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Conseil de la Concurrence

Annual Report 2021

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His Majesty King Mohammed VI
may God assist Him

Annual Report 2021

submitted to

His Majesty King Mohammed VI
may God assist Him

by **Ahmed Rahhou**

President of the Competition Council

Your Majesty,

Pursuant to the provisions of Article 23 of Law N° 20.13 on the Competition Council, promulgated by Dahir N° 1.14.117 issued on Ramadan 2, 1435 (June 30, 2014), I have the distinguished honour to present to Your Majesty the 2021 annual report of the Competition Council, as adopted by its Plenary Assembly held on Chaoual 25, 1443 (May 26, 2022).

Majesty,

The year 2021 was marked by a global economic recovery despite the persistence of the Covid-19 Pandemic.

Thanks to a vigorous consumption recovery and a strong demand in many productive sectors, the level of growth rate could reach +6.1%.

This pace keeps slower than what was expected at the beginning of the year, notably due to the persistence of the Pandemic throughout the world, disrupting supply chains and drastically limiting people's movements.

Transport, entertainment, culture, tourism and aerospace sectors were continuously affected, aggravating a situation already marked by a drop in global production by 3.1% in 2020.

The support measures that public authorities have decided in this context to stimulate the economy, promoted by ultra-low or even negative interest rates, have generated abundant liquidity, leading to significant levels of stock market valuations, which have been used to fund mergers that reached record levels.

These expansionary monetary policies have largely increased the public debt, posing risks to public finance in the event of a rise in interest rates.

In fact, the public debt ratio jumped to a record level of 99% of global GDP in 2020, an increase of 15 points compared to 2019. Driven by advanced countries, notably China and the United States of America, this upward trend in global public debt kept going on during 2021.

Following a noticeable shortage during the first lockdown period, the emergence of new supply difficulties and the unavailability of inputs, a movement to relocate industries began in 2021.

From the health perspective, the Pandemic has continued to rage with the emergence of new variants, including Delta in late 2020 and Omicron in late 2021.

However, the availability of vaccines, since the end of 2020, has helped relaunching economic activities, and eased movement restrictions and business closure.

In turn, supply chains have continuously been disrupted sharply, slowing down the recovery of economic activity in some areas. Despite strong demand, shortage of inputs, such as electronic components, has prevented some industrial sectors from operating at full capacity.

Thus, supply and demand imbalance, lack of inputs and dysfunctional supply chains have affected prices, triggering a return to inflation in a context marked by ultra-low interest rates, maintained by the main central banks.

Energy was also impacted by the price surge, following the strong recovery in the face of a restrictive production policy adopted by the countries of the Organization of the Petroleum Exporting Countries (OPEC), thus triggering new inflationary pressures.

Hence, the year 2021 ended with much uncertainty vis-à-vis a strong and sustainable recovery. Restoring an operational economy is no longer expected in the short term, and the return of inflation, which could be coupled with the end of the low interest rate policy, may hamper achieving a strong growth and maximize the burden on heavily indebted states.

Within the same year, the competition authorities maintained an environment that is conducive to market completion despite the trend towards mergers coupled with a return of inflation.

While no easing of the legislative and regulatory frameworks governing rescue mergers has been decided, two economic policy themes have emerged as priorities in 2021, namely digital economy and sustainability.

As far as digital economy is concerned, control was tightened on mergers, particularly those involving large technology companies. Investigations have been launched on the behaviour of companies in the sector with regard to the collection of personal data or other practices that could be considered as a way to gain market advantages to the detriment of competitors.

With regard to sustainability, the many mergers carried out in 2021 were based on environmental, social and governance criteria. It should also be noted that the European competition law is evolving, aiming at incorporating possible cooperation agreements into the European policy guidelines to meet the Sustainable Development Goals.

In addition, the actions taken by competition authorities have constantly focused on priority areas identified in the context of the 2020 Pandemic, including cracking down on abusive pricing and exempting competitors' cooperation, established in times of crisis, from the competition law.

Stricter control has been introduced over economic mergers to avoid abusive use of failing firms' arguments.

In fact, many companies have been crippled by the Pandemic and their recovery was constantly undermined by a latent undercapitalization and the gradual termination of the exceptional aid implemented by the States.

Hence and as expected, mergers reached historic peaks in 2021 after a sharp decline in 2020, a year marked by the shutdown of several parts of the economy for several months, the operators' wait-and-see attitude and the cautious approach adopted by the authorities in tackling the so-called rescue mergers.

The number of mergers, carried out worldwide in 2021, was 62.590 with a value of $5.7 trillion, up 76 percent compared to the previous year.

These mergers included "mega-transactions", each of which exceeded $1 billion and grew from 111 in 2020 to 181 in 2021, substantially affecting the overall market value.

In terms of sectors, mergers have mainly involved businesses that benefited from high market capitalizations, such as Technology-Media-Telecommunications. This took place in a context fuelled by sustained demand for digital technologies and assets.

Companies in other sectors, such as manufacturing and consumer goods, are also accelerating their digital transformation through, among other things, mergers and acquisitions with technology companies.

In contrast, the merger movement in persistently crisis-stricken sectors, such as tourism, entertainment and aerospace, stayed in the background, with an outlook for significant growth prospects over the next few years.

Geographically, transactions were mainly concentrated in North America, Europe and Asia-Pacific. Their value in the United States of America nearly doubled between 2020 and 2021, reaching $2.61 trillion, or nearly half of global transactions.

In Europe, transactions grew by 47 percent to reach $1.26 trillion, while those in Asia-Pacific increased by 37 percent to reach $1.27 trillion.

In terms of cross-border transactions, there was a noticeable relative decline with regard to the return of protectionist policies against the backdrop of uncertainties generated by the crisis. The United States of America emerged as both the world's largest target market and the leading acquirer, accounting for nearly 50 percent of global transactions.

The situation particularly aroused out of China's declined attractiveness, which announced the 14th Five-Year Plan in 2021. It reflects a strategic desire to strictly regulate many sectors deemed essential for the people. These include FinTech, food, healthcare and real estate.

The year 2021 was also marked by a reconfiguration of the profile of the initiators of mergers. In the early 2000s, the majority of transactions were attributable to companies driven by various economic objectives such as diversification of activities or acquisition of market shares.

In fact, companies were continuously the main initiators of these mergers. Nevertheless, their relative share has strongly declined in favour of financial investors, particularly investment funds and the Special Purpose Acquisition Vehicles (SPACs). These vehicles, which date back to the 1990s and are listed on the stock exchange, ultimately seek to conduct a public offering to raise funds for the acquisition of unlisted companies. In 2021, their attractiveness increased substantially in an environment conducive to financial markets, with an annual growth rate of 174 percent. The transactions, they have initiated, currently represent about 10 percent of the global merger volume.

Majesty,

Under Your High Guidelines, Morocco has continuously countered the Covid-19 Pandemic with remarkable efficiency and solidarity.

Morocco was one of the few emerging countries that provided its population with free and broad access to vaccination, adopting a system to manage this public action that earned international admiration and national pride.

Economically, despite the persistence of the after-effects of supply and demand shocks, the Government has endeavoured, in implementation of Your High Guidelines, to reduce the extended effects of the crisis via planned crisis exit strategies, which sought to accelerate the cyclical rebound of sectors and productive activities, and promote economic resilience.

In 2021, and based on data released by the High Commission for Planning, the domestic economy grew in the added total value, which has strengthened by 7.9 percent at an annual rate, thanks to a rise in agricultural and non-agricultural benefit by 17.8 and 6.6 percent respectively.

Restoring the normal course of various goods and services was one of the essential ingredients of this recovery. This not only related to the supply and demand dynamics, but also to the competitive running of markets for the benefit of consumers and the productive system's competitiveness.

In Morocco, the above-mentioned crisis has put competition to test in this critical juncture of the domestic economy. It constitutes a major challenge of the New Development Model.

Under Your High Guidelines, the support measures that the Economic Monitoring Committee extended at the very beginning of the Pandemic, and the mechanisms set out in the amended 2020 Finance Bill focused on absorbing shocks, which simultaneously affected productive capacities and the demand for goods and services.

The balance stricken between supply and demand support measures was instrumental in controlling the general price level during this stabilised period.

In 2021, State aid focused on recovery and rehabilitation by implementing the “Pact for Economic Recovery and Employment”, signed between the State, businesses and banks in July 2020.

This Pact provided direct or indirect benefits. Direct benefits included financial assistance from a dedicated fund, which aimed at supporting investment projects concluded as part of Public-Private Partnerships or increasing business capital to accelerate its development. Indirect benefits encompassed state-guaranteed loans or the application of national preference in public procurement.

Implemented through crosscutting or specific measures for sectors significantly affected by the crisis, some of this aid has been granted through agreements and contracts signed with sectoral federations.

Tourism, event organisation, catering and amusement park were the main tertiary sectors that benefited from these agreements.

Given the particular context that the domestic economy is going through, in addition to the importance of ensuring the “competitive neutrality” and the “temporality” of the aids, it seems necessary to properly manage their removal at the end of the crisis.

In fact, their early withdrawal may cause companies to go bankrupt and intensify concentration in certain markets, while their late withdrawal would increase the dependence of certain companies, cripple their competitiveness and discourage them from innovating.

In November 2021 and in accordance with **Your High Instructions**, the Government adopted a set of measures aimed at setting up a strategic stock of commodities and health products, with a view to ensuring a regular market supply and keeping aware of international markets volatility.

In this context, forecasting better the supply of goods and services over the medium and long term would optimise the spontaneous adjustment to supply and demand, and prevent an extreme price rise intensified by a possible product scarcity.

The internationally observed uptrend in energy and food prices, which affected the domestic economy and citizens' purchasing power, was a factor in accelerating the implementation of the support programme for citizens, in line with Your Majesty's High Instructions set out in the 2018 Throne Speech.

To this end, the Unified Social Register project, expected to be established and extended at the end of 2022, will provide an appropriate atmosphere for reducing the negative effects of price increase, ensure efficient distribution of direct State aid, and maintain the smooth running of market competition.

Majesty,

The Pandemic has not slowed down the dynamics of mergers in Morocco, which kept progressing thanks to the revitalization of movement factors worldwide and the globalized reorganization of production chains.

The overall transactions, cleared by the Competition Council, increased from 43 in 2019 to 120 in 2021, up by 179 percent.

The analysis of the characteristics of merger projects, notified to the Competition Council, reveals some changes in their trends compared to the pre-crisis period.

For example, the number of joint control transactions, notified to the Council, grew from 9 in 2020 to 29 in 2021, raising their share of total merger proposals from 15.3 percent to 24 percent. This may reflect a trend towards more complex forms of partnership, intensified further by the crisis.

In addition, it is observed that cross-border transactions still outweigh domestic ones, a trend that has not changed because of the Pandemic.

The companies, initiating these mergers, seem to be interested in the domestic market and its potential in terms of consumption level and habits, as well as in the opportunities offered by Morocco as a gateway to Africa.

In 2021, and as part of its decision-making powers, the Competition Council issued 16 decisions concerning litigation cases, most of which were declared inadmissible for lack of the plaintiff's legal interest and capacity, or the subject of the referral was outside the Council's remit.

These figures sustain the Council's willingness to raise awareness to its missions and attributions as well as the legal framework governing free pricing and competition.

In 2021, the Competition Council issued four opinions that dealt with:

- The state of competition in the private school education sector in Morocco;
- The Price regulation of Covid-19 screening tests;
- The examination of the respect of the rules of free and fair competition by the producers and importers of table oil in Morocco;
- The draft act No. 94.17 on the downstream natural gas sector, amending Act No. 48.15 on the regulating the electricity sector.

Furthermore, the Council received two requests for opinions, which were declared inadmissible for lack of the referring parties' legal interest and capacity. They included:

- The request received from the Association of Insurance Intermediaries and Entrepreneurs in Morocco, on ordering interim measures in insurance mediation sector, and selling and distributing life insurance items by banks;
- The request on the existence of possible anticompetitive practices in the Adoul (a public notary official) Profession

In this context, on 10 July 2020, the Speaker of the House of Representatives consulted the Council to issue its opinion on the rules of competition in private educational institutions in Morocco.

The economic and competitive analysis of the private school education market, failling under the national system, and the examination of its regulatory framework found out that it is open to any private Moroccan or foreign investor wishing to obtain an authorization to access it, while enabling them to leave it based on guarantees offered by the State. These guarantees aim to ensure continuous student learning.

