helped reduce the opportunities of corruption in the judiciary. In line with the findings of the GCR, among the areas where reforms have the greatest potential of reducing the opportunities and incentives for corruption are judicial appointments, terms and conditions of court personnel and judges, and accountability and discipline. The following presents selected international experience with reforms that are relevant to Mauritania in each of these areas:

19. **Judicial appointments.** In several countries, especially in Latin America, judicial councils have been created to appoint judges at various levels (similar to the Commission envisaged in the recent ordinance on the judiciary). The main objective of these councils is to ensure that appointments are made on a merit basis and not on political considerations, thereby strengthening judicial independence. However, these councils have shown mixed results, emphasizing the need for broader governance reforms and oversight of judicial performance. Other ways to ensure the competence of judges is to introduce an entrance examination (successful in improving judicial quality in several Latin American countries) and/or to subject sitting judges to rigorous examinations (as has been done in Georgia).
20. **Terms and conditions.** There is a general consensus that judges and other court personnel need to be remunerated in accordance with the important role they play. This will not automatically lead to less corruption: in Venezuela, Ecuador and Argentina, perceptions of corruption did not significantly improve following an increase in judges’ salaries. But it will reduce judges’ financial dependence on bribes, thus reducing one of the incentives for corrupt behavior.

21. **Accountability and discipline.** The Bangalore Principles of Judicial Conduct represent one of the few international attempts at designing internationally recognized accountability mechanisms for the judiciary. They were drafted by the Judicial Integrity Group, comprising senior judges from eight African and Asian countries, in 2002. The Principles are based on six core values: 1) independence; 2) impartiality; 3) integrity; 4) equality; 5) propriety; and 6) competence and diligence. For each of these values, the Principles provide specific guidance for judicial conduct, although they do not suggest specific implementation mechanisms. They were formally endorsed by the UN Economic and Social Council in 2006 and have been adopted by a number of countries.

**Recommendations**

22. On the basis of the analysis conducted in this chapter, it is clear that corruption continues to affect the courts of Mauritania. One of the key priorities that emerge from the analysis – besides eradicating corrupt practices – is the need to establish a rule of law with which the society as a whole feels comfortable and with respect to which it sees a benefit adhering to, enforcing and defending. One extremely important factor is the coexistence of a dual system and this is probably the most challenging issue in terms of legal reform in Mauritania. The following specific recommendations are made:

- **Launch a process of consultation** among academics, clerical chiefs and other relevant stakeholders to compile a common and commonly acceptable law which would truly be the law of Mauritania (rather than Koran and French law), consistent with the Sharia, the essence of the society and adapted to modern life.

- **Enforce a strict merit-based appointment and promotion process for judges.** The recruitment of judges, and the management of their careers, is a crucial factor in strengthening governance of the judiciary. The recent ordinance sets out a list of qualifications each candidate has to fulfill, and the establishment of a commission in charge of appointing higher level judges. These provisions now have to be implemented. In addition, it is important to improve the continuing training of judges once appointed, both in terms of the two different legal systems in use (modern/customary), languages (Arabic and French) and specific technical areas.

- **Improve the general working conditions for judges and court clerks.** The current state of many of the court facilities is inappropriate. It is important to ensure that sufficient funds are made available for the maintenance of court facilities and for day-to-day operating expenses. In addition, more judges and support staff are needed in order to run courts more effectively.
• **Issue a code of conduct for the judiciary, based on the Bangalore Principles.** The Ethics Code for Judges, issued in March 2007, establishes broad values to be followed, without giving guidance on conduct in specific situations. The Ethics Code requires judges to “promote and develop in all circumstances high norms of conduct” and “to respect the law” in the exercise of their office, without specifying appropriate actions. The Ethics Code and Code of Conduct should be made publicly available and advertised in the courts, so citizens are aware of the standards to which judges and other court personnel are held accountable.

• **Make the law and the court decisions publicly accessible** through the Mauritanian Global Legal International Network (GLIN). This would open access to the law and debate on legal matter to civil society and create a counterweight to the judicial apparatus. In 2006, the World Bank financed the access to the GLIN and over 500 texts of Mauritania law were posted: their authenticity is guaranteed and they are freely accessible through the internet. But the GLIN needs to be fed regularly with the same standards of ethics and reliability. Enough resources need to be available to ensure that the GLIN is operational.
5. Corruption and the Extractive Industries: The Case of Oil

1. Empirical research suggests that a majority of countries with large natural resource wealth tend to lag behind comparable countries in terms of real GDP growth (Sachs and Warner, 2001), quality of institutions and governance (Sala-i-Martin and Subramanian, 2003), and social indicators. Also, these countries are more prone to develop civil conflicts (Collier and Hoffler, 2002). In terms of per capita GDP growth, large, resource poor countries have outperformed resource rich (whether large or small) and especially small, oil-exporter countries (Auty 2001). In World Bank surveys of a wide range of governance indicators among countries, oil-rich developing countries and transition economies typically find themselves in the bottom one-third of the governance rankings (Mcpherson and MacSerraigh, 2007).

2. This chapter focuses on corruption in the oil sector. Section 5.1 surveys the literature on corruption in the oil sector. It reviews the typology of corruption in this sector and the actors who usually engage in corrupt practices. It also discusses the likelihood and scope for corruption in the various stages of the oil value chain. Section 5.2 draws on the recently completed Country Economic Memorandum (CEM) and provides a brief description of the oil sector in Mauritania, highlighting the areas of particular danger for corruption. Section 5.3 picks up on the analysis conducted in Section 5.1 and suggests a number of actions that can be taken to reduce the likelihood and scope of corruption in the oil sector, on the basis on the international experience. Section 5.4 concludes and presents the recommendations.

**LITERATURE REVIEW**

*Corruption in the oil sector and relevant actors*

3. Corruption in the oil sector takes place at different levels. One is the policy level. Here, corruption aims to influence the design of sector policies, as well as the enactment of particular sector laws and taxes. These actions ultimately aim at providing political or personal gains at the public expense. The following areas may be affected by this type of activity: foreign policies, tax breaks, price controls, awards of exclusive rights, special accounting procedures, and the myriad of special industry or regional incentives that characterize the petroleum industry. Another example are the carefully cultivated close relationships between policy makers or legislators and special interest groups, which pilot policy decisions. This is also facilitated by the fact that oil company boards commonly include high-ranking former politicians with access to senior policy makers.

4. At the operational level, corruption takes place in the form of illegal benefits in exchange for approvals covering a wide range of commercial and operational activities. It may also involve direct action by administrative agencies in their own interest, when, for example, such agencies become involved in trading government oil or in regulating
access to infrastructure. Administrative corruption at this level includes the broad area of procurement abuse, including tender rigging, kickbacks, and cost inflation. Considering the amounts of resources that characterize the oil industry, the scope for commercial corruption cannot be underestimated. Grand corruption, on the other hand, may involve the direct theft of important sums of money through diversion of production, products, or revenues (i.e. diversion of oil revenue from an oil fund to personal offshore bank accounts or companies controlled by an individual).

5. Oil sector corruption can involve a wide range of institutions and individuals engaged in the sector, including governments, oil companies, “big men” and banks. Producing country governments (i.e. executive, legislative, and judiciary) have been often implicated in oil sector corruption through the channels briefly described above. But also recipient (consumer-country) governments can be engaged in corruption, driven by supply security concerns and/or in their efforts to promote the commercial success of their companies abroad: methods here include bribery or economic, political or military leverage, in the form of either carrots or sticks. Transparency International’s Bribe Payers Perception Index, the companion of the Corruption Perception Index, for instance, puts oil-hungry countries such as China and South Korea near the bottom of the country rankings in terms of desirable performance.

6. Private sector oil companies can be divided into international oil companies (IOCs) and smaller local firms. IOCs-type corruption can take the form of buying privileged access to resources, legislation, and favorable regulatory or tax treatment. In recent times, however, a number of measures have discouraged IOCs to engage in corruption practices, such as severe home-country laws (e.g. U.S. Foreign Corrupt Practices Act), international codes (e.g. the OECD Convention against Bribery), civil society or shareholder oversight, and reputation risks. Local private companies appear to be less constrained though, as they are often owned by influential local investors with no interest in building real oil companies but a strong interest in skimming profits. Public sector oil companies include national oil companies (NOCs), which have enjoyed a notorious reputation for corruption and waste, reaching at times proportions that pose serious threats to macroeconomic stability (e.g. Indonesia’s Pertamina).