Similarly, multiple operators, various services offered and the operators' freedom to set tuition fees, depending on the demand and solvency on the one hand, and supply and quality of services on the other, are the main features of this market.
Furthermore, the analysis found out that this market faces many shortcomings and barriers that affect its running and competitive performance, illustrated as follows:

- Differentiated services and pricing,
- A single model of institutions and household contribution,
- A teaching staff situation that hinders the development of the sector.

The following observations highlight the inadequacies in terms of regulation:

- The provisions in place do not serve the market's competitiveness and hinders the improvement of the education supply quality,
- The draft legislative amendment, which aim to diversify and improve the quality of the educational supply, raises the professionals' concern,
- Multiple bodies, whose tasks overlap, supervise private schools,
- The support mechanisms are inconsistent with the set objectives,
- Limited control of schools by parents' associations

Based on the findings of the analysis, the Competition Council has issued recommendations aimed at improving competition in this market, including:

- Elaborating a new contractual framework defining the objectives and responsibilities between private schools, the State and its bodies, to provide the operators with a clear vision on the strategic choices and the resources to be mobilized, based on a dedicated roadmap,
- Reviewing the legal framework to support the changes in the private school education market and respond to the new challenges facing the national education system, particularly with regard to the authorization regime for market access, the encouragement of the price freedom system, the review of the classification of school transport services provided by private schools and the application of the legislative provisions governing school insurance,
- Establishing mechanisms capable of reinforcing the competitive dynamics between the various operators on the private school education market, aiming at establishing a transparent relationship between the consumer-learner and supporting investment in private school education,
- Rethinking the role of the State to ensure a balance between the services provided by private and public schools, in particular via consolidating image the public school's image as a reference model, and improving the conditions of recruiting and awarding the teaching staff in private schools,
- Undertaking government measures to allow families to access the services offered in the private school market, including, in particular, broadening and providing excellent students from needy and low-income families with access to private schools, to consolidate the principles of social justice and solidarity,
- Drawing up a territorial policy on development models adopted by the 12 Regions of the Kingdom, based on contractual partnerships between the State, the Regions and the private sector, to develop a vibrant private education market, especially in areas undergoing school shortage.

Furthermore, the Minister of Economy, Finance and Administration Reform requested, on 31 August 2021, the Competition Council's opinion on setting Covid-19 screening tests prices, as part of exemption from the principle of free pricing and competition set out in article 2 of the law n° 104.12 on Free Pricing and Competition. The request falls within the scope of article 4 of the same law, which requires the Council's prior consultation before regulating the prices of goods and services.

The Council issued its opinion on 6 September 2021, considering that the Government's request to temporarily regulate the prices of Covid-19 tests is driven by the less competitive market environment.

It also ruled that the Government's decision to take these measures to regulate the prices of Covid-19 tests must take into account certain elements.

Setting these prices, according to the Council, must:

- guarantee a reasonable and motivational margin to encourage new market entrants, thus enabling them to compete with the private laboratories already operating in the market, with a view to creating a new dynamic and effective competitive pressure,
- Ensure that the prices do not competitively strengthen the position of already existing players in the market; their previous presence enables them to reduce the costs through prior amortisation of purchased equipment,
- Make sure that the sale price must not only cap the margins of private biomedical analyses laboratories, but also consider the margins of all those involved in the chain, including, in particular, producers and importers of reagents and consumables needed to Covid-19 tests.

As for broadening the market supply to enable fairer access to these tests, the Council considers that fighting the Pandemic requires a proactive and preventive approach to reduce market access conditions and stimulate new entries.

This approach will enable citizens to have better access to the tests at affordable prices and adapted to their purchasing power, namely those who do not benefit from a health insurance. In fact, and until the issuance of this opinion, the State did not decide on refunding the medical expenses related to these tests for those who benefit from health insurance, and who represent 10 percent of the total population.

The Council also recommended the necessary use of other screening techniques and technologies, including molecular biology, antigenic or serological tests, as shown in many countries, by:

- Enabling all health care professionals to perform antigenic tests,
- Facilitating citizens' access to self-tests to prevent and reduce virus transmission, while taking the necessary steps to ensure their proper use.

The Council was also requested by the Permanent Committee of the House of Representatives in charge of productive sectors to issue its opinion on compliance with the rules of free and fair competition by producers and importers of table oil, following a recorded rise in sales prices on the domestic market.

The results of the study, conducted as part of the Council's opinion, concluded that that the price rise of table oil, recorded on the domestic market, can be attributable to a combination of objective factors linked to the market structure itself and the developments on the external market, on which it is heavily dependent

The upward trend in the global crude oil prices was further accentuated by the sharp increase in energy, maritime freight and goods transportation rates worldwide due to the simultaneous rapid recovery of the global economy, characterized by strong demand, container shortages and port congestion.

In view of all the elements of the analysis and the conclusions drawn in this regard, the Competition Council has formulated recommendations to improve the competitive running of the national table oil market, including:

- Supporting the upstream of the sector related to the local production of oil seeds,
- Encouraging the consumption of olive oil to partially reduce the dependence on the oil seeds,
- Reinforcing the storage capacities and rehabilitating the pipeline connecting the storage site of Costoma to the port of Casablanca,
- Encouraging operators to implement risk coverage mechanisms,

- Strengthening competition between operators at the point-of-sale level,
- Modernizing traditional distribution channels.

On 31 December 2020, The Head of Government requested the Competition Council's opinion on articles 7 to 10 and articles 11 to 15 of the draft Act No. 94.17 on the downstream natural gas sector.

This request involved the rules related to "the exclusivity of the supply company to import and purchase natural gas from local producers" and "the concession" of the transport activity to the transport company on the entire domestic territory".

After having instructed this request, whose final report was about to be submitted to the members of the Competition Council, the Head of the Government consulted the Council for a second time by sending a new version of the draft Act in question on 26 October 2020.

This latest version was profoundly different from the first version in terms of both content and form.

Following the examination of this new version, and given that the natural gas sector is not yet established, the Council considered that it is essential to exploit the advantages of competition and avoid, from the outset, consolidating positions, establishing monopolies and granting exclusivities that will have negative impacts on the emergence and development of the sector.

Thus, the Council made a negative decision against the draft law No. 94.17 relating to the downstream natural gas sector in Morocco and amending Law No. 48.15 on regulating the electricity sector.

It therefore suggested redrafting the text based on the following recommendations:

- Improving the visibility and predictability of the bill,
- Guaranteeing free competition in the transport, storage and distribution segment,
- Replacing the authorization system with a declaration system,
- Exempting the local producer from import authorization,
- Ensuring the respect of the principle of separation of activities,
- Tallying the Act No. 21.90 on the hydrocarbon code with the draft act on natural gas,
- Implementing a strong ex-ante regulation and avoiding overlapping competences between the National Telecommunications Regulatory Agency (ANRT) and the Competition Council;

- Protecting consumer rights,
- Establishing procedures and mechanisms to monitor restrictive contracting practices;
- Ensuring the reconciliation of the requirements of long-term concession contracts, concluded under Act No. 21.90 on the Hydrocarbons Code, with the requirements of competitive public policy,
- Guaranteeing non-discriminatory and transparent access to the transport network for all users.

Majesty,

In order to effectively carry out its missions and contribute to the defence of the principles of free, sound and fair competition, the Competition Council has reorganized, during 2021, the texts governing its domestic management.

To this end, it has amended its rules of procedure to include new provisions, including, in particular,

- Clarifying the duties and the methods of taking decisions inside the various Council's deliberative bodies,
- Improving the rules for organizing and holding meetings,
- Promoting the principle of separation of the deliberative and investigative bodies,
- Increasing the minimum number of meetings of the Plenary Assembly to 11 times per year, instead of four times previously,
- Introducing new provisions on holding remote meetings,
- Adopting the principle of audio recording of the Council's meetings,
- Establishing a new section responsible for drafting the annual report.

Following these amendments, the Council adopted procedures for holding meetings by videoconference and its meeting, and four operating charters for the following sections:

- The section in charge of agreements and relations with domestic regulatory authorities;
- The section in charge of abuse of dominant position or economic dependence;
- The section in charge of mergers;
- The section in charge of state aids, public procurement and advisory duties.

In 2021, the Plenary Assembly held nine regular sessions and two emergency sessions.

During these sessions, it examined the 2020 draft annual report. It also authorized a merger project, discussed and adopted draft opinions. These included:

- The state of competition in the private school education sector in Morocco,
- The price regulation of Covid-19 screening tests,
- The examination of compliance with the rules of free and fair competition by producers and importers of table oil in Morocco,
- The draft law No. 94.17 relating to the downstream natural gas sector and amending law No. 48.15 relating to the regulation of the electricity sector.

Moreover, the Assembly amended the Council's rules of procedure based on the sections' proposals. It examined and adopted the activities report carried out in 2021, the Council's draft Action plan for the period 2022-2024 and the 2022 draft budget.

In 2021, the Permanent Commission held 41 meetings, at the end of which it reviewed 129 transactions. Its work was mainly focused on examining and approving transactions on mergers, which amounted to 113.

The sections, which examine files received by the President of the Council, the Plenary Assembly and the Permanent Commission, held regular meetings. They reviewed the Council's rules of procedure, examined draft transactions and opinions in parallel, conducted the preparatory work for surveys launched by the Council, and analysed new markets.

Within the same year, the Competition Council signed cooperation agreements with several institutions and partners at home and overseas.

In this context, a cooperation agreement was signed on 7 October 2021 with the Supervisory Authority of Insurance and Social Welfare (ACAPAS). It aims to boost a dynamic cooperation, based on a formalized basis that ensures the effectiveness and sustainability of joint actions of both institutions for good governance, and in line with their respective legal framework.

On 9 November 2021, The Council also signed a cooperation agreement with the Moroccan Capital Market Authority (AMMC), which aims to establish a framework for consultation on aspects pertaining to competitive regulation in the capital market. As part of this agreement, the two parties plan to organize awareness raising actions and support operators of the capital market sector to promote the respect of the best competitive standards and practices.

Furthermore, the Council signed, on 27 December 2021, a cooperation agreement with the Presidency of the Public Prosecutor's Office. It reflects the two sides' willingness to join forces through coordination and consultation to ensure the efficient enforcement of the law, and protect markets from anticompetitive practices stated in articles 6, 7 and 8 of the Act n° 104.12 on Free Pricing and Competition.

The agreement mainly focuses on cooperating on legal issues and building institutional capacities by sustaining the gains and human capital.

Internationally, the European Commission in Brussels launched, in June 2021, a request for proposals to conduct a twinning project between the Competition Council and an EU counterpart institution, to which a consortium of three authorities responded, including:

- The Competition Authority of Greece (as the Project Manager),
- The Competition Authority of Poland (as a Junior Project Manager),
- The Competition Authority of Italy (as a Junior Project Manager).

This project, allocating 900,000.00 Euros paid by the European Commission, aims at (i) building the Council's institutional capacities, (ii) sharing good practices in fighting anti-competitive behaviours and (iii) harmonizing Moroccan and European legislations in the field of Competition Law and Economics.

It covers four cooperation areas, including:

- Supporting the Council's legal monitoring,
- Updating the Council's methodological tools in line with the gains and shared good practices,
- Building the capacities of the Council's trainers and executives following its new legislative duties,
- Supporting and extending the competition principles and values.

In October 2021, the Competition Council joined the annual meeting of the International Competition Network.

The Hungarian Competition Authority organized this meeting via video conference due to the Pandemic. As in previous years, it brought together all competition authorities, law firms and experts in the field, as well as prestigious institutions such as the World Bank Group, the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD).

The Council contributed first to the special project carried out by the host institution on: "Sustainable Development and Competition Policy". It aims at demonstrating the correlations between sustainable development and competition law. The project represents the first initiative by a member of the International Competition Network to examine the aspects and approaches of the different competition authorities in relation to the theme, particularly with regard to restrictive agreements. As part of this survey, 52 competition authorities, including the Competition Council of the Kingdom, have actively contributed.

One of the most important conclusions is that, although there are few (mostly European) experiences at present, market practices that give rise to sustainability-related competition law issues are likely to become more widespread in the future, presenting a global challenge to national competition authorities.

The Council also followed the work of the Global Competition Forum, annually organized by the Organization for Economic Cooperation and Development (OECD) in Paris during December. The 2021 meeting focused on three important themes in these times of global economic crisis.

One of the axes of the meeting was devoted to the promotion of competitive neutrality by competition authorities, an aspect of particular interest to the Competition Council of the Kingdom of Morocco and for which it has contributed on many occasions.

Following the agreement signed with the International Finance Corporation (World Bank Group) in January 2020 for three years, the Council benefits from its assistance in three areas, including:

- Strengthening the antitrust framework to combat anti-competitive practices and limiting the negative effects of mergers;
- Promoting competition in sectoral policies to strengthen the competitive dynamics in key sectors of the economy;
- Developing an institutional ecosystem to support the effective implementation of competition policy.

As part of the third component, a training course was jointly organized by the Council, the World Bank Group, the General Confederation of Moroccan Enterprises (CGEM) and an international business law firm during May and June 2021, for the benefit of members of the General Confederation of Moroccan Enterprises.

This course was classified into five sessions on the following topics: (i) the powers delegated to the Competition Council, (ii) the horizontal agreements, (iii) the abuse of dominant position and (iv) the merger control.

At the end of the course, a working session was held at the General Confederation of Moroccan Enterprises in July 2021, during which the presidents of the two organizations mainly discussed the issues of the legal and judicial framework concerning competition, free pricing and consumer protection.

It was also an opportunity to lay the groundwork for a future partnership between the Council and the Confederation, enabling them to work towards achieving a sound and sustainable economic development and creating growth and lasting jobs.

For the Competition Council, communication is a tool for action and a strategic pillar for disseminating sound competition rules and raising awareness of the national business ecosystem.

In this respect, the Council has embarked on a new advocacy dynamic, incorporating both a constant opening to the economic world and a strategic partnership with national and international scopes.

In this context, and based on its awareness-raising responsibilities, the Council has adopted an educational approach that enables it to illustrate the content of the Competition Act and highlight the benefits of free and fair competition.

However, beyond these very important objectives, the essential role of the Council also lies in broadening the economic operators' knowledge of competition to endorse the values of free and fair competition and extend it throughout the community.

In this perspective, this effort has been translated into two major channels, including:

- The so-called substantive communication which resulted in the promotion of the Council's work in terms of opinions, decisions, and institutional mechanisms implemented as well as advocacy;
- The so-called pedagogical communication, which consists in raising awareness and familiarising the public with the Competition Act to prevent possible market distortions. This constitutes both a preventive and dissuasive approach aimed at encouraging the operators concerned by competition issues, who are not familiar with the above-mentioned Act, not to infringe its rules.

In this regard, The Council's approach includes involving mass media in the process of raising awareness to the virtues of competition, and their strong impact in promoting a competitive environment and implementing the competition principles and values in the Moroccan public opinion.

Against this backdrop, the Council held several press briefings and interviews (audio-visual, written and electronic press) in 2021, which coincided with targeted meetings, the publication of opinions or decisions or the signing of cooperation charters with national or international partners.

During the same year, the Council has adopted transparency and openness in terms of communication by working to publicize all its actions in a timely manner.

Hence, it issued and disseminated 117 statements on recording mergers and acquisitions. It also issued other statements to inform media and the public about its publications work and activities.

Finally, it is worth noting that the Council got in touch with the academia by organizing, in December 2021, a meeting at the International University of Rabat (UIR) for Masters Students and research professors in Law.

Majesty,

In parallel to its decision-making power, the Competition Council will continue its development dynamics, in particular through educational actions with the economic operators, while keeping opening up to the academia and exchanging relations with them, with a view to boosting the principles and values of sound and fair competition.

The Council will also pursue its efforts to contribute to the improvement of the legislative and regulatory framework governing some sectors of activity to ensure a competitive environment based on the values of merit and fairness, and promote creativity and initiative in favor of the competitiveness of the economic fabric and consumer welfare.

These, **Your Majesty,** are the highlights of the Competition Council's 2021 Annual Report.

Ahmed Rahhou

June 2022

SUMMARY

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List of acronyms and abbreviations

ACAPS	Autorité de Contrôle des Assurances et de la Prévoyance Sociale
AMMC	Moroccan Capital Market Authority
AMO	Compulsory Health Insurance
ANRE	National Authority for Electricity Regulation
ANRT	National Authority for Telecommunications Regulation
BNC	National Competition Barometer
CGEM	General Confederation of Moroccan Enterprises
CGI	General Real Estate Company
CNOPS	National Fund for Social Welfare Organizations
CNSS	National Social Security Fund
UNCTAD	United Nations Conference on Trade and Development
CVE	Economic Monitoring Committee
ECA	Egyptian Competition Authority
ERP	Enterprise Resource Planning
ESCWA	Economic and Social Commission for Western Asia
FBCF	Gross Fixed Capital Formation
WBG	World Bank Group
TSO	Transmission System Operator
HACA	High Authority for Audiovisual Communication
GCA	Greek Competition Authority
HCP	High Commission for Planning
ICN	International Competition Network
FDI	Foreign Direct Investment
Masen	Moroccan Agency for Sustainable Energy
MDH	Millions of dirhams (MMAD)
MENA	Middle East and North Africa
MMDH	Billions of dirhams (Billions of MAD)

MRE	Moroccans Residing Abroad
NMD	New Development Model
OECD	Organization for Economic Cooperation and Development
OIOS-IE	Office of Internal Oversight Services of the United Nations Secretariat
OMPIC	Moroccan Office of Industrial and Commercial Property
ONEE	National Office of Electricity and Drinking Water
ONHYM	National Office of Hydrocarbons and Mines
WHO	World Health Organization
OPEC	Organization of Petroleum Exporting Countries
PAS	Structural Adjustment Plans
GDP	Gross Domestic Product
SME	Small and Medium-sized Enterprises
RNP	National Population Registry
RSU	Unified Social Register
UIR	International University of Rabat

PREAMBLE

Pursuant to the provisions of Article 23 of Act N° 20.13 on the Competition Council, this annual report outlines the state of competition at home and overseas, and summarizes the Council's activities carried out in 2021.

The year 2021 was particularly exceptional and characterized by many events, including:

- The appointment of Mr. Ahmed Rahhou as President of the Competition Council **by His Majesty the King Mohammed VI**, may God assist Him, on 22 March 2021. This took place following a report the High Royal Attention received from an ad-hoc commission. The latter was tasked with conducting necessary investigations to clarify the confused situation prompted by the Competition Council's discordant decisions in the case of eventual agreements in the hydrocarbon sector (see box page 83).
- The General Report of the Special Commission for the Development Model presented to **His Majesty the King Mohammed VI,** may God assist Him, on 25 May 2021. This report significantly pointed out to the issue of market regulation, above all the first strategic choice. The latter recommends, among other things, guaranteeing free enterprise via fair competition and effective regulation bodies.
- The persistence of health emergency induced by the Covid-19 Pandemic and its various variants, which forced states and governments all over the world to review their plans and scenarios continuously to overcome the crisis.
- The significant mismatches this crisis triggered between supply and demand, leading to bottlenecks in global production and supply chains, which affected the domestic economy.

In this respect, the 2021 annual report, which built on the gains, notably the accomplishments of the previous year, focuses on the following areas:

- An analysis of the state of competition worldwide and nationwide,
- A record of the Competition Council's activities,
- The Competition Council's partnerships, communication and advocacy policy.

PART 1
State of the competition worldwide and nationwide

I. The state of the competition worldwide

The year 2021 marked an economic recovery that was more modest than expected, due to the uncertainties induced by the spread of new Covid-19 variants, together with a price surge of raw materials and supply disruptions that triggered major inflationary pressures.

The stimulus package public authorities adopted in this context, namely the accomodative monetary policies, led to lower interest rates that generated significant stock market valuation, thus offering abundant liquidity that has been used to fund mergers, which rose to record levels.

A. The macroeconomic context

The economic recovery remains uncertain because of the resurgence of infections and strong inflationary pressures caused by a rising demand, compared to supply that is undermined by multiple shortages and dysfunctions occurring in some markets.

1. Economic growth

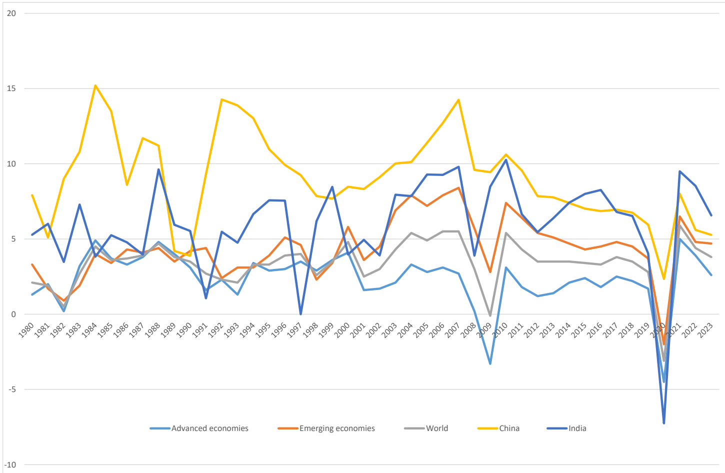
After a decline in the global Gross Domestic Product (GDP) in 2020, estimated at 3.1% in light of the crisis generated by the Covid-19 Pandemic, the economy returned to growth in 2021 (see Chart 1). However, the recorded recovery (+6.1%) was less vigorous than the initial forecasts, due, in particular, to the large gaps between supply and demand, which generated bottlenecks in production and supply chains.

In fact, the Covid-19 Pandemic has emphasized the dysfunctions and risk factors weighing on the global supply chains. Several industrial sectors remain paralyzed or operate below their production capacity, caused by shortage of inputs such as semiconductors and wood.

Tensions, which affected transport logistics, exacerbated this shortage. The reduced international trade exchange, noticed in 2020, and its massive recovery in 2021 triggered scarce containers and extended time limits for port handling.

Overcoming this situation required a massive movement of industrial location, triggered mainly in Europe, with a view to reducing dependency on certain inputs originating from the Southeast Asia, especially in the semiconductor industry.

Chart Nº. 1: Real GDP growth between 1980 and 2023 (in percentage)



Source: IMF, April 2022.

The International Monetary Fund (IMF) forecast a continuous recovery at a slower pace in 2022 and 2023, with a growth rate of 3.6 percent for both years.

However, these forecasts are continuously subject to the improvement of health situation in most countries. Barriers to sustained economic growth shall keep occurring, due to supply shortages that are likely to keep affecting all economies, in addition to the problems pertaining to low-income economies, such as access to vaccines, ineffective government support measures and reliance on continuously crippled sectors, notably tourism.

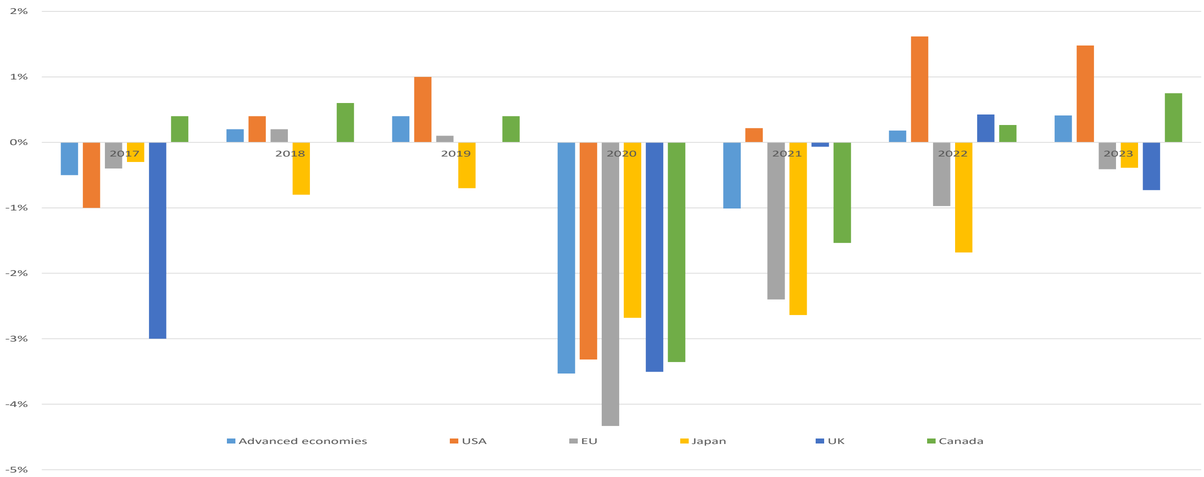
Growth prospects over 2021 were hampered by a slower-than-expected recovery in the private consumption, because of the outbreak the new Covid-19 variant, Omicron. To cope with it, many countries have reimposed restrictions on people's movement, which strongly affected the demand and the international trade flows.