7. NOCs usually engage in administrative corruption – through influence on procurement – but may also play an important role at the policy level, where they manage to capture the regulatory authority, as a result of failure or weak capacity in the nominal regulatory agency. Moreover, NOCs can be involved in grand corruption, notably in countries where they handle large revenue flows on behalf of governments. The NOCs of oil importing countries and oil service companies also deserve mention. The former are one of the instruments used to implement these countries’ supply security strategies (Andrews-Speed and Ma 2005), through opaque agreements with oil producing countries, which may serve as a cover for corrupt practices. The latter perform a very high percentage of oil industry work, covering all stages of the industry value chain (see below), and are very frequently caught up in the tangle of corrupt petroleum sector practices, especially as they relate to procurement.
8. So-called “big men” are usually influence peddlers or “arrangers,” who have become permanent features of the petroleum sector, in developed countries, developing countries and transition economies. These individuals often operate through local and international networks involving players from both consuming and producing countries: their activities range from acceptable lobbying to criminal dealings and grand corruption. Finally, banks enter the stage when large amounts of money from corrupt sector activities need to be hidden away or transferred. Corruption at the bank level often includes participation in questionable transfers of oil.

Vulnerability to corruption in the oil value chain

9. Vulnerability to corruption is present in each segment of the oil sector value chain from the award of exploration rights through to the sale of petrol at the retail pump. This section briefly reviews the opportunities for corruption in the following areas:

- **Exploration.** The exploration stage – the award and negotiation of exploration and production rights, approvals and the permitting of exploration operations, and oversight of any relinquishment or extension of exploration rights – involves enormous amounts of money and is vulnerable to corruption. Corruption here is associated with the awards process itself and the negotiation of contract terms, notably the parameters concerning the recovery of costs, the sharing of profits, and the rate and extent of obligatory relinquishments to the state. Usually, the award of exploration areas involve confidential negotiations between oil companies and governments, to protect commercially sensitive information and to allow terms to be tailored to individual country and company requirements. However, the opacity of such processes often favors the occurrence of corruption practices.\(^\text{11}\) This process has sharply increased opportunities for discretionary behavior of government officials and the international oil companies.

- **Development.** The greatest vulnerability to corruption at this stage lies in the procurement process (kickback to officials, government and private contractors), as capital and operating costs increase substantially. The influence of government agencies and NOCs can be used to direct procurement toward government-favored or government-affiliated suppliers. By the same token international companies may favor affiliated service companies or companies from their home countries in procurement. Although procurement abuse raises costs, these are relatively small in comparison with the scale of industry expenditures during this phase. As a result, tax revenues are lower and less resource are available to allocate to health, education, transport, and other essential services.

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\(^{11}\) In recent times, some new oil-producing countries (e.g. East Timor) opted for full transparency of awards by: (i) publishing drafts of applicable legislation and model contracts for comment; (ii) holding public hearings; (iii) publicly advertising the licensing rounds and their terms; (iv) screening potential bidders for technical and financial capacity through a prequalification process; and (v) awarding contracts on an international competitive bid basis with one-bid variable (the offered work program).
• **Production.** This phase is particularly vulnerable to grand corruption. This may occur through underreporting and diversion of production volumes or through more direct means, such as tapping into producing wells or pipelines and carrying off the oil. Production theft is achieved by the underreporting of production volumes and the diversion of oil by local mafias for clandestine sale. Production metering devices and the appointment of independent quantity-control experts can mitigate this phenomenon, provided that systems are not sabotaged and bribes are paid out to control experts. In general, theft on massive scales cannot happen without the complicity of big men, senior politicians, and enforcement agencies.

• **Trading.** The sale and purchase of oil production defines trading. Theft under this heading often involves the under-invoicing of the value of the oil sold, allowing its purchaser to resell the oil at an inflated margin. Corrupt parties here are typically a government agency or a NOC as the first seller, and an oil trader as the first purchaser and onward seller. Consistent under-pricing relative to market values creates significant margins for middle men and well-placed “big men”, with contracts to sell on the crude. A typical corrupt practice includes inappropriate pricing benchmarks in contracts, which can increase trading margins, a practice that is difficult to detect. Above all, traders benefit from administrative restrictions, whether sanctions or price controls, because the profits that derive from breaching the barriers created by those restrictions can be enormous.

• **Transport.** This stage is characterized by the delivery of oil to market by pipeline or tanker, which presents additional opportunities for illegal gain. Transport infrastructure, including pipelines, storage or transfer terminals, and port jetties, are often de facto natural monopolies. The owners of infrastructure, in some cases the state itself, are in a position to extract monopoly rents and commonly do so. Corruption comes into the picture when rents are extracted not as official, published tariffs payable to the state but as clandestine payments to officials in control of access.

• **Refining and marketing.** Refining (i.e. the industrial process that converts crude oil into usable petroleum products such as gasoline, kerosene, diesel, jet fuel, and fuel oil) and distribution or marketing (i.e. moving the petroleum products from refineries to the final consumer) constitute the downstream segments of the oil industry. These stages may not enjoy the same lucrative margins of those described above, but the volume of transactions is large, and illegal activity that takes even a fraction of a percent can be tempting. Official policies often create opportunities for illegal profits: price controls on refined petroleum products is the most common driver of corruption in this area. Imposition of petroleum product price controls and the resulting product shortages are almost invariably followed by a rapid expansion in black market activity and smuggling. Populist pressure and corruption at the policy level create the opportunity, while corruption at the operational level allows it to thrive. For many developing countries, taxes on petroleum products constitute a major share of government revenues (Bacon, 2001). Tax evasion is common, often achieved by under-measuring volume. Effective metering is an issue downstream, as much as it is upstream.
10. Oil production in Mauritania begun in February 2006. Since then, oil projections have been revised downwards and currently only one off-shore field – Chinguetti – is in operation (see World Bank, 2007 for a comprehensive analysis of the oil sector potential, and Table 5.1). The actions taken to date by the authorities to set up an institutional framework for the transparent and effective management of oil revenue have been encouraging. Oil revenues have been treated transparently in the 2006 and 2007 budgets. The authorities have engaged in prudent fiscal and monetary policies and set up the National Hydrocarbon Revenue Fund (FNRH). The government has created a National Oil Company (SMH), adhered to the Extractive Industry Transparency Initiative and agreed to implement all its steps, and sought technical assistance in the management of oil revenues from the World Bank and International Monetary Fund (IMF).

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</thead>
<tbody>
<tr>
<td><strong>Annual production of oil</strong></td>
<td>Bbl m</td>
<td>11.2</td>
<td>5.7</td>
<td>4.8</td>
<td>3.8</td>
<td>2.9</td>
<td>4.5</td>
<td>14.6</td>
<td>20.1</td>
</tr>
<tr>
<td><strong>Price of oil</strong></td>
<td>US$ Bbl</td>
<td>64.3</td>
<td>68.5</td>
<td>75.0</td>
<td>72.3</td>
<td>70.5</td>
<td>69.5</td>
<td>68.8</td>
<td>70.3</td>
</tr>
<tr>
<td><strong>Oil revenue 1/ % of GDP</strong></td>
<td>10.6</td>
<td>3.4</td>
<td>3.1</td>
<td>2.6</td>
<td>2.5</td>
<td>3.3</td>
<td>7.8</td>
<td>9.9</td>
<td>10.9</td>
</tr>
<tr>
<td><strong>Transfer from the oil fund to the budget</strong></td>
<td>UM bn</td>
<td>47.4</td>
<td>25.3</td>
<td>22.2</td>
<td>19.3</td>
<td>19.6</td>
<td>20.1</td>
<td>46.7</td>
<td>43.9</td>
</tr>
<tr>
<td><strong>Oil fund balance</strong></td>
<td>UM bn</td>
<td>13.1</td>
<td>10.3</td>
<td>9.6</td>
<td>10.8</td>
<td>12.4</td>
<td>21.5</td>
<td>50.9</td>
<td>112.4</td>
</tr>
<tr>
<td><strong>Oil fund balance</strong></td>
<td>US $ m</td>
<td>49.2</td>
<td>38.3</td>
<td>35.7</td>
<td>40.1</td>
<td>46.2</td>
<td>79.1</td>
<td>185.8</td>
<td>405.4</td>
</tr>
</tbody>
</table>

1/ Including signature bonuses
Source: IMF 2007

11. Oil revenue management system. Set up in 2006, the FNRH is an account of the treasury that centralizes petroleum revenues. It is managed independently by the Central Bank of Mauritania (BCM) under a convention that delegated the administrative powers for the FNRH from the then Ministry of Finance (now Ministry of Economy and Finance – MEF) to the BCM. The FNRH is a financing fund. The fund covers the financing needs identified in the annual government budget, reflecting the level of non-oil deficit net of available financing from sources other than domestic banking system (such as net external financing and privatization) and domestic debt management needs in support, among others, of foreign reserves of the central bank. Withdrawals from the Fund in any given year are limited to the ceiling authorized by the budget law, and must be deposited to the Treasury account at the central bank. The fund is audited by the Audit Office (Cour des Comptes) and by an independent international auditing company selected through competitive bids. The use of the FNRH to date has been transparent and clear links have been established between the fund and the budget (See Annex 3 and Box 5.1).

_12_ Essentially government share in the profit-oil under Production Sharing Agreements (PSAs), corporate income tax and all applicable taxes on oil companies’ and their subcontractors, signature bonuses and other bonuses and fees applicable under PSAs and arising from contractual relations with oil producing companies and companies prospecting for oil and other hydrocarbons in Mauritania.
12. **National oil companies.** The Government has created the SMH, which has the responsibility for managing the state participation in the oil sector and facilitate the development of national capacity in this sector. Some of the dangers associated to corruption and NOCs have been reviewed above. The SMH risks turning into an annex of the Ministry of Economy and Finance without appropriate safeguards, which could lead to: (i) the leakage of funds from the commercial enterprise and into the political patronage system; (ii) the diminished capacity of SMH to execute its commercial responsibilities in the long-term national interest. In short, SMH is vulnerable to political predation, which SNIM has thus far managed to contain within the iron ore sector only by internalizing as much revenue as possible (through its subsidiaries and welfare-state functions) and by stressing its need to maintain the confidence of its international equity partners.

13. **The EITI.** In September 2005, Mauritania adhered to the EITI. Law 2006-001 of January 2006 officially established the National Committee in charge of implementation, including EITI stakeholders in accordance with the initiative’s requirements. The country published a 1st report – produced by Earnest & Young -- in March 2007 covering the extractive industries activity for 2005, specifically mining. The 2nd report, published in July 2007, provided a more complete review of the 2006 activity, including oil production, which started in February 2006. The EITI communication campaign to date has been quite limited to selected groups in urban centers and needs to be revamped. A further challenge relates to ensuring the full participation of extractive industry operators in Mauritania, which to date has been rather passive, despite the positive reactions when the initiative was launched.

14. **The regulatory framework and data management.** The existing legal and fiscal regime applicable to the oil sector was adopted in 1988 and the PSA model in 1994. To better manage public resources and in line with the government transparency strategy, the new authorities have engaged in the revision of both the Mining and Hydrocarbon Codes (including production sharing contracts). The overarching objective is to ensure that the legal and institutional frameworks are sound and able to attract new investment. The elaboration and validation process of these codes – prepared with the assistance of external consultants and sector experts – were public and participatory (e.g. inputs were received from operators, sector specialist, civil society and various government agencies).

15. **Human resources.** Both the Ministry of Petroleum and Mining (MPM) and the SMH have a serious deficit of qualified staff. The lack of human resources, especially at very sensitive stages (e.g. decision-points) creates vulnerability and puts the government in a disadvantaged position vis-à-vis financially strong and experienced investors. While assessment needs have been carried out, little action has been taken to strengthen human capacity, besides the ongoing elaboration of a training plan that includes “on-the-job-training”, classroom training as well as knowledge transfer. The aim here would be to build up gradually the institutions responsible for sector management in accordance with the adopted sector policy.
## Box 5.1: A Variety of Oil Funds

A nonrenewable resources fund (NRF) can be a useful instrument to build popular support for sound fiscal policy and wise management of the petroleum wealth. Funds can help crystallize public support for saving petroleum resources, let the public see how petroleum revenue is spent and how much is being saved. NRFs have been established to address issues posed by exhaustible revenue streams from depleting resources such as short term stabilization, long run savings and sterilization of revenues.

Two basic types of oil funds, have been established to insulate government revenues from volatile oil prices and to allow for savings for future generations: (i) Stabilization funds (StabF) are designed to smooth revenue flows; and (ii) Savings funds (also referred to as funds for the future -- SavF), are designed to create a store of wealth for future generations by converting present revenues into income generating assets. This distinction is rather artificial since a single fund can be established to achieve both objectives. There are other types of NRFs such as the Financing Fund (FinF, i.e. Norwegian Fund) or the Contingent Stabilization Fund but they are only variations of the two basic types. A single fund can in effect address all the issues discussed above.

If the likely saving is only of a small magnitude (like currently in Mauritania) it may be best not to plan for a savings fund but merely to concentrate on how best to permit fairly steady changes in government expenditures over the projected peaked profile of oil revenues (smoothing function), and against plausible downside risks (stabilization function). Especially in the early years of oil production when revenues will be below desirable incremental government expenditure, it may be counterproductive to start putting money permanently aside. Citizens may feel that they are not yet receiving the benefits of oil and press for the liquidation of the fund. A scheme of management can be designed that could transform a smoothing/stabilization fund into a savings fund if oil revenues become sufficiently large. Some best-practice design principles for a Petroleum Fund are as follows:

- The fund should be coherently integrated into the budget process. This is best achieved by ensuring the fund operates only as a government account rather than a separate institution. Budget formulation and reporting should focus on the consolidated presentation, and expenditure should be executed by the Treasury (within the Ministry of Finance). The fund should ideally be a “financing” fund, where the fund’s balance reflects the government’s saving of its petroleum wealth and is presented in the context of all the government’s financial assets and liabilities.

- Fund assets are managed with an explicit governance framework according to international best practice. Funds can accumulate significant financial assets. Their objective is to maximize investment returns subject to the primary objective of capital preservation. Funds operations are supervised by an Investment Committee and are governed by an investment policy and investment guidelines. In this framework, investment management is conducted transparently, with controlled risk management and regular reporting. Qualified professionals, subject to the highest code of ethics and professional rules of conduct are selected and trained in state of the art investment and risk management techniques. Holding assets in foreign financial instruments helps diversify risk and reduces the impact on the domestic economy. Funds should also not lend or otherwise pledge their assets as collateral for borrowings.

- The rules and operations of the fund should be transparent with stringent mechanisms to ensure accountability and prevent misuse. This requires regular and frequent disclosure and reporting on the principles governing the fund, its inflows and outflows, and its investment strategy and return on assets. The fund’s activities should be audited by an independent external agency, and investment performance should be periodically evaluated and published.

16. The dimensions of an anticorruption program are well illustrated by the EITI, which is designed to address the paradox of plenty in resource-rich countries by requiring transparency of payments made by companies and of revenues received by governments, thereby limiting opportunities for corruption and promoting accountability. But it is also necessary to go beyond the minimum requirements of the EITI. Looking at the international experience, Nigeria’s particular version of the EITI, known as NEITI, contains all of the recommended features of an anticorruption campaign, including:

- Prominent involvement in and endorsement of the NEITI by the country’s president, as well as by program “champions” at the ministerial level.

- Engagement of all key stakeholders – government, industry and civil society – acting both independently and as a coalition. A 16-member National Stakeholders Working Group (NSWG), established by presidential decree, meets monthly. Subcommittees have been created to address specific topics (e.g. training, legislation, and outreach).

- Promotion of a sustained commitment through establishment of a permanent, professionally staffed NSWG secretariat and submission to the National Assembly of a draft NEITI bill to anchor the initiative and its funding in legislation. While legislation is pending, the secretariat and related NSWG activities listed here are supported by donors on a bilateral basis and by the World Bank administered EITI Multi-Donor Trust Fund.

- Dialogue with major developed-country consuming states on corruption issues, exemplified by the anticorruption pact that was agreed at the 2004 G-8 summit at Sea Island, Georgia, in the United States and that addresses a wide range of governance issues, Nigeria’s commitment to the EITI among them.

- Focus on transparency regarding not only revenues but also a wide range of additional policy and operational areas, including the adequacy of fiscal and cost audits; volume audits; the monitoring, reconciliation, and reporting on the flow of funds in the sector; and licensing procedures.

- Broad dissemination of information related to the sector in an easily accessible format. Outreach activities include a Web site and regular Internet reports, detailed monthly newspaper reports on revenues, simple brochures, regional and local workshops, and petroleum information centers.

- Significant emphasis on governance-related capacity building in key government and sector agencies and in civil society. Topics addressed include petroleum industry basics, petroleum economics, accounting and taxation, fiscal administration, and budget analysis.