Nevertheless, supply pressures are believed to have weighed even more heavily on growth. The 'output gap' reached -3.5 percent in 2020 and of -1 percent in 2021 for the major advanced economies (see Chart 2).

According to the IMF's global economic outlook, as updated in April 2022, this negative gap is expected to reduce as of 2023.

[1] This indicator measures the difference between actual economic performance, represented by the Gross Domestic Product (GDP), and potential output or the maximum amount a fully operational economy can produce.

Chart N°. 2: Output gap in the major advanced economies (in percentage)



Source: IMF, April 2022.

2. Price of raw materials and inflation

The Covid-19 crisis, coupled with many factors, namely climate changes, have heightened pressure on the price of many commodities and agricultural inputs.

In fact, the substantial price rise of the entire raw materials, except for the precious metals (such as gold, platinum and silver) was one of the major events that marked the year 2021. Given the dynamic stock markets and the appreciation of the US dollar, these metals less stimulated investors.

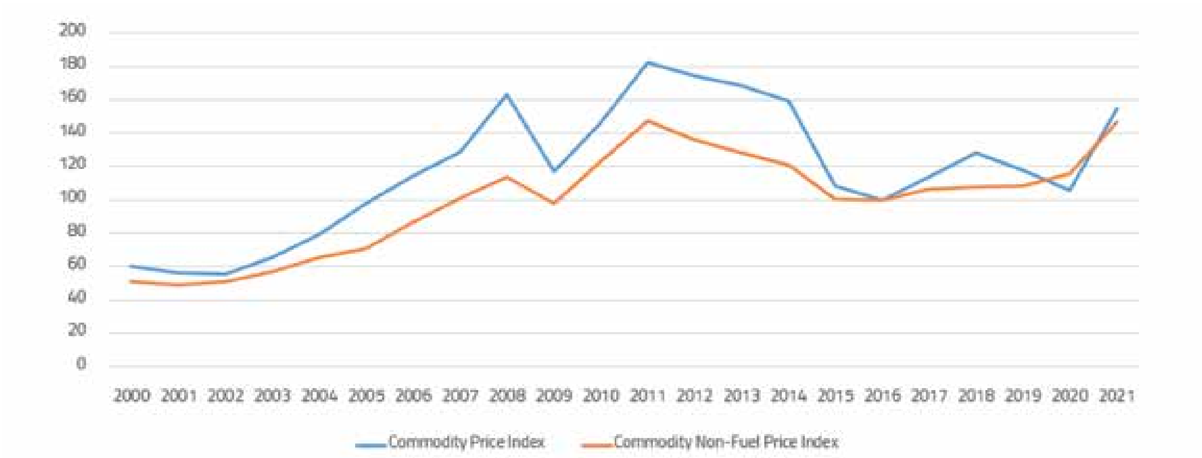
The global price of energy and agricultural products, fertilizers or base metals has risen sharply before non-energy raw materials recorded a relatively initial stability as of August 2021.

The World Bank's General Commodity Price Index has risen by 46% between 2020 and 2021, while the index calculated by the same institution, excluding energy products , has risen by 26.7%.

[2] Commodity Price Index, base 2016=100.

[3] Commodity Non-Fuel Price Index, base 2016=100.

Chart N°. 3: Evolution of commodity price indexes



Source: World Bank.

In terms of energy products, the nearly simultaneous recovery of world industry, driven by the implemented economic recovery plans and the resulted accelerated demand, is mainly the main factor of price pressures.

In this respect, oil price (Brent barrel) increased by 36 percent throughout the year 2021, and peaked at 85 dollar in October. This situation was mainly attributable to the strong demand, together with a relatively low production levels by the Organization of Petroleum Exporting Countries (OPEC), despite higher production levels recorded within the same year.

In fact, the OPEC has drastically restricted, since the outbreak of the Pandemic, the oil production, due to the drop in demand, which triggered floor prices. Since then, steps have gradually been taken to increase the production without, however, curbing the price rise.

Concurrent with oil, coal and gas prices have climbed strongly. Due to low gas stocks and massive demand, prices broke historic records, especially in Europe where the "Title Transfer Facility" grew by 423 percent. Hence, coal prices, considered as an inexpensive but more polluting alternative, have also risen. Coal from Australia and South Africa rose by 95 percent and 64 percent respectively.

In line with the energy price rise, the cost of other raw materials also increased. The price of urea, strongly correlated with gas costs, surged by 236 percent while the price of phosphate grew by 107 percent.

[4] Virtual trading point for liquefied natural gas in the Netherlands considered as a price reference in Europe.

Similarly, the base metals have risen sharply, especially the aluminium whose production is particularly energy-intensive (+34 percent) and the limited supply of tin. The latter is widely used in the electronics sector (+80 percent).

Supply chain disruptions and scarcity of containers, combined with climate issues and a growing supply-demand imbalance, have further pressured many agricultural commodity price as well.

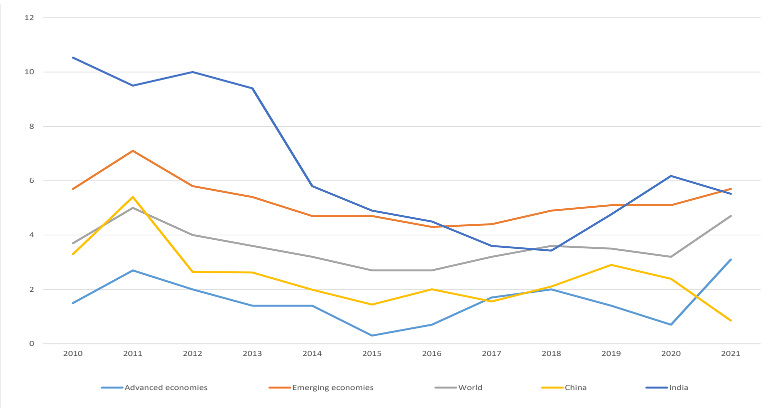
In November 2021, the Food Price Index was 134.4 points, reaching its highest level since July 2011. Cotton rose by 37 percent, Arabica coffee by 67 percent and Robusta by 59 percent, while soft wheat almost grew by 46 percent, maize by 13 percent and rapeseed oil by 52 percent.

Further to commodity prices, sea freight rates also surged in 2021, peaking the Baltic Dry Index[5] at 5,650 points in October, a growth of 300 percent before experiencing a downtrend over the rest of the years.

This rising cost is attributable to scarce containers, caused by the US and European rising demand for goods originating from China, as well as the blockage of several delivery containers in certain countries due to health restrictions.

The generalized rise context in commodity prices and the strong pressure on production capacity surged the inflation rate in advanced and emerging economies (+3.1 percent and +5.7 percent respectively)

Chart N°. 4: Evolution of the inflation rate (change in consumer prices in percentage)



Source : FMI, avril 2022.

[5] The Baltic Dry Index (BDI) is a daily published indicator that evaluates the dry bulk sea freight costs (ore, coal, cereals, etc.). Created in 1998, it is managed by the English company Baltic Exchange based in London. Concretely, it assesses the costs of transporting the main raw materials or products of basis by sea, i.e. the cost of renting a container ship.

Furthermore, risks persist and inflation could permanently remain high should second-round effects take place . The labour market, under pressure, could generate higher wages, which, in turn, lead to higher sale price imposed by businesses.

Nevertheless, measures to contain the rise in inflation rate should cautiously be taken. The unofficial and/or sudden withdrawal of government monetary or fiscal support measures could jeopardize the economy; it could undermine the survival of fragile businesses, restrict access to funding and penalize the financial markets.

B. Government intervention and competition policies

In 2021, and in line with the actions initiated in 2020, the public authorities had to strike a balance between two elements. These include the need to sustain efficient supply chains and support the stricken sectors to supply the economy with cash to boost demand and facilitate business funding, on the one hand, and the necessity to orderly and gradually withdraw support measures in times of inflation on the other.

1. Monetary policy measures

In view of the outbreak of the health crisis in 2020, central banks have largely worked to support accommodative fiscal policies through two main channels. The first consisted maintaining the policy rate at low or near zero rates in advanced economies to soften, in particular, the requirements of credit. The second involved the adoption of unconventional measures, following the example of asset purchase by central banks.

Thanks to the measures adopted, interest rates fell and the financial equity markets returned to growth.

Nonetheless, the unexpected return of inflation in the second half of 2021, due the surge in commodity prices and supply and demand shocks, has prompted central banks to refocus on their price stability mandate and consequently normalize monetary policies.

The first signs of this orientation emerged when the Central Bank of England raised the policy rate in December 2021, and the European Central Bank terminated the Pandemic Emergency Purchase Program (PEPP). In 2022, extended adjustments should take place in advanced and emerged economies, in line with the upward refinement of inflationary forecasts.

[6] IMF and World Bank forecasts.

Table N° 1: Policy Rate Levels following the latest Central Bank Meetings held in 2021

Central banks	Policy rate	Policy rate	Previous level
The Federal Reserve	Federal Funds Rates	0.00 percent to 0.25 percent	0.00 percent to 0.25 percent
European Central Bank	Refinancing rate	0.00 percent to 0.005 percent	0.00 percent to 0.005 percent
Bank of Japan	Overnight rate	-0.10 percent to 0.00 percent	-0.10 percent to 0.00 percent
Bank of England	Repo rate	0.25 percent	0.10 percent
People's Bank of China	One-year reference rate	3.85 percent	3.85 percent

Source: Prepared based on data from central Banks (the Federal Reserve, the European Central Bank, Bank of Japan, Bank of England and People's Bank of China).

2. Fiscal Policy Measures

In 2021, governments around the world continued granting aid massively in times of crisis, while preparing exit strategies in light of the inflationary context that could be exacerbated by expansionary policies on the one hand, and the record levels of global debt on the other. The latter reached 226.000 trillion dollars, about 256 percent of the global GDP, including 99 percent of public debt .

The decline in economic activity and the consequent drop in tax revenues, triggered by the Pandemic, have largely influenced public finances in advanced and emerged economies. In this respect, budget deficit has accelerated significantly, and the public debt has reached unprecedented levels.

However, debt changes showed contrasting trends. China and advanced economies account for 90 percent of the additional debt. Thanks to lower interest rates and other easing measures undertaken by central banks, these countries have been able to take on debt at low rates. Conversely, emerging economies had to face tougher funding conditions.

In 2021, and despite the widespread budget deficit and the rise in public debt, government aids in advanced economies continuously supported activity and employment, along with a change in priorities as part of preparing for the economic recovery. Hence, government started setting aside the emergency plans, implemented in the early stages of the Pandemic, in favour of public investments that focus on green transformation, digital technology and inclusiveness.

[7] IMF

This particularly took place in the European Union with the "Next Generation EU" plan, and the USA, which proclaimed "American Jobs" and "American Families Plan". The positive impact and the multiplier effect of these programs should raise the Global GDP valued at 4.6 billion dollars by 2026.

Besides, emerging and low-income countries are facing difficulties in implementing their support measures because of though funding conditions, widespread budget deficit and deteriorated payment balance.

3. Competition policy measures

In 2021, competition authorities continuously adapted their analytical frame by maintaining acceptable levels of market competition within a tended context towards mergers coupled with high inflation.

In this context, competition authorities' action persistently centered on priority areas selected in times of the 2020 Pandemic. These include curbing abusive pricing, excluding competitors' cooperation, in times of crisis, from the competition lows, especially in sectors that were most affected by supply chains pressures (namely the automobile sector), and imposing tougher control over mergers to avoid the abusive use of failing firm arguments.

As such, in 2021, the aforementioned authorities have not softened the legislative and regulatory framework governing resuce mergers whose misuse could jeopardize market equilibrium.

Within the same year, two economic policy issues surfaced as priorities, namely digital economy and sustainability.

As far as digital economy is concerned, competition authorities monitored further mergers, especially those involving technology firms, which, in the current context, may benefit from dominant positions in a rapidly changing economy.

In this context, the Federal Trade Commission in the USA and the Administrative Council for Economic Defense in Brazil started reviewing mergers accomplished by technology firms.

The same authorities also probed into these firms' conduct in collecting personal data or any other practices, which may help them gain advantages to the detriment of competitors.

Regarding sustainability, these authorities seemed to have initiated slight transformations, as many mergers, carried out in 2021, focus on environmental, social and corporate governance (ESG)[8] criteria.