17. On what concerns the international experience on way to reduce the likelihood and scope of corruption along the oil value chain, Table 5.2 below summarizes the alarm signals and proposed remedies.
# Table 5.2: Petroleum sector corruption typology, warning signs and responses

<table>
<thead>
<tr>
<th>Value Chain</th>
<th>Vulnerability to corruption</th>
<th>Alarm signs</th>
<th>Proposed remedies</th>
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</thead>
<tbody>
<tr>
<td>Exploration</td>
<td>Policy formulation</td>
<td>Lack of policy clarity</td>
<td>Clear, publicly announced policies</td>
</tr>
<tr>
<td></td>
<td>Laws, contracts, fiscal terms</td>
<td>Opaque, incomplete legal, fiscal framework</td>
<td>Best practice legal, fiscal framework</td>
</tr>
<tr>
<td></td>
<td>Licensing, contract awards</td>
<td>Direct, nontransparent negotiation of licenses</td>
<td>Transparent simplified bids for license awards, published results</td>
</tr>
<tr>
<td></td>
<td>Permits, approvals</td>
<td>“Unbalanced,” “odd” awards</td>
<td>Transparent, public reports on permitting approvals</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Delays on permits, approvals</td>
<td></td>
</tr>
<tr>
<td>Development and production</td>
<td>Permits, approvals</td>
<td>Permitting delays</td>
<td>Transparent, public reports on permitting</td>
</tr>
<tr>
<td></td>
<td>Procurement</td>
<td>Limited international competitive bidding, nontransparent bids</td>
<td>Transparent, competitive procurement</td>
</tr>
<tr>
<td></td>
<td>Theft of production or revenues</td>
<td>“Odd” or repeat procurement awards</td>
<td>Publication of results</td>
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<tr>
<td></td>
<td></td>
<td>Rumors of abuse</td>
<td>Credible channels for complaint or challenges</td>
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<tr>
<td></td>
<td></td>
<td>Aggressive local content rhetoric</td>
<td>Regular volume audits reconciliations</td>
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<tr>
<td></td>
<td></td>
<td>Volume discrepancies</td>
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<tr>
<td></td>
<td></td>
<td>Absence of metering</td>
<td></td>
</tr>
<tr>
<td>Trading et transport</td>
<td>Underreporting of value of volume</td>
<td>Prices below reference benchmarks</td>
<td>Full transparent reporting of trades/sales</td>
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<tr>
<td></td>
<td>Illegal rent extraction for infrastructure access</td>
<td>Volume discrepancies</td>
<td>Transparent bidding for selection of middleman</td>
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<td></td>
<td></td>
<td>Opaque or lack of reporting on sales</td>
<td>Regular audit of sales</td>
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<tr>
<td></td>
<td></td>
<td>Unusual reliance on middleman</td>
<td>Volume audits, reconciliations</td>
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<tr>
<td></td>
<td></td>
<td>Rumors of abuse</td>
<td>Transparent, public rules and tariffs infrastructure access</td>
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<td></td>
<td>Queues for access to infrastructure</td>
<td>Appeal, complaint procedures</td>
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<tr>
<td>Refining and marketing</td>
<td>Downstream policy formulation, such as price controls</td>
<td>Price controls</td>
<td>Policy clarity</td>
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<td></td>
<td>Black marketers, smuggling</td>
<td>Nontransparent product procurement</td>
<td>Price liberalization (transparent allocation of proceeds)</td>
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<td></td>
<td>Product adulteration</td>
<td>Queues for products, product shortages</td>
<td>Competitive transparent tendering</td>
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<td></td>
<td>Product procurement</td>
<td>Volume discrepancies</td>
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</tr>
<tr>
<td>Corporate accounting and finance</td>
<td>Inaccurate reporting</td>
<td>Limited transparency, secrecy</td>
<td>Full, transparent, publicized audits</td>
</tr>
<tr>
<td></td>
<td>Tax evasion</td>
<td>• Tax immunity or unusually low tax burdens</td>
<td>Qualified, independent tax and cost audits</td>
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<tr>
<td></td>
<td>Diversion of funds</td>
<td>• Inadequate audit</td>
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<tr>
<td></td>
<td>Money laundering</td>
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18. On the basis of the analysis conducted in this chapter, the following specific recommendations are made:

- **Strengthen the framework for the management of oil revenues.** The new Oil Sector Policy Letter (OSPL) needs to be elaborated. The OSPL should include a revision of the current PSAs and lay the legal basis for a maximum possible degree of transparency in oil operations, at each of the steps described above (e.g. exploration, development, etc.) by avoiding the personalization of process and potential abuse. A coherent package of secondary legislation – covering technical, economic and environmental issues – should be also prepared. An inter-ministerial working group was created in May 2006 to prepare a draft Law on Hydrocarbon Revenues by end-December 2006. This law, which has been approved in October 2007, defines – inter alia – the principles that guide the optimal management of oil resources and the determination of the annual contribution of the FNRH to the budget.

- **Foster Transparency in the management of the oil sector.** On the EITI front priorities for action in the near future include the stepping up of the communication campaign to manage the expectations of the general public in the oil sector, including oil projections, and the actions taken by the authorities to improve transparency in the extractive sectors in Mauritania. In addition, the process of disclosure and dissemination of the EITI reports needs to be improved to foster greater participation from civil society. Concerning the SMH, measures that can be taken to foster transparency are the yearly presentation to Parliament for approval of the budget of SMH in conjunction with the state budget; and the publication of the SMH audited accounts and of the contracts to which SMH is party.

- **Strengthen data management capacity.** It is necessary to improve the technical capacity of the MPM to manage the sector and value the hydrocarbon resources of the country by setting up a databank and a related information system. This could be done in two steps: (i) an inventory and evaluation of the existing data, a projection of the amount of data to be received in the medium-term and the conceptualization of the required system for storage, processing and exploitation of data; and (ii) the design, planning and procurement of the needed equipment and software, including the training of staff. One important part of the information system is the cadastre of oil contracted areas and the collection and processing of the cost data reported by the contractors. These are essential inputs for an adequate operational model, which is the central tool for the sector policy decisions and negotiations of future acreage.

- **Improve the capacity of human resources in the extractive industries at ministerial/SMH level.** In particular, it would be advisable to: (i) evaluate current staffing needs based on job requirements and ensure that the selected staff has the necessary qualifications for the specific positions advertised; (ii) prepare training plans; and (iii) develop a “scorecard system” to review processes, evaluate staff and departments’ responsibilities and achievements.
6. Corruption as an Obstacle to Private Sector Development

19. The objective of this chapter is to analyze whether Mauritanian firms deem corruption as an obstacle to operate and grow, and to identify the profile of firms that are more likely to make informal payments and whose informal payments are larger as percentage of their sales. The analysis is conducted using the 2006 ICS data, which contains information on 361 Mauritanian firms, located in Nouakchott and Nouadhibou and representing the manufacturing, retail and IT, and other sectors. The survey was conducted in 2006, and it is a unique dataset on corruption containing quantitative information on bribe payments for Mauritanian firms combined with information on firms’ characteristics.

20. The chapter is structured as follows. Section 6.1 provides a brief overview on why it is important to focus on corruption at the firm level in Mauritania. Section 6.2 presents the descriptive analysis focusing on the perception of corruption by Mauritanian firms, the main characteristics of petty corruption and the financial cost of corruption. Section 6.3 presents the theoretical framework and specification of the econometric model used, while Section 6.4 discusses the results of the econometric analysis on bribe propensity (i.e., the probability of paying a bribe) and intensity (i.e., the payments of bribes as a share of the firm’s annual sales). Section 6.5 presents the recommendations.

CONSTRAINTS ON PRIVATE SECTOR DEVELOPMENT IN MAURITANIA

19. The development of the private sector to date has been mainly constrained by lack of competition due, inter alia, to the presence of powerful and well-connected business groups. A key feature of the modern sector is the high concentration of ownership by a few families of large businesses in trade and commerce. Large private trading monopolies skim rent from the urban economy at the expense of domestic (more competitive) private producers whose margins are shrunk by high factor costs. The considerable monopolistic power on the domestic market enjoyed by powerful groups is reinforced through formal (e.g. administrative authorizations to enter into some sectors such as tourism, transport, etc.) and informal regulatory barriers that tend to make markets less contestable. A dynamic informal sector also exits but tax and regulatory policies, as well as the dominance of large competitors, restrict the emergence of new entrepreneurs (World Bank, 2007).