[8] ESG criteria are the standards on which the extra-financial analysis of companies focuses. The enable the assessment of corporate responsibility vis-à-vis the environment and the internal and external stakeholders of the company.

Furthermore, the European competition act is evolving, especially in terms of reviewing the European competition policy whose guidelines include possible cooperation agreements to deliver the Sustainable Development Goals.

C. The dynamic of mergers

At the end of 2021, and despite the outbreak of new variants that raised concerns, it seemed that the overall health situation was more controlled, and various areas of the world started undergoing an economic recovery.

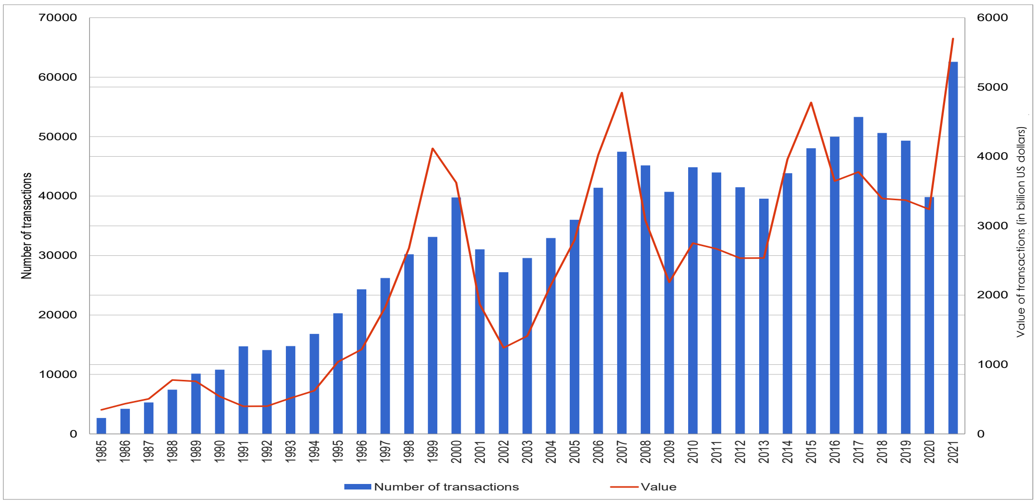
However, many companies have remained fragile, particularly in connection with latent undercapitalization and the gradual cessation of government exceptional aid.

In this context and in favour of unconventional monetary policies, which triggered low interest rates that enabled, in turn, financial markets, particularly equity markets, to experience a significant rebound in 2021, the abundant low-cost liquidity has been a major factor in supporting the dynamics of mergers.

Thus and as previously predicted, mergers recorded historical levels in 2021 after having noted a significant drop in 2020, a year marked by the cessation of several economic sectors for several months, the operators' wait-and-see attitude and the authorities' cautious approach in tackling rescue mergers.

Internationally, the number of mergers carried out in 2021 stood at 62,590 transactions that is worth 5.700 billion dollars, up 76 percent compared to the previous year.

Chart N°. 5: Evolution of mergers between 1985 and 2021 in volume and value



Source: GlobalData.

In 2021, the dynamics of mergers were particularly driven by "mega deals" valued at over $1 billion. These ones, which rose from 111 in 2020 to 181 in 2021, remain limited in number but have a substantial impact on the overall market value.

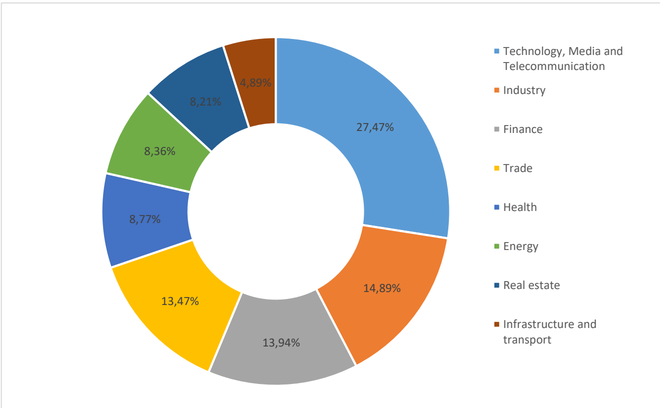
On a sectoral basis, mergers mainly involved activities, which benefited from significant market valuations, such as Technologies, Media and Telecommunications. This took place in a context driven by sustained demand for digital technologies and assets.

In fact, one of the strategic priorities highlighted by the Covid-19 crisis lies in the omnipresence of technology and its growing importance, especially in the areas of trade and logistics.

Given this fact, companies in a variety of sectors, notably in industry and consumption, are now speeding up their digital transformation through a variety of channels, including mergers and acquisitions, to secure and sustain their growth prospects.

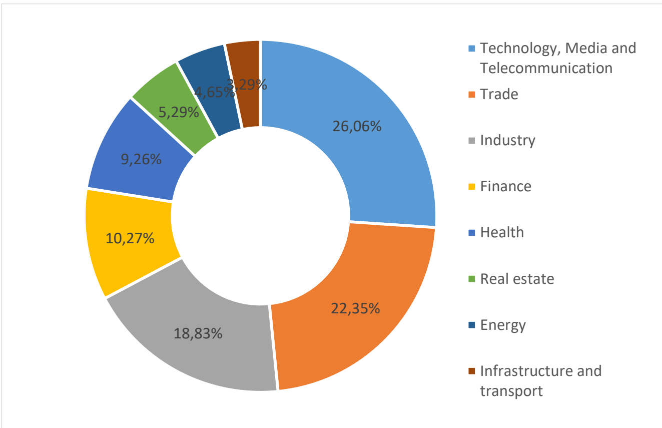
In contrast, the merger movements in sectors still stricken by the crisis, such as tourism, leisure and aerospace, has remained in decline, but has high growth outlook for the coming years.

Chart N°. 6: Sectoral distribution of mergers in 2021 (in value)



Source: Refinitiv.

Chart N°. 7: Sectoral distribution of mergers in 2021 (in volume)

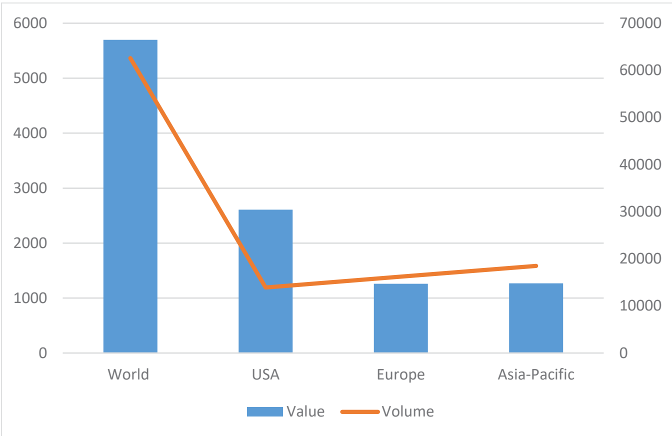


Source : Refinitiv.

Geographically, transactions took place, in particular, in the USA, Europe and Asia-Pacific. In the USA, their value nearly doubled between 2020 and 2021, reaching $2.610 billion, or almost half of the global transactions.

For their part, transactions in Europe recorded a growth of 47 percent to reach 1.260 billion dollars, while those in Asia-Pacific grew by 37 percent to reach 1.270 billion dollars.

Chart N°. 8: Geographical distribution of mergers in 2021



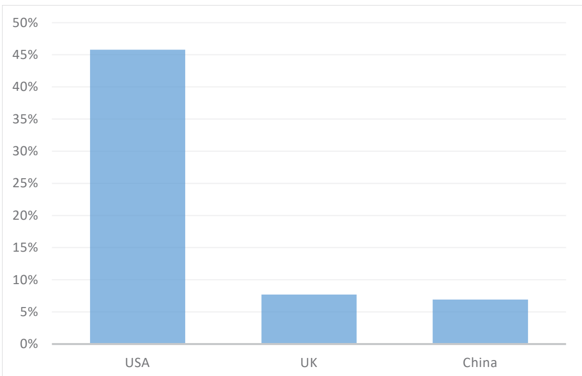
Source : Refinitiv.

Regarding cross-border transactions, a relative decline was observed in light of the return of protectionist policies and the uncertainties generated by the crisis.

The USA surfaced as both the world's largest target market and the leading acquirer, accounting nearly for 50 percent of global transactions on both sides.

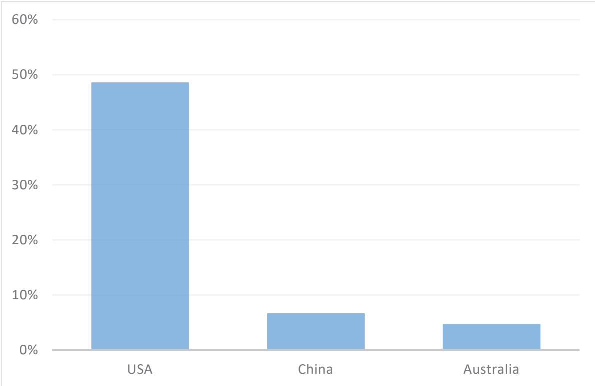
This situation is particularly attributable to China's declined attractiveness, which proclaimed the 14th Five-Year Plan in 2021. The latter reflects strategic willingness to strictly regulate many sectors, deemed vital for the well-being of the population. These include FinTech, food, health care and real estate.

Chart N°. 9: Main target markets for mergers in 2021



Source: Dealogic.

Chart N°. 10: Main Purchasers in 2021



Source : Dealogic.

Furthermore, the year 2021 was also marked by a reconfiguration of initiators of mergers. In the early 2000s, most of the transactions were attributable to companies seeking to meet a variety of economic objectives, such as diversification of activities or acquisition of market shares.

Certainly, the profile of these initiators is still dominated by companies. However, their relative share has fallen deeply in favour of financial investors, especially investment funds and the Special Purpose Acquisition Vehicles (SPAC).

The existence of these vehicles dates back to the 1990s. Listed on the stock exchange, they ultimately seek to conduct a public offering to raise funds for the acquisition of unlisted companies.

In 2021, their attractiveness increased substantially in an environment conducive to financial markets, with an annual growth rate of 174 percent. The transactions, they have initiated, currently represent about 10 percent of the global merger volume.

II. The state of competition nationwide

In 2021, the Covid-19 pandemic continued to rage with the outbreak of new variants, which, from a health perspective, reimposed certain restrictions and extended the vaccination campaign.

Economically, despite the persistence of the after-effects of supply and demand, the Government worked towards reducing the extended effects of the crisis via exit strategies, which sought to accelerate the cyclical rebound of sectors and productive activities, and promote economic resilience.

Restoring the normal course of goods and services was one of the tenants of this recovery. This relates not only to the active dynamics of supply and demand, but also to fair competition between firms. The latter would benefit both consumers and the competitiveness of the productive system.

Certainly, the above-mentioned crisis has put competition to test in this critical stage of the evolution of the Moroccan economy. It seems to be a major challenge of the New Development Model.

The Covid-19 Pandemic affects all the economic recovery priorities. In fact, such recovery seems to depend on the rapid implementation of the vaccination campaigns, new virus variants and government decisions on ways of managing health risks.

A.Competition in terms of the New Development Model

The New Development Model Report, published in April 2021 by the Special Commission for the Development Model, aims to reapproach the development model in our country, which sets a new milestone in its development process.

This renewed national pact, whose motto is « unlocking energies and restoring trust to accelerate progress and prosperity for all », constitutes a moral commitment that shapes "a common vision and ambition" and "a path of change" to make it achievable.

The New Model stems from some aspirations that reflect the convergence of several forces, all of which arise from the spirit of the Constitution that represents a unified framework, including:

- Unlocking energies via consolidated individual capacities,
- Predicting changes worldwide to better seize opportunities and effectively manage risks,
- Disseminating and extending innovative local initiatives,
- Safeguarding individual and collective freedoms,
- Implementing the systemic transformations that address territorial areas and domains of economic, food, energy and digital sovereignty,
- Providing a platform that fosters collective affiliation, connects generations and mobilizes energies beyond their varieties.

The approach adopted by the Special Commission to develop this model was divided into three phases:

- A general diagnosis enabling to identify concerns and expectations,
- Co-building solutions and identifying change mechanisms,
- Providing the broad lines of the model and taking into account the consequences of the health crisis.

The term "competition", mentioned 18 times in the general report, denotes various connotations and several variations.