20. Monopolies also dominate bank credit and insurance services at the expense of small and medium-size businesses, potentially the most dynamic economic agents, who do not have preferential access to long-term credit and lack political connections. A further hindrance to private sector development is the under-development of financial markets, unreliable infrastructure, a non-transparent judiciary, lack of skilled workers, and scarce industrial entrepreneurial experience. Given these market failures it is not surprising that entrepreneurs prefer to invest wherever possible in trade rather than production; or that most urban workers support themselves through the extended family
and petty trade. These factors, combined, have restrained the emergence of private sector activity and, notably, the expansion of small and medium enterprises, putting a lead on the growth potential in Mauritania beyond the exploitation of natural resources. With a view to adding a further dimension to this analysis, the remaining part of this chapter attempts to shed light on the underdevelopment of the Mauritanian private sector, and of SMEs in particular, and firms’ perception of corruption, by focusing on the extent of bribe propensity and intensity as barriers to growth.

**DESCRIPTIVE ANALYSIS**

**Firms’ perception of corruption in Mauritania**

21. In 2006, some 303 of the 361 firms surveyed (84 percent) admitted paying bribes to government officials, while only 58 firms (16 percent) in the sample denied it. These shares are similar to those found by Svensson (2003) for Ugandan enterprises surveyed in 1998 (81 percent). Yet, only 18 percent of firms in Mauritania consider corruption as a major or severe constraint for their business operations and growth, while 44 percent of firms rate access to finance a major/severe constraint. Firms consider tax rates (32 percent), anti-competitive practices by informal businesses (31 percent), and electricity and access to land (26 percent) as major/severe barriers to their growth and operations (Figure 6.1). Breaking down the sample into formal and informal firms, the results show that approximately 18 percent of formal firms perceive corruption as a major/severe obstacle to growth, while this share is around 12 percent for informal firms.

![Figure 6.1: Major or severe obstacles to growth, whole sample (%) of firms](image)

*Source: Mauritania ICS, 2006.*

22. The low perception of corruption in Mauritania stands out when comparing it with other countries. The share of formal businesses that identifies corruption as a major/severe impediment to do business in Mauritania (18 percent) is much lower than in neighboring countries such as Mali (49 percent), Senegal (40 percent), or other SSA
countries like Cameroon (53 percent). It remains nevertheless higher that in middle-income countries such as South Africa (16 percent) and most OECD countries. If obstacles to business operations and growth (15 independent questions in the survey) are ranked according to the percentage of firms that consider them a major/severe obstacle, corruption comes in the 10th place in Mauritania, but only in 2nd place, for instance, in Mali (Figure 6.2).  

Figure 6.2: Corruption as major/severe obstacle to growth (% of firms, right axis) and overall rank as an obstacle to growth (left axis), formal sector, selected countries

Source: ICS database

Petty Corruption

23. Petty corruption, which is a day-to-day form of administrative corruption, in Mauritania is pervasive.  Regardless of the firm category, the most common payment of bribes by entrepreneurs is made in order to: (a) establish a water connection; (b) obtain a construction permit; and (c) establish an electricity connection. Relatively fewer firm, by contrast, make informal payment to establish a connection to a mainline telephone and obtaining an import or operating license. On average, medium-size enterprises operating in Nouadhibou are the most taxed by informal payment although there are notable exceptions.

24. The extent of petty corruption associated with the provision of selected public services becomes even more startling when compared internationally. In water, the share of bribe-paying firms (75 percent) in Mauritania is about the double than those of Benin,

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13 There are 15 independent questions on 15 distinct obstacles to growth in the ICS.
14 This analysis is based on reported answers of whether bribes were paid in order to speed up the delivery of day-to-day services.
Cameroon, Mali and Niger. Some 42 percent of firms in Mauritania paid to obtain a connection to the electricity grid, a share more than double that of Niger (19.2 percent), and higher than in Benin, Cameroon and Mali. In addition, almost 53 percent of firms in Mauritania were expected to pay bribes to providers of construction permits, once more setting the record in the comparator group. Most of these payments are made to accelerate the speed of connections, as well as their quality, and to reduce the bureaucratic procedures to obtain construction permits. To the extent that inefficiency and red tape assures a bribe payment, there is little incentive to remove them, with adverse consequences on the growth and dynamism of Mauritanian firms (Figure 6.3).  

Figure 6.3: Informal payments requested (% firms), selected countries

(a) To obtain mainline telephone and electricity connection

(b) To obtain import license and operating license

(c) To obtain water connection and construction permit

Notes: **Proportion statistically different from Mauritania’s at the 5% level. ***Proportion statistically different from Mauritania’s at the 1% level. Formal sector only.

Source: ICS database.

The number of connections to the water system is low and leads to high water cost and charges, which are the highest in the sub-region. Water access for industrial use remains problematic. SONELEC, the National Electricity Company, offers an intermittent service: amongst manufacturing firms power outages cause an average loss of approximately 3.3 percent of annual sales.
The financial cost of corruption

25. On average, Mauritanian firms make informal payments to "get things done" of about 4.8 percent of the annual sales and of 7.7 percent of the contract value to secure contracts with the government. Survey results show bribes in percentage of the sales increase with size up to a point and then decrease. Medium companies are the ones that pay a larger percentage of their sales (7.8 percent).\(^\text{16}\) To secure government contracts, medium and large firms report to pay, on average, 7.8 and 7.0 percent of the contract value, respectively, while micro and small firms pay on average 4.5 and 6.2 percent (See Figure 6.4). Furthermore, the payment of bribes as percentage of sales, are on average, larger for firms with foreign capital, and with accounts audited externally.

26. The average payment of firms in Mauritania to "get things done" (as a percentage of total sales, 4.8 percent) is higher than in neighboring countries such as Senegal (1.7 percent) and Mali (3.4 percent), but around half the value for Niger (9.6 percent) and lower than Cameroon and Benin. Informal payments to secure contracts with the government (as a share of the value of the contract) are higher in Mauritania (7.7 percent) than in the whole comparator sample with the exception of Benin and Niger (8.8 percent and 12.7 percent respectively) (See Figure 6.5). These results suggest that while the perception of corruption in Mauritania is low, its costs are relatively high, suggesting that paying bribes is a practice that has been internalized by firms and commonly accepted.

\(^{16}\) The size categories are (number of employees): micro (1-5); small (6-10); medium (11-20), and large (more than 21). Employment is a variable with a left-skewed distribution, which makes it difficult to create an even distribution for the four size categories.
RESULTS\textsuperscript{17}

\textit{Bribe Propensity}

27. Annex 4 reports a series of six probit regressions, according to equation (2), which estimate the probability of a firm to pay bribes to public officials in Mauritania (bribe propensity). All regressions control for sector and region\textsuperscript{18,19}. Results are robust and stable, and support the hypothesis on which the development of the model was based. A non-linear relationship between bribes and firm size is found. Bribe rates increase with firm size, but then decrease. The employment variable is statistically significant at the 10 percent level and employment squared is negative and statistically significant at the 1 percent level. This result is corroborated when using discrete variables for size.\textsuperscript{20} Only medium-size firms have a significantly higher probability of paying bribes to government officials than micro enterprises (omitted dummy). A possible interpretation for this result is that medium firms while visible and exposed do not have the bargaining power of the large companies and may fear to leave the market.

28. Companies with foreign ownership are more prone to pay bribes to government officials. Firms with some degree of foreign ownership are about 10 percent more likely to make informal payments to government officials than purely domestically-owned firms, \textit{ceteris paribus}. For Smarzynska and Wei (2000), corruption makes local bureaucracy less transparent and increases the value of using a local partner to cut through the bureaucratic maze. Furthermore, as pointed out by Kuncoro (2006), foreign ownership may make a firm more vulnerable to bureaucratic predation, and for this reason foreign firms typically have domestic partners – for their ability to ward off such predation. Moreover, the likelihood of a firm paying bribes in Mauritania decreases as the average monthly wage per worker increases. It is expected that firms that pay higher wages would hire more formal workers (and more skilled labor). As this can be interpreted as a measure of formality and legal compliance (labor rules), one should expect these firms to be less vulnerable to be harassed by officials.

29. The higher the percentage of senior management time spent dealing with government regulations each week (i.e., tax time), the lower the probability of a firm to pay bribes in Mauritania. A 10 percent increase in the tax time is associated with a 3 percent decrease in this probability, everything else held constant. This result suggests that companies that comply with procedures are less vulnerable to bribe predation. Another interpretation is that more time spent dealing with government regulations may be reflected in having closer ties with officials and thus being less likely to be asked to pay bribes. Nevertheless, Svensson (2002) found that senior management in firms

\textsuperscript{17} See Annex 6 for the theoretical specification of the model.
\textsuperscript{18} Control for formality is captured by the size discrete variable. All informal firms are micro firms.
\textsuperscript{19} Svensson (2003) found that the probability of a firm paying bribes increases between 14 and 20 percent if it is a formal enterprise (\textit{vs.} an informal enterprise).
\textsuperscript{20} Specifications (2), (4), and (6), Annex 4.
reporting that they had to pay bribes spend much more time dealing with government regulations than in enterprises that reported that they did not have to pay bribes.

30. As the number of dealings between firms and tax officials increases, so does the firm’s probability of paying bribes. Results show that one additional tax inspection (in a year) is associated with an increase of 16 to 17 percent in the probability of paying a bribe. In addition, firms that rate corruption as a major or severe obstacle to their growth and operations are around 12 percent more likely to pay bribes than firms that rate this obstacle differently.21 Furthermore, the firm’s location is a determinant of bribe propensity in Mauritania, while sector is not. Firms located in Nouadhibou are around 10 percent more likely to pay bribes to public officials than firms operating in Nouakchott.

**Bribe Intensity**

31. Annex 5 reports a series of six OLS regressions, according to equation (3), which estimates the payment of bribes as a share of the firm’s annual sales (bribe intensity). All regressions control for sector and region. Results are robust and stable and support the hypothesis developed above. The bargaining hypothesis suggests that bribery payments as a share of total sales depend on the firm size. An inverted U-shape relationship between size and bribe intensity was also found and, corroborating with the descriptive statistics illustrated in Figure, medium-size firms are the ones that suffer most from corruption in Mauritania. Since harassment takes up public officials’ time, they may focus on large firms in order to receive higher returns for their (time) investments. However, it might be true that officials may be content to accept lower bribe rates (as shares of the firms’ annual sales) from large firms, given that these will translate into higher absolute amounts. Public officials may be also reluctant to try to extract bribes from large firms given their networks with higher ranking local or national officials.

32. This is confirmed when the estimations use firm discrete categories for size. Only medium-size enterprises present significantly higher bribe intensity than micro enterprises. Kuncoro (2006) found a similar result for Indonesian firms using data for 2001: the coefficients of the three firm size dummies used in his OLS estimations suggested some degree of non-linearity in the bribe intensity function.22,23 In addition, the bargaining hypothesis also suggests bribe intensity to be dependent on the firm’s investments as a share of total sales. Indeed, a 1 percent increase in investments as a

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21 Corruption can be considered an endogenous variable to the model and, therefore, this is only included in two of the specifications.
22 Kuncoro (2006) also created four size categories in terms of annual sales (i.e., small, smaller medium, larger medium, and large). In his specifications for bribe intensity, “small” (annual sales lower than Rp 1 billion) was the omitted category and the firm size (negative) coefficients that statistically differed from the omitted category were “larger medium” (annual sales between Rp 5 billion and Rp 10 billion) and “large” (annual sales greater than Rp 10 billion).
23 Svensson (2003), analyzing corruption among Ugandan enterprises, developed five OLS corruption regressions having graft in absolute terms (US$) as the dependent variable and he found firm size in terms of employment to be one of its determinants. Everything else held constant, one additional worker would be associated with an increase in bribes paid to government officials between of US$10.2 and US$16.4.
share of total sales is associated with a 0.3–0.5 percent increase in bribe intensity, *ceteris paribus*.

33. Bribe payments as a share of a firm’s annual sales are lower the older the firm. One-year increase in age is associated with a decrease of 0.04 to 0.06 percent in bribe intensity. This may reflect the fact that older firms are more likely to have mastered the workings of the country’s bureaucratic system. On the contrary, firms with external auditing and/or access to credit have to pay a larger percentage of their sales in bribes. Firms that have their statements and certificates audited by an external party pay around 2.0 percent more bribes as a share of their total sales than those that do not, everything else constant. In addition, firms with credit access pay between 2.03 and 2.7 percent more bribes as a share of their annual sales than firms without loans, *ceteris paribus*.

34. The higher the number of tax inspections in a given year, the higher the bribe intensity. On average, an additional fiscal inspection increases the share of annual sales paid in bribes by about 1.1 percent. The more exposed firms are to bribe requests (i.e., the more visits by tax inspectors), the higher the probability of the firm paying bribes and, as a result, the higher the bribe intensity. In addition, the infrastructure index is a determinant of bribe intensity: if a firm requests the connection of a telephone mainline or electricity, the amount of bribes it pays as a share of its total sales increases by 0.60-0.85 percent, *ceteris paribus*. Proxying the regulatory burden on Indonesian firms by the number of operational licenses required for normal business operations, Kuncoro (2006) found it to be a determinant of bribe intensity in his 2001 sample – one additional license would be associated with an increase in bribe intensity between 0.13 and 0.16 percent.

**Recommendations**

35. The analysis conducted in this chapter shows that the cost of corruption to firms is significant in Mauritania – both when expressed in percentage of firms’ annual sales or contract value. *Econometric evidence on bribe propensity and intensity suggests that medium-size firms are the ones that suffer most from corruption.* The recommendations made in Chapters 2, 3 and 4 are all relevant to reduce the overall level of corruption in the economy, and improve business environment for private sector firms to grow and prosper. The following additional recommendation emerge here, both in terms of process (surveys, data) and policy:

- **Conduct regular surveys on the perception of corruption in private sector.** It is important to carry out periodical survey on the perception of corruption in Mauritania, making sure questionnaires are adapted to the local culture and social norms. As rent seeking is considered one of the main impediments to growth in Mauritania, exercises such political stakeholder analysis, which map out winners and losers from potential reforms, are particularly welcomed (see Figure 1.1).

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24 On what concern the investment and business climate, the World Bank has recently concluded an Investment Climate Assessment, which provides a comprehensive set of recommendations (World Bank, 2007).
• Implement key reforms to improve access of medium size firms to long-term credit, including the implementation of the banking sector law, which was approved in 2007. In particular, the authorities need to elaborate the implementation decrees for this law and reinforce the Central Bank (BCM) supervision capacity to ensure a swift and effective implementation of the law.

• Implement microeconomics measures that can reduce the impact of corruption on firms, including:
  
  o The implementation of an ethic code for civil servants who deal with private enterprises (i.e. inspectors, tax administration) to make them accountable and reduce corruption practices. Also, it is important to ensure that sanctions are defined and applied;

  o The review of the salary scale of civil servants with a view to provide better remuneration for specific categories of employees, in coherence with the budget process (e.g. overall wage bill) and macroeconomic stability.
Annex 1: Macro-economic Context and Outlook

Since the early-1970s, the economy has grown slowly, and Mauritania remains a low-income country, with a poverty incidence of 46.7 percent (2004 data) and nearly half of its 2.9 million people living in poverty. The country is on track to achieve the Millennium Development Goals (MDGs) in gender parity in education, but off-track on child and maternal health and nutrition. The country’s economy is characterized by a narrow production base, low levels of industrialization, and a GDP composed of 40 percent services; 30 percent agriculture and livestock; 12 percent mining; 12 percent oil; and 6 percent fisheries.

**Government continued stabilization efforts in 2005–06, and first results began to show.** In 2006 growth reached 11.7 percent mostly due to the start of oil production. Strict observance of the fiscal and monetary policy stances was instrumental in bringing 12-month inflation down to an average of 6.2 percent in 2006. Fiscal performance has been strong, reflecting the government’s revenue collection efforts and sustained spending discipline. As a result, by end-2006, the basic non-oil fiscal deficit was limited to 4.4 percent of non-oil gross domestic product (GDP). The external position has begun to strengthen: gross official reserves increased from US$70 million in 2005 (0.7 months of imports) to US$194 million in 2006 (2.6 months of imports, year-end). Moreover, by the end of 2006, the parallel foreign exchange market premium was brought down to insignificant levels.

**The medium-term outlook for the economy is relatively favorable.** The recent stabilization of the macro-framework combined with the discovery of oil and the relatively good natural resource prospects yields a positive medium-term outlook. However, oil production has improved economic prospects to a lesser extent than first predicted. Indeed, overall GDP growth decelerated from 11.4 in 2006 to 0.9 in 2007, due to the reduction in oil production. Lower than expected production figures from the Chinguetti field have furthermore dampened expectations. Oil production will not push GDP growth above 9 percent until 2012, when production is expected to begin in the two additional oil fields (Tiof and Tevet). In contrast, non-oil GDP growth increased from 4.1 percent in 2006 to 5.7 percent in 2007, and is expected to register an average annual growth of 4.6 percent between 2007 and 2012 (see Macroeconomic indicators below).