Sometimes, it is quoted in light of its international dimension, thus raising the importance of consolidating the Competition Act to incorporate Morocco in the world economy via the attraction of Foreign Direct Investments or the conquest of new markets.

Legally speaking, the aforementioned report considered that the lack of competition systemically hampers development, and deems an essential pillar of the new development term of reference.

In this respect, the report implicitly draws out the concept of competition as a major area of transformation, enabling the establishment of a "productive, diversified economy that creates added value and quality jobs" (p. 82) and contributing to the strengthening of human capital and the resilience of territories as places of anchorage and development.

Given the lessons learnt from this report, it is necessary of retain some indications that shape the future of competition policy and the role the Competition Council should play in this new dynamic.

1. Modernization of the competition policy

The above-mentioned report sets out the historical features of the competition policy in Morocco concerning its objectives and finalities. In fact, it highlights the existence of "an economy that is partly gridlocked, favouring vested interests and the continuation of income from investments" (p.36).

This assessment is attributable to three factors:

- A difficulty market entry undergone by new operators such as the presence of barriers to entry in certain sectors, induced by oligopolistic positions and anti-competitive practices, including the existence of regulatory barriers, heavy regulations or "public-private collusion" in granting authorizations or acceding land or financial resources,
- An economic sector that systematically fosters the particular interests, active conniving, anti-competitive agreements and undue rent seeking,
- A gradually far-reaching informal sector that exercises unfair competition on the formal sector, generates strong economic market distortions and destroys value.

Thus, the challenges of competition arise strongly, not only in terms of its effective implementation, but also in terms of its ability to strike the appropriate balance between regulating market power and ensuring economic efficiency.

In this respect, the same report recommended a new configuration of the competition policy, which should be implemented in the various transformation mechanisms encompassed in the development term of reference, namely:

- **The productive transformation of the private sector,** where *"the liberation of entrepreneurial energies and private initiative requires rules that ensure equal economic opportunity"* (p. 75). In fact, fair competition is a prerequisite to ensure an entrepreneurial and innovative private sector, and enable it to take risks, explore new opportunities, conquer new sectors and markets and compete internationally,
- **The State's shareholder policy,** where improving the competitiveness of public institutions and businesses and upgrading them as a driving force of economic development implies an *"organizational re-engineering operation to separate activities equivalent to natural monopolies from activities that can be open to competition and investment by the private sector as an operator alongside the State"* (p. 85),
- **The public procurement,** where the preservation of competition principles enables the public sector to serve as a vehicle for productive transformation, and offers *"national companies opportunities for diversification and upscaling"* (p. 92). In this respect, the report suggests *"the establishment of a Framework to support buyers and encourage them to comply with national preferences, integrate structural transformation objectives and social and environmental impact into their contract award criteria, and better apportion procurement contracts so as to encourage bids from SMEs"* (ibid.). The same applies to the transparency of public procurement, which should necessarily be strengthened to ensure the equal treatment of competitors,
- **Economic governance**, whose improvement requires greater transparency in granting tax exemptions and public aid, and awarding public procurements as part of fair competition as well as reducing conflicts of interest,
- **The regulation of strategic sectors,** which should be strengthened in finance, telecoms, and energy sectors, and extended to several sectors such as water, transport, real estate and even education. It should also be extended, in particular, *"to any other sector in which openness to private initiative and the multiplication of players are necessary to bring about a competitive environment conducive to the creation of value"* (p. 75). Hence, the report focuses on the requirements of certain sectors in terms of market regulation..

In this regulation:

- the energy sector requires a deep reform that requires, among other things, the separation of the roles of its actors, namely producers, transporters and distributors, and the responsible liberalization of the sector, through the effective opening of green energy production to competition,

- the banking sector is confronted with the imperative of increased competition that could lead to the entry of new players, both in traditional financial and more innovative activities particularly in relation to Fintech. This will result in a multiplied actors and a diversified mechanisms to fund the economy in monetary and banking policies,

- the pharmaceutical sector necessitates a more transparent and rigorous regulation of procedures related to marketing authorizations, which will foster fair competition between operators and encourage the development of a competitive local industry that targets generic drug,

- the telecommunication sector requires strengthening competition in fixed and mobile broadband market. This necessitates the entry of new operators in infrastructure or internet access providers, under the effective control of the National Telecommunications Regulatory Authority.

In essence, it is becoming important that regulation can ensure easier access to these sectors for potential operators, and guarantee a quality service to companies, regardless of their location or size. As such, improving SMEs' access to bank credit and businesses' access to digital technology in less developed territories are structural issues raised in the report.

2. The Competition Council in the new Development Model

The approach adopted by the General Report on the New Development Model emphasizes the need to strengthen the independent regulatory functions, which remains essential to ensure transparent running of markets based on the principle of fair competition.

This requirement is a part of a framework of trust and responsibility, where economic governance institutions must be independent and effective. In this context, the aforementioned Report categorizes the Competition Council as one of the participatory and monitoring institution, which ensure the rule of law and good governance, and are expected to fully ensure their prerogatives, in line with the provisions of the Constitution.

In this regards, the Report recalled that the environment in which this constitutional institution has developed has not sufficiently been equipped to better deal with the abuse of dominant positions and anticompetitive agreements, thus weighing on market transparency and undermining entrepreneurial dynamics. Therefore, it recommends removing the barriers that prevented it from carrying out its duties in the past, including, in particular, the conditions and time limits for processing files.

Taking into account the weight of these constraints, the Report lists a set of mechanism to enable the Competition Council to actively contribute to a healthy market functioning, reduce barriers to entry and penalize illegal agreements.

In fact, by carrying out all the duties entrusted to it by law, the Competition Council will manage to counter several widely flourishing harmful behaviours. According to the report, this involves:

- Acquiring and building skills,
- Enhancing the Institution's autonomy through the effective exercise of its powers in terms of investigation and penalization,
- Strengthening the legal framework by providing the necessary means and expertise, and prioritizing integrity and independence criteria in appointing the Council's members,
- Setting a clear legal framework that fulfils international standards on the freedom of information and prevention of conflicts of interest.

B. Supply and demand dynamics in the context of post-Covid recovery

Following the end of the year 2020, that was marked by significant and simultaneous supply and demand shocks in most goods and services, and which caused short-term supply and demand to reach levels below those determining the GDP potential, the Moroccan economy underwent a recovery period in 2021. This was coupled with the hope of achieving a cyclical rebound that will enable the productive sectors to restore their pre-pandemic levels.

By doing so, stabilization efforts, the Government exerted in 2020, made it possible to control the inflation rate, though this may represent a natural effect on the drop in economic activity.

This situation was made possible thanks to the measures adopted to ensure the availability of essential goods and services. Fiscally-based measures included rescheduling taxes and granting aid to businesses and households, whereas monetarily-centred measures involved reducing the central bank's policy and interbank rates.

1. Global market dynamics

Based on data released by the High Commission for Planning[9] , the domestic economy recorded, in 2021, a level of growth rate of value added in volume that strengthened by 7.9 percent in annual change, due to an increase of +17.8 percent in agricultural value added and +6.6 percent of non-agricultural activities.

Within the same year, economic activities relaunched with a promising outlook, benefiting from open borders, nearly completed removal of people's movement restrictions, and the kick-off of vaccination campaigns. Then, they were less developed in the last two quarters.

This path can be attributable to two factors, including:

- A "catch-up effect" that took place following the particularly sharp decline in the economy in 2020. This accounts for the significant rebound in value added in the first quarter of 2021. However, this mechanical reaction to readjustment of supply and demand started subsiding in the second quarter, slowing down the overall market dynamic.
- The measures adopted by the Government in 2020 as part of the 2021 Finance Act, which aimed at remedying the consequences of the recession by strengthening supply resilience and stimulating demand. Such measure have protected several economic sectors from recession risks.

For the productive sectors taken separately, the data released by the High Commission for Planning indicate the absence of an overall economic rebound, which refers to developments differentiated based on the sectors or branches (see table N°2).

[9] Figure updated based on the preliminary results of the 2021 national accounts as published by the High Commission for Planning on 3 June 2022.

Table N°. 2 : Heat map of value added in volume by activity sector in million dirhams (2019-2021)

		2019				2020				2021			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Primary activities	**Agriculture, forestry and related services**	29 797,2	30 711,5	29 590,8	28 895,7	28 295,5	28 604,7	27 046,0	26 786,3	33 160,0	32 943,0	31 596,7	31 610,1
	Fisheries, aquaculture	2 720,3	1 938,5	2 131,5	1 626,2	2 861,8	1 952,0	2 296,0	1 631,7	2 658,0	3 613,2	1 927,1	3 166,6
Secondary activities	**Extractive industry**	4 042,0	3 585,9	3 803,1	3 961,6	4 025,8	3 869,2	3 967,0	4 314,2	4 232,2	3 823,0	4 183,3	4 224,0
	Processing industry	34 420,5	34 164,9	33 173,8	36 169,8	34 639,0	26 653,9	32 315,0	35 600,6	34 967,9	33 275,6	34 030,3	37 207,5
	Food and tobacco industries	9 837,5	10 190,4	9 676,5	10 241,8	10 432,8	10 037,5	9 444,3	10 508,1	10 740,2	10 494,0	10 127,9	11 342,9
	Chemical and para-chemical industry	3 906,5	3 736,9	3 514,6	3 617,5	3 996,4	1 991,8	3 444,3	3 269,1	4 027,4	3 184,8	3 955,7	3 673,3
	Industrie chimique et para chimique	4 938,2	4 637,9	4 931,4	4 858,4	5 387,6	4 786,4	5 572,5	5 324,8	5 667,7	4 891,6	5 377,5	5 191,7
	Mechanical, metallurgical and electrical Industry	10 068,9	10 224,7	9 964,6	11 528,2	8 860,6	4 744,3	8 564,7	10 260,1	8 856,8	7 987,8	9 124,6	11 452,1
	Other manufacturing industries (including oil refining)	5 514,4	5 352,0	4 957,6	6 228,6	5 497,8	4 281,6	4 932,8	6 303,4	5 675,8	6 717,4	5 444,7	5 547,5
	Electricity and water	6 117,6	5 966,7	5 843,0	5 806,0	5 909,6	5 232,8	5 884,0	5 765,4	5 997,8	6 103,9	6 159,5	6 216,8
	Building and public works	11 984,9	11 940,0	12 172,1	12 098,7	12 104,7	9 898,2	10 651,0	11 288,1	12 772,6	12 843,8	13 273,2	12 688,6
Tertiary activities	**Trade**	20 653,7	20 379,9	20 159,2	20 638,4	20 571,1	14 979,3	17 801,0	18 946,0	20 670,9	19 768,2	20 164,8	21 409,4
	Hotels and restaurants	5 177,2	5 351,3	5 561,1	5 627,2	4 814,8	535,1	1 935,0	2 414,1	2 377,5	917,9	3 240,9	3 431,5
	Transport	9 394,2	9 611,9	9 932,2	9 856,6	9 150,0	4 262,5	6 672,0	8 021,9	7 766,7	5 456,8	7 093,0	8 006,1
	Posts and telecommunications	12 565,4	12 527,9	12 527,8	12 605,2	12 703,6	12 320,0	12 152,0	12 617,8	12 311,1	12 191,7	12 137,5	12 485,8
	Other services												
	Financial activities and insurance	12 811,0	12 878,7	13 004,0	13 109,0	13 045,0	13 307,8	13 224,0	13 482,5	12 535,2	12 872,5	12 769,6	12 375,8
	Real estate, renting and services rendered to companies	30 322,4	30 473,1	30 784,7	31 081,1	30 474,0	26 085,0	28 230,0	28 874,4	32 712,1	32 838,4	31 621,3	31 646,1
	Education, health and social work	18 423,8	18 407,6	18 640,5	18 747,4	18 984,8	19 316,2	19 722,0	18 766,2	18 681,2	19 290,9	19 808,3	18 961,6
	General public administration and social security	20 469,0	20 921,0	20 932,5	21 223,6	21 656,2	21 988,0	21 791,0	20 968,9	21 916,1	22 186,0	22 709,9	22 050,1
Total		218 744,2	218 836,0	218 127,3	221 751,2	218 772,1	188 192,3	203 329,6	209 543,0	222 759,5	218 124,8	220 715,3	225 480,2

Source: Based on HCP data.