Per capita gross national product (GNP) is projected to reach the US$1,000 mark in 2011. The consumer price index (CPI) inflation is expected to be brought below 5 percent within the next 2 years, and official cash reserves are expected to reach 3 months of import cover starting in 2008. On the fiscal side, the adjustment achieved in 2005–06 will facilitate a substantial reduction of domestic arrears under conservative revenue and realistic spending assumptions. The overall fiscal position will begin to improve slightly in 2009, and will turn positive as oil production pick up in Tiof and Tevet in 2012. The basic non-oil fiscal balance – excluding oil revenue, foreign-financed spending, and interest due on external debt – registered an unexpected surplus of 0.5 percent of non-oil GDP at end-June 2007, owing mainly to high fiscal revenues and delays in implementing investment projects related to the change of government. Oil revenue is unlikely to

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25 Iron ore, fisheries, copper, and gold.
26 Mauritania’s proven and probable crude oil reserves are estimated at 310 million barrels, coming from 3 potentially commercially viable oil fields in 1 offshore production zone. With an average oil production of 45,000 barrels a day (bpd), the expected production period is approximately 20 years. Production in the Chinguetti field, which started in February 2006, averaged 54,000 bpd in the first three months of production. However, due to technical difficulties, it slowed down significantly since then, reaching an average of only 18,500 bpd in May 2007. With the coming on-stream of the Tiof and Tevet fields in 2010, oil production is expected to peak at 88,000 bpd in 2015, before declining progressively thereafter.
pick up significantly in 2008-09: as a consequence, the budget is expected to move into deficit, equivalent to 3.2% of GDP, in 2008.

The revised oil production figures will affect Mauritania’s external position for the next three years. The current account balance will decline through 2010 then significantly improve from 2011 onwards. The current account will benefit in the short term from the continued strength of Mauritania’s iron ore exports along with the beginning of operations at Akjoujt (copper and gold) and Tasiast (gold). From 2008, however, the projected decline in the world prices of these commodities will reduce their positive contribution to the balance of payments. The recent debt sustainability analysis (DSA) points to a moderate risk of debt distress. As all critical external and fiscal ratios remain below the applicable thresholds over the entire DSA horizon, the DSA suggests a relatively positive outlook for sustainability. However, negotiations for debt relief have stalled with a number of bilateral creditors (Algeria, Iraq, Kuwait, Libya, and the United Arab Emirates), causing Mauritania to build up substantial arrears.²⁷

Key Macroeconomic Indicators, 2006–11

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<tr>
<td>Real GDP growth (%)</td>
<td>11.4</td>
<td>0.9</td>
<td>4.5</td>
<td>4.1</td>
<td>3.5</td>
<td>4.8</td>
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<td>Non-oil real GDP growth (%)</td>
<td>4.1</td>
<td>5.7</td>
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<td>4.8</td>
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<td>3.9</td>
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<td>CPI (period average, %)</td>
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<td>7.6</td>
<td>5.3</td>
<td>5.5</td>
<td>5.0</td>
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<td>Current account balance (% of GDP)</td>
<td>-1.3</td>
<td>-6.7</td>
<td>-6.7</td>
<td>-9.2</td>
<td>-16.2</td>
<td>-24.7</td>
<td>-2.3</td>
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<tr>
<td>Overall non-oil balance incl. grants (% of GDP)</td>
<td>-4.7</td>
<td>-6.3</td>
<td>-6.2</td>
<td>-4.9</td>
<td>-4.1</td>
<td>-4.6</td>
<td>-5.1</td>
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<tr>
<td>Overall non-oil balance excl. grants (% of GDP)</td>
<td>45.7**</td>
<td>-8.2</td>
<td>-9.2</td>
<td>-7.0</td>
<td>-5.4</td>
<td>-5.5</td>
<td>-5.7</td>
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<tr>
<td>Overall balance (% of GDP)</td>
<td>2.6</td>
<td>-3.0</td>
<td>-3.0</td>
<td>-2.4</td>
<td>-1.6</td>
<td>-1.4</td>
<td>2.7</td>
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<td>Gross official reserves (in months of imports)</td>
<td>2.7</td>
<td>2.3</td>
<td>3.2</td>
<td>3.4</td>
<td>3.4</td>
<td>3.7</td>
<td>4.2</td>
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<td>GDP per capita (US$)</td>
<td>938</td>
<td>933</td>
<td>983</td>
<td>972</td>
<td>952</td>
<td>1,003</td>
<td>1,237</td>
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<tr>
<td>Nominal GDP (US$ billion)</td>
<td>4.1</td>
<td>2.8</td>
<td>3.0</td>
<td>3.0</td>
<td>3.0</td>
<td>3.2</td>
<td>4.1</td>
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Source: International Monetary Fund (2007). Notes: * Preliminary; ** This is due to MDRI relief, oil signature bonuses and the sale of a third telecom license.

²⁷ Lower-than-expected oil revenues and the inclusion of this large “passive debt” in the DSA calculations explain why the most recent analysis considers Mauritania’s risk of debt distress to be moderate (i.e. “Yellow Light”).

The effects of corruption on development

Overall, weak governance and widespread corruption have been associated with lower levels of development (Tanzi and Davoodi, 2000). Studies also show a significant negative correlation between corruption and growth rates (Mauro, 2005). Kraay and Kaufmann (2003) find a strong positive correlation between governance indicators and per capita income. Channels through which corruption can affect development include public finance: Tanzi and Davoodi (1997) show that corruption may increase public investment, but reduces its quality and productivity. This can lead to the deterioration of essential public infrastructure needed for sustained economic growth. Other studies (Mauro, 1998, Gupta, Davoodi and Alfonso-Terme, 1998) focus on the overall composition of public spending and find that higher corruption is associated with lower spending on education and health. Others show that countries with high corruption tend to collect less tax revenues (as measured by the tax to GDP ratio) (Johnson et al., 1999, Friedman et al., 2000). Overall, the empirical evidence suggests that widespread corruption may turn out to be an impediment to sustained growth (see Figure 6.6).

Figure 6.6 Corruption perception and GDP (in PPP US$)

![Corruption perception and GDP](image)

Source: World Development Indicators and Transparency International.

However, most of these studies establish associations, which do not necessarily imply causality one way or the other. Overall, the impact of corruption is difficult to prove empirically and some findings are open to debate (See Kaufmann and Kraay, 2002 and 2003). One of the reasons is the difficulty of measuring corruption. Corruption data are often perception based indicators which raise concerns about perception bias. The other problem with the results at the macroeconomic level is the aggregate nature of the data that hides important differences in the impact corruption has on individual agents. That is, firms facing the same overcharging legal environment may still be affected in different ways because of their idiosyncratic characteristics (see Chapter 6).
Measuring corruption

One of the defining characteristics of corruption – whether grand or administrative – is that it tends to take place in secrecy, making it hard to detect or measure. Attempts at quantitatively measuring corruption are therefore relatively recent, and are still largely based on perceptions rather than actual occurrence of corrupt activities. In addition, qualitative analyses of institutions and processes can shed some light on the potential for corruption. Existing initiatives aimed at measuring corruption fall into three broad categories:

- **Surveys of relevant stakeholders.** These instruments include surveys of firms, bureaucrats and individuals, and perceptions of outside observers in non-governmental organizations (NGOs), multilateral donors and the private sector. Such data can be used either individually or combined by several sources, many of which cover large sets of countries and often several years. In addition, this type of data is the only one that allows for large-scale cross-country comparisons and monitoring of corruption over time, as it tends to be standardized. It should be kept in mind, however, that such surveys tend to be perception-based, and therefore have certain limitations. The best-known and most widely used examples of such data are the Transparency International Corruption Perceptions Index (CPI) and the Kaufmann Kraay Mastruzzi (KKM) Governance Indicators.

- **Analyses of institutional features.** Data from these analyses provide information on opportunities and/or incentives for corruption (e.g., procurement practices and budget transparency). Even though they usually do not measure actual corruption, they can provide useful indications of institutional weaknesses that create opportunities for corruption. As of today, such information covers small sets of countries and does not offer significant time series. Examples include the World Bank’s Country Procurement Assessment Reports (CPAR), Country Financial Accountability Assessments (CFAA), and Institutional Governance Reviews (IGR).