Legend: For each sector of activity

Lower value 50th Centile Higher value

In 2021, the value added in volume of primary activities (i.e. by including the fishing sector) grew by 17.7 percent, driven by one of the best agricultural campaigns over the last 10 years.

As such, it is worth mentioning an increase in crop production, which involved grain harvest, seasonal vegetables and fruit picking. The latter benefited from plentiful rainfall and the growing demand of local agri-food industries.

Animal production has also risen, thanks, in particular, to the increase in poultry production and the intensification of milk collection, results from a resumption of local production of feed for dairy cows, including like and dry beet pulp. For its part, red meat production has kept stable.

Furthermore, fishering has relatively regained its pre-crisis dynamic despite the slight increase in the volume of inshore and tradition fishing disembarkation of certain species, such as pelagic fish on the one hand, and the drop in demand for canned and fresh fish.

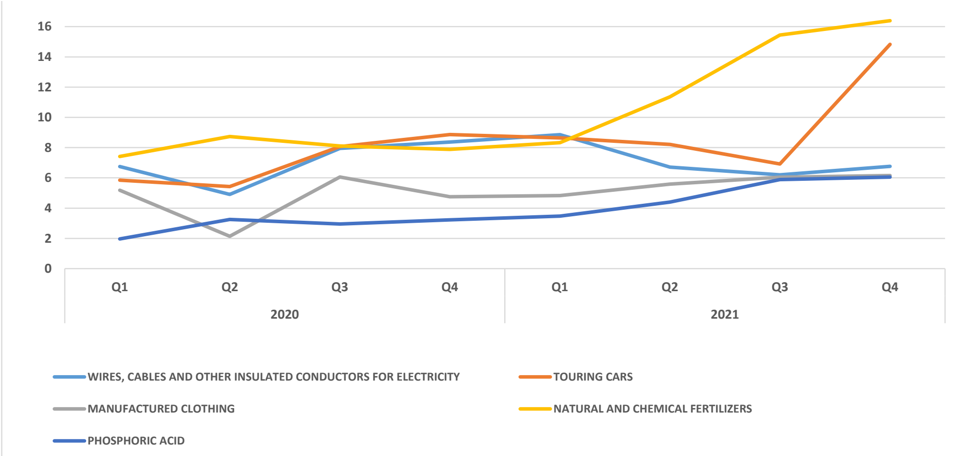
Secondary activities generally experienced a favourable dynamic, in line with the noticeable rebound in the third quarter of 2020 following the reopening of production units.

Hence, in 2021, manufacturing industries recorded a level of value added that was respectively 7.9 and 1.1 percent higher than in 2020 and 2019. Given this evolution, these industries accounted for about 16 percent of GDP, knowing that the 2021-2023 industrial acceleration plan aims to reach a share of 23 percent of GDP. As part of this dynamic:

- The food industries significantly signalled a recovery from the crisis, recording a value added higher than 6.9 percent in 2021 compared to its level in 2019. This was possible by taking advantage of a recovery in foreign demand for canned fruit and vegetables, despite the sharp international surge of vegetable oils, steel and tinplate, which significantly weigh on production costs,
- In 2021, the mechanical, metallurgical and electrical industries recorded significantly grew in value added in volume (+15.4 percent year-on-year), benefiting from an increase in external demand for electronic components, electrical wires and cables and parts of passenger cars. This dynamic was not sufficient to restore the 2019 level, which remains 10.4 percent higher.
- The chemical and para-chemical industries showed greater signs of recovery in the light of the current crisis, reaching a level of value added in volume 9.1 percent higher in 2021 than in 2019. As such, external trade data reveal an important resilience potential of the chemical

industry branch, of which the export value has raised remarkably, in particular the one of natural and chemical fertilizers and phosphoric acid, showing a trimestral average growth of 20.1 percent and 17.1 percent respectively (see Chart No. 11).

Chart N°. 11: Evolution of exports in value terms in Billions dirhams of some main products (2020-2021)



Source: Based on data from the Exchange Office.

Furthermore, the Building and Public Works recorded a growth rate in benefits in 2021, up 17.4 and 7 percent compared to 2020 and 2019 respectively, and despite less notable rise of cement sales. Such increase was engendered by the surge in petroleum coke worldwide, essential for crushing and heating limestone on the one hand, and the relatively moderate growth in housing and real estate development, on the other.

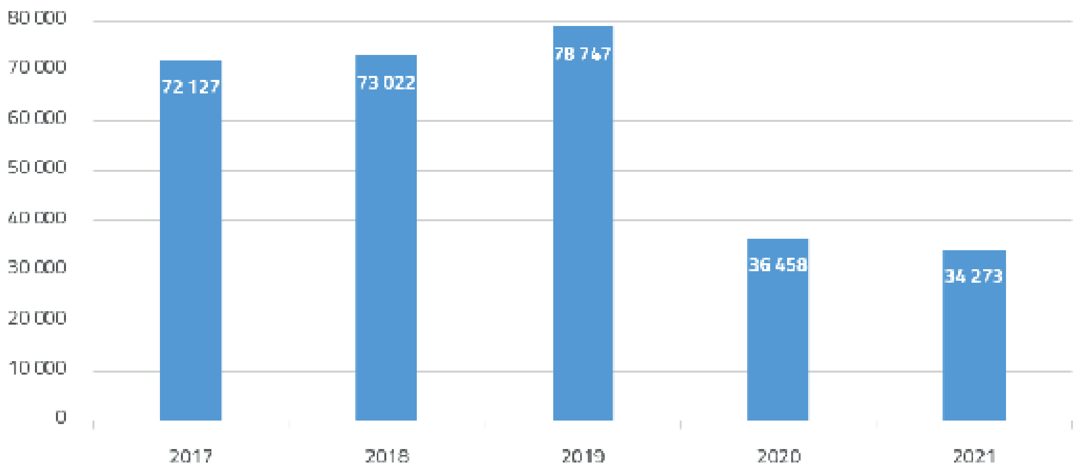
As for tertiary activities, the dynamic was relatively less favourable with an increase in value added in volume of 5 percent compared to 2020 and a drop of 2 percent compared to 2019.

In this respect, the tourism sector continuously underwent the effects of the health crisis. In fact, travel revenues[10] recorded low levels compared to the pre-crisis period (see chart below), despite reducing health restrictions in summer, which relatively improved tourism arrivals and overnight stays.

This situation negatively affected the benefits in volume of hotel and restaurant sector, which was persistently downtrended since the lockdown imposed on March 2020. In 2021, it recorded a growth rate of -2.8 percent compared to the level reached in 2020, and -54.1 percent compared to 2019.

[10] These include international visitors' expenses in host countries, including international transport fees paid to national transport companies.

Chart N°. 12: Evolution of travel revenues in million dirhams (2017-2021)



Source: Based on data from the Exchange Office.

The vulnerability of tertiary activities brings to light the importance of further protecting sectors that are cyclically exposed to crisis through the establishment of mechanisms to cushion their effects, such as guarantee funds.

The role of these funds is not only to support sectors experiencing shocks but also to fund their recovery by offering funding options or risk transfer solutions to third parties (insurance or reinsurance companies, banks or other investors).

Moreover, transport is one of the sectors that have not fully been recovered from the effects of the Pandemic. Though its benefits in volume improved by 0.8 percent year-on-year in 2021, it continuously stand at -27 percent compared to the level reached in 2019.

The difficult recovery of this sector is attributable to slowed harbour activity within the parts managed by the National Ports Agency. This downturn was caused by the supply difficulties undergone by various international markets, stagnated rail freight transport, especially phosphate, compared to the same period in 2020, and destabilised air transport. The latter was induced by fluctuated international passenger traffic, which is unlikely redressed by the rise in airfreight.

Given this global development and the differentiated market dynamic, the economic recovery cannot totally be confirmed. International organizations and several rating agencies forecast a return to pre-pandemic growth until 2023 only, due to persistent, and namely border restrictions.

2. Supply determinants

In 2021, the goods and services supply in various markets persistently endured the effects of the health crisis, due to the overall production that was below its potential level.

It should be recalled that the effects the crisis triggered a drop by 5 percent in the production level in 2020, compared to 2019. This decline reached its peak in hotel, restaurant and transport sectors, recording rates of -55.5 percent and -32.P percent respectively.

Moreover, intermediate consumption fell by 6.9 percent compared to its level in 2019. Once again, hotel, restaurant and transport sectors recorded the lowest levels, which stood at -55.9 percent and 37.6 percent respectively.

These developments are attributable to the supply restrictions, namely the barriers imposed in production units, the lockdown to which workers were subject and the partial cessation of international trade on the one hand, and the destabilised predicted demand, including, in particular, the decline in revenues and the restrictive effects of investment.

In 2021, the pre-crisis production level could not be reached despite the short-term policy measures, which aimed at boosting supply. They essentially involved lifting certain restrictions on firms, and funding their working capital.

The same applies to the level of intermediate consumption, which dropped further last year due to the vulnerability of supply chains at home and overseas.

The persistent decline in production and intermediate consumption denotes disparities between various economic branches pertaining to the potential exploitation of productive processes.

2.1 Uncertainties in terms of supply determinants

The factors that affected the supply dynamic was threefold, involving, at the same time, mobilizing production capacities and controlling firms' unit costs as well as the scope of their "creative destruction".

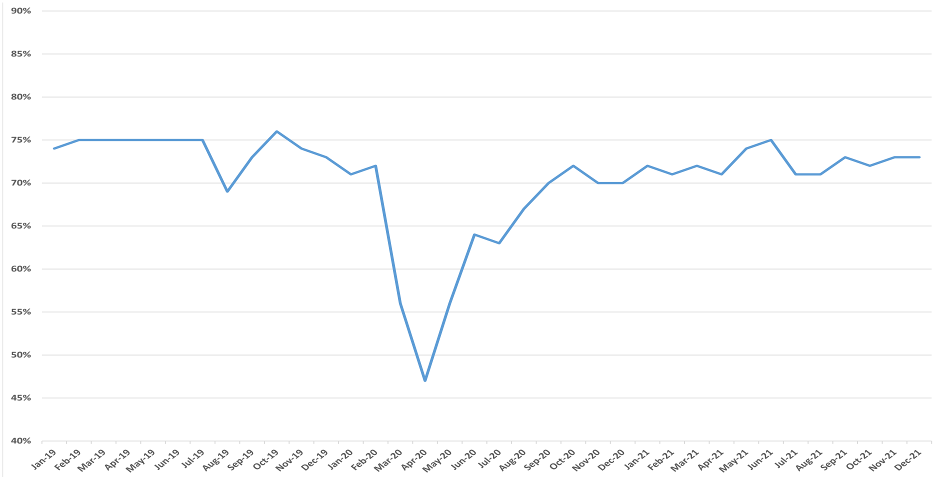
2.1.1 Incomplete recovery of productive activities

Notwithstanding the reduction of health restrictions, many productive activities have not restored their normal course. In fact, several sectors operated on an ad hoc basis due to the uncertain evolution of the Pandemic, and their affected inability to fully mobilize the workforce or the difficulty they faced in resuming the productive processes efficiently.

While the secondary activities nearly restored their pre-pandemic dynamic, following a short and extended subsidence during lockdown, the tertiary activities were constantly low, namely those that physically interact with customers. These include, in particular, hotels, restaurants, and passenger transport as well as entertainment and sport. They all underwent a constrained mobility due to the pandemic-related restrictions.

According to data released by the Bank Al-Maghrib's Monthly Business Survey, the rate of utilizing productive capacities restored their pre-pandemic levels in 2021, following a significant decline in 2020. Nevertheless, it was constantly destabilized because of the incomplete lifting of restrictions (see chart below).

Chart N°. 13: Monthly evolution of the utilization rate of production capacities in industry (2019- 2021)



Source: Based on data from the monthly business survey of the industry of Bank Al-Maghrib

It is certain that reconstructing the production capacities in times of the Pandemic still constitutes a major challenge for several Moroccan firms, which necessarily requires the full employment of production lines to serve local markets on the one hand, and generate surplus to develop export activities.

2.1.2 Rise in production costs

In 2021, supply and demand shocks strongly influenced unit costs, triggering unusual high levels. This weighed on both the current business expenses and the reinvestment capacities, which would enable them to compete better in external markets, in particular. In this respect, shrunk profits have also prompted many firms to consider price rise to buffer revenue losses.

This rise in processing costs relies on dual ground. First, it relates to the surge in input costs for both raw materials and semi-finished products, engendered by the slow but prudent supply return in various international markets and the level production monitored by certain producing countries. Second, it is associated with an excessive rise in transport costs to carry inputs and goods at home and overseas.