- **Audits.** These instruments include financial audits or more sophisticated comparisons of spending with the physical output of projects. Such audits can provide information on malfeasance in specific projects, but not about country-wide corruption. In addition, they present a trend of snapshots on specific projects and countries. Therefore, they do not provide for cross-country comparisons or for over time monitoring and evaluation exercises (Kaufmann et al., 2006).

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28 It is difficult to measure grand corruption when it is not possible to show that at least some groups of society will benefit from it or when claims with immeasurable future benefits accrued to some social groups cannot be made.

29 As these indexes become widely publicized, there is a danger that survey respondents report their beliefs rather than how much “real” corruption exists around them (Golden and Picci, 2005).
Annex 3: The Oil Circuit in Mauritania

The flow of Mauritania’s oil funds passes through four key stages:

According to the PSAs, the government receives between 30 and 35 percent of the profit oil, depending on the level of production. As a member of the production consortium, the state-owned SMH has a 12 percent share in the profit oil. The other five consortium members keep the remaining profit oil (i.e. between 53 and 58 percent). While the overall shares are known, the PSAs have not been made public, which means that other parameters of the agreement remain secret. These PSAs should be published.

Marketing of the profit oil takes place through two pools. Two consortium members accounting for just over 50 percent of the profit oil – Woodside and a partner – sell their oil through one trader (Shell). The second pool, comprising the government, SMH and the remaining consortium members, market their oil through another trader. SMH plays a key role in the marketing stage as it sells its oil as well as the government’s share. It transfers the revenues from the government’s share, as well as dividends on its own profits, to the government. Like all other consortium members, it also pays taxes and fees. Transparency of the flow of funds has been strengthened by the EITI framework, which requires the publication of all payments from the consortium to the government, and of all revenues received by the government. But some opaqueness remains due to inadequate oversight mechanisms of SMH.

All oil-related government earnings are transferred into the FNRH, which is held as an offshore account at Banque de France and managed by the BCM. The FNRH serves as a financing and savings fund: based on the annual budget ceiling, a share is transferred into the treasury account every year. The rest is saved and/or invested. Legislation requires that the FNRH be audited by the Cour des Comptes and an international auditing company, and that quarterly reports of the FNRH activities be made public.

Once in the treasury account, the Central Bank converts the US dollars into Ouguiyas, thereby strengthening its reserves. The funds are then used to pay for the non-oil deficit, and to manage debt. As the funds become part of the national budget, their use is subject to regular budgetary controls and oversight.

Source: World Bank, 2007b
### Annex 4: Probit estimations on the incidence of corruption in Mauritanian firms – the probability of a firm paying bribes

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<th>Independent variable</th>
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</tr>
</thead>
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<td>Monthly wage per worker</td>
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<td>Tax-time</td>
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<tr>
<td>Corruption</td>
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<tr>
<td>Fiscal inspections</td>
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<tr>
<td>Infrastructure index</td>
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<tr>
<td>Medium</td>
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<td>Large</td>
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<td>Retail and IT</td>
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<td>Other services</td>
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Note: *Significant at the 10 percent level. **Significant at the 5 percent level. ***Significant at the 1 percent level. Absolute value of z-statistics in parentheses. Micro is the omitted category for size. Manufacturing is the omitted category for sector. Nouakchott is the omitted category for region.
### Annex 5: OLS corruption regressions, bribes as a share of total sales is the dependent variable in percentage

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<th>(3)</th>
<th>(4)</th>
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<td>0.072**</td>
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<td>(0.12)</td>
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<td>(0.01)</td>
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<td>$R^2$</td>
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<td>0.268</td>
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Note: *Significant at the 10 percent level. **Significant at the 5 percent level. ***Significant at the 1 percent level. Absolute value of t-statistic in parentheses. Micro is the omitted category for size. Manufacturing is the omitted category for sector. Nouakchott is the omitted category for region.
Annex 6: The theoretical framework and specification of the model

There is relatively little evidence on the determinants of corruption at the firm level in developing countries, notably in Sub-Saharan Africa (SSA). Svensson (2003), using firm-level data for Uganda, tries to identify who are the bribe payers and how much they pay. He applies a simple bargaining model and finds that the extent of dealings with public officials determines the likelihood of having to pay bribes, and that the amount paid is influenced by the firm’s ability to pay and power to refuse paying (the firm’s bargaining power). Kuncoro (2006) uses firm-level data for Indonesia to estimate bribe intensity both in day-to-day operations and in opening a new business. He finds that higher tax payments, more time spent on negotiations, and a heavy regulatory burden go hand in hand with larger bribes for the day-to-day operation.

Bribe Propensity

Firms typically have to pay bribes when dealing with public officials whose actions (and power) directly affect firms’ business operations and profitability. Examples include demands for basic infrastructure services, construction or import/export licenses. Firms with extensive dealings with public officials are more likely to be under bureaucratic control and therefore more exposed to bribe harassment (Svensson, 2003). Therefore, the probability that a firm may have to pay a bribe can be stated as:

\[ p_i = \chi w_i + u_i \]  

where \( p_i \) is the probability that firm \( i \) will have to pay bribes, \( w_i \) is a vector measuring the required dealing and thus exposure to the public sector, \( \chi \) is a vector coefficient, and \( u_i \) is an unobserved error term. Since the probability of a firm \( i \) to pay bribes \( (p_i) \) is not directly observed, the propensity equation is revised as a probit model:

\[ \Pr(p_i = 1) = \Phi (\chi w_i + \chi z_i) \]  

where \( p_i = 1 \ [p_i = 0] \) is the event that a firm (does not) faces a bureaucrat and must pay bribes. \( \Phi \) is the standard normal distribution function. As proxies for firms’ dealings with public officials, we consider the number of fiscal inspections, and an infrastructure index, the latter following Svensson (2003). In addition, the probability of facing a bureaucrat is also explained by sector, regional and firm related variables. Firm-related variables follow the descriptive analysis above as suggested by Kuncoro (2006).

Bribe Intensity

If all firms face the same set of rules and regulations, then the amount to be paid in bribes depends on the bargaining power of the firm. Therefore, firm-specific characteristics would influence the magnitude of the bribe demanded by public officials. For instance, firms with high profits today or higher profits expected tomorrow have a weaker bargaining position, which forces them to pay higher bribes. The bargaining hypothesis suggests that the amount of bribes a firm is requested to pay depends on the bureaucrats’ perception of the firm’s ability to pay, which varies from firm to firm as the bureaucrat discriminates bribes. We assume as variables capturing the bargaining power: size in terms of employment (Kuncoro, 2006, uses size measured in sales) and investments as a share of total sales (i.e., an alternative for the firm’s expected future profits or its ability to pay, as in Svensson, 2003). Therefore, the bargaining hypothesis can be stated as.\(^\text{30}\)

\(^{30}\) This non-linear assumption is based on the descriptive statistics firm size considering bribes as a share of total sales, for which a smooth inverted U-shape was found.
where \( b_i \) are the bribes paid as a share of the annual total sales of firm \( i \), \( E \) is size in terms of employment, IS are the investments as a share of total sales, \( e_i \) is an error term. \( \beta_0, \beta_1, \beta_2 \) and \( \beta_3 \) are coefficients. The descriptive analysis suggests that the relation between the bribe-intensity and size is non-linear. To capture the non-linearity we add employment squared to the equation and we expect that \( \beta_1 < 0 \). Let the vector characterizing the bargaining position to be denoted by \( v = (E_i, IS) \). \( z_i \) is the vector of the remaining firm-related variables that may explain bribe intensity. The magnitude of the bribe payment as a share of the firm’s annual sales (2) is estimated by ordinary least-squares (OLS).

Both equations (2) and (3) were estimated using continuous and discrete (i.e., micro, small, medium, and large) variables for employment, because the cut-off rule for firm size is debatable. Furthermore, the two processes (propensity and intensity) are independent as suggested by the Heckman selection model for specifications (2) and (3) which shows that the two error terms are not correlated. The null-hypothesis that the correlation term (\( \rho \)) equals zero cannot be rejected at the 10 percent level (using firm size in terms of employment: Prob>\( \chi^2 \)=0.5524; using firm size categories: Prob>\( \chi^2 \)=0.4355). Therefore, the two “decisions” made by the firm (i.e., bribe propensity, and bribe intensity) are independent, justifying the use of a probit model to estimate bribe propensity and an OLS model to estimate bribe intensity.
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Ould Ahmed Salem, Z., 1999, La Democratisation en Mauritanie : Une Illusion Postcoloniale, Politique Africaine, Vol. 75, pp. 131-146