2.1.3 Recovery in net business creation

According to data released by the Moroccan Industrial and Commercial Property Office, the number of "legal entity" businesses created grew from 55 066 new entities in 2020 to 72 262 ones in 2021, up to 31.2 percent. Unlike 2019, this rate was 42 percent.

The same data report that the number of legal entities' failing firms, which combine removed and anticipate dissolved businesses, were 15 026 entities in 2021, compared to 9 193 in 2020 and

13 959 in 2019, an increase of 63.4 percent and 7.6 percent respectively.

Note that the number of bankrupt firms was lower in 2020, due to the package of measures the Government took to help the crisis-stricken businesses, some of which were dropped in 2021. These measures encompassed, in particular, guaranteed loans to fund both non-deferrable current costs and different refundable fees paid by the National Social Security Fund.

In 2021, the persistent health crisis affected firm resilience. To this end, recovery difficulties were added to the requirements of repaying debts incurred and due social and fiscal charges. Moreover, extending the payment terms has deteriorated corporate financial crises.

Hence, several firms went bankrupt after being unable to reimburse the debts incurred, and the majority of which have initiated compulsory liquidation instead of resorting to rescue processes.

In 2021, and notwithstanding this difficult context, which triggered significant difficulties in sustaining market activities, the net flow of companies climbed by 24.8 percent compared to 2020, and 55 percent compared to 2019. Overall, this demonstrates that the health crisis has not discouraged business initiatives, especially in microenterprise.

In this respect, it is worth mentioning that the number of independent business owners rose strongly, thanks to the government aid granted following the outbreak of the Pandemic and the legal and fiscal status of "sole traders". In 2021, and based on data released by the National Agency for the Promotion of Small and Medium-sized Enterprises, the number of self-employed workers reached 365,198, up to 27.7 percent compared to 2020 and 180.9 percent compared to 2019.

2.2 Supply support mechanisms

The difficulties the Moroccan productive system encountered greatly demonstrated the importance of support measures that public authorities have implemented, including aids granted to manage to the health crisis, and mechanisms scheduled as part of the Industrial Acceleration Plan and investment attractiveness.

2.2.1 State aid to compagnis

Following the outbreak of the Pandemic, the support measures that the Economic Monitoring Committee implemented, and the mechanisms adopted as part of the 2020 Amended Finance Bill entirely focused on dampening the shocks, which simultaneously affected productive capacities and demand for goods and services. Therefore, they were intended to strengthen economic resilience during the lockdown, and ensure the resumption of economic activities once the restrictions are lifted.

These aids, which totally fulfilled the principles of competitive neutrality and temporality, were consistent with relaxed competition rules, which granted greater freedom to public authorities to interfere in times of the crisis.

Evening out the supply and demand support measures helped controlling the general level of market prices of goods and services during this stabilized period.

The state aids granted last year targeted recovery and rehabilitation, by implementing the "Economic Recovery and Employment Pact" that was signed between the State, businesses and banks in July 2020.

This agreement offers direct financial benefits in the form of financial assistance from a dedicated fund (the Mohammed VI Fund for Investment), which aims at supporting investment projects conducted as part of Public-Private Partnerships or increasing business capital to accelerate its development. It also provides indirect benefits, which consisted in granting state-guaranteed loans or applying national preference in public procurement.

Some of these aids, which sometimes took the form of cross-cutting measures and others specific to significant crisis-stricken sectors, have been translated into agreements and contracts signed with sectoral federations. In fact, tourism, event organization, catering and amusement park were the main tertiary sectors that benefits from these agreements.

Much as government aids are necessary in this post-pandemic recovery period, the flexibility of their scheme requires preserving a pro-competitive environment, thus emphasizing the need to clarify the government policy in supporting businesses. This includes, in particular, distinguishing the contexts in which these aids are implemented, falling within the scope of either responding to the economic crisis or tackling market failures.

Currently, besides the importance of ensuring the "competitive neutrality" and the "neutrality" of aids, attention must be paid to the steps that precede their removal at the end of the crisis. In fact, their early removal may cause firms to go bankrupt and intensify concentration in certain markets, while their late withdrawal would enhance the independence of certain companies, cripple their competitiveness and discourage them from innovating.

2.2.2 Import substitution strategy

The current Pandemic has unveiled Morocco's heavy dependence on foreign countries to supply several categories of goods and services. Such structural constraint weighs on our country's trade balance, thus affecting its foreign exchange reserves and overwhelming the payment balance and the global development dynamic.

In September 2020, and as part of its efforts to reduce this dependence and firm up Morocco's economic sovereignty, the Government introduced a project bank to substitute imports, of which the first objective was to reach a 34 billion dirhams production level by 2021, nearly 6.4 percent of the year's total value of imports.

The implementation of this strategy centers on instruments governed by investment agreements that have been signed between the Government and different sectors to stimulate local industrial partnerships.

Under these agreements, the State will cover a part of the investment program and the cost of technical assistance in terms of development or restructuring strategy, operational performance and market development. They also call for supporting the standardization and certification of products, and facilitating access to local market.

Furthermore, the 2021 Finance Bill introduced other instruments, which essentially involved applying Moroccan standards in public procurement and increasing import duties on certain products.

Generally, preserving the general interest constitutes a prerequisite to tolerate import substitution, as it offers a solution to protect national firms from foreign competition.

From this perspective, forecasting emerging industries constitutes a crucial step to boost innovation and build learning capacities within national companies.

The aforementioned strategy also paves the way for tackling several market distortions, such as unemployment, the competitive gap between national and international firms, and the deficient distribution of growth between productive sectors or branches.

Nevertheless, the precise determination of economically relevant protectable sectors and branches is a prerequisite to fully benefit from these advantages, and avoid turning support measures into rent opportunities.

2.2.3 Investment attractiveness

Restructuring the global value chains, currently imposed by the Covid-19 Pandemic, seems to be behind a new movement of foreign investments.

To this end, regional relocation presents itself as one of the most serious scenarios that imply this restructure. It seeks to reorganize production by tallying value chains with geographic markets, thus attracting outsourced investments and triggering investments attracted by the size of certain markets.

This relocation, which provides Morocco with opportunities, namely in sectors related to automobile, textile and electronic components, dictates specific terms to attract investments, which not only include human, energy and material resources, but also extend to business climate and the government's efforts to improve it.

As such, Morocco has realized the importance of adopting a new investment charter, which will enable it, in particular, to promote private investment, considered as an essential pillar of economic development.

In fact, and unlike the emerging countries, Morocco records low productive investments. In 2021, the Incremental Capital-Output Ration (ICOR)[11]was 7.0 points, compared to 5.2 points in Turkey and 2.9 points in South Korea.

The dominance of public investments over the entire investments tops the factors behind the above-mentioned low productivity, accentuated further during last year as shown in the table below:

Table N° 3: Increase in public investments share over total investment (2019-2021)

	Gross Fixed Capital Formation (GFCF) in billions MAD*	Level adopted in billions MAD**	Previous level
2019	348	195	56%
2020	298	182[12]	61%
2021	344	230	67%

Source: * data released by the High Commission for Planning ** Note on regional investment distribution – 2022 draft finance bill

[11] It describes the link between the rate of investment and the GDP growth. The Higher it is, the lower capital productivity.

[12] The amount stated in the 2020 Amended Finance Bill.

Furthermore, access to land is persistently one of the major impediments impairing national businesses' investment and competitiveness, driven by narrowed land reserve and scarce suitable industrial land. Hence, setting up efficient mechanisms to develop industrial land would ease industrial land prices and stamp out property speculation.

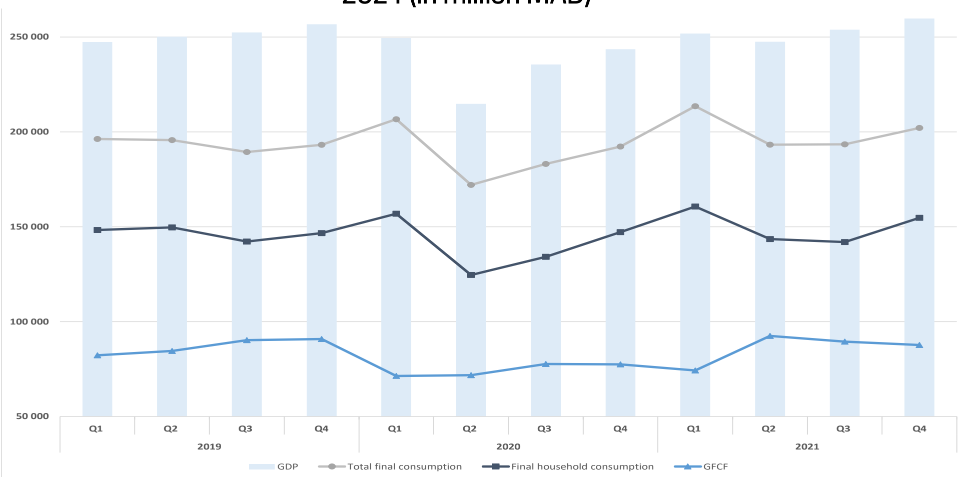
Strengthening Morocco's position as a hub for foreign investments also requires other essential ingredients, especially its capacity to generate "specialized skills", adapt to the requirements of foreign demand, and stimulate intense competition as part of localized productive systems.

3. Demand determinants

The extended Covid-19 Pandemic and its future development uncertainties or the degree of severe waves that may arise have hindered the main components of domestic demand from sustaining the recovery achieved in the last quarter of 2020.

In fact, the catch-up movement, initiated by the different items of domestic demand following the end of lockdown, was interrupted as from the second quarter of 2021. This was more noticeably asserted in terms of final consumption, which predominates the real GDP (see the chart below).

Chart N° 14: Quarterly evolution of final consumption and GFCF in relation to GDP between 2019 and 2021 (in million MAD)



Source: Based on HCP data

Therefore, several factors have affected the trends of the main components of domestic demand, including the final consumption and investment.

At the end of 2021, the total final consumption reached -5.3 percent compared to its level in the first quarter, specifically affected by slackened household consumption, estimated at -3.7 percent. This development is attributable to the general price rise and the indecisive income stability, which consequently altered the household's purchasing power.

The good agricultural crop and the remittances from Moroccans overseas, which, according to data released by Bank Al-Maghrib, reached 93 255 million dirhams at the end of 2021, up to 36.8 percent on a yearly basis, were unconducive to reduce the repercussions of drop in consumption.

Nevertheless, several factors were instrumental in avoiding a decline in private spending and even facilitating its recovery at the end of the year, especially by resuming paid job creation and increasing bank loans granted to the household.

In 2021, these loans grew by 4.8 percent compared to 2020, and 7 percent compared to 2019, benefiting from and increase of 5 percent of house loans amount of outstanding, compared to 2020, and 8.6 percent compared to 2019, due to incentives granted by the Government to purchase property. Moreover, the sum outstanding on consumer credit climbed by 2.8 percent only during last year, compared to 2020 and even dropped by 1.4 percent compared to 2019.

At any rate, supporting the purchasing power persistently tops the Government's major concerns, brought to the fore by the health crisis, including, in particular, methods of providing fair support for social classes in difficult situation.

Setting the prices, which principally corresponds to the compensation scheme, follows this track, and its feasibility continuously sparks controversy, as was the case with removing the Compensation Fund.

In this respect, the Competition Council considers that targeting and transferring public aid to the most vulnerable social classes is more effective than subsidized prices, which serve as a tool to ensure price stability.

To this end, the Royal project on the Unified Social Register offers an appropriate frame to implement this public policy, and provide adequate technical instrument to better direct this aid.

In fact, this register ensures convergent programs within an integrated public policy system by selecting and identifying beneficiaries with the help of data provided by the National Population Register.

Therefore, it may not only increase the productivity of social welfare programs, but also ease the household's purchasing power tensions via fair and efficient distribution of public direct aid.

By doing so, the system that endorses this tool, whose implementation and extension are expected by the end of 2022, will help offset the price rise and sustain the efficient running of market competition.

On another note, the High Commission for Planning data unveiled an instable evolution of investments in 2021. In fact, notwithstanding its 6.7 percent year-on-year improvement at the end of the year, the Gross fixed capital formation fluctuated down -4.2 percent in the first quarter, before rebounding by 24.5 percent in the second quarter, then dropping by 3.3 percent and 2 percent in the third and fourth quarters respectively.

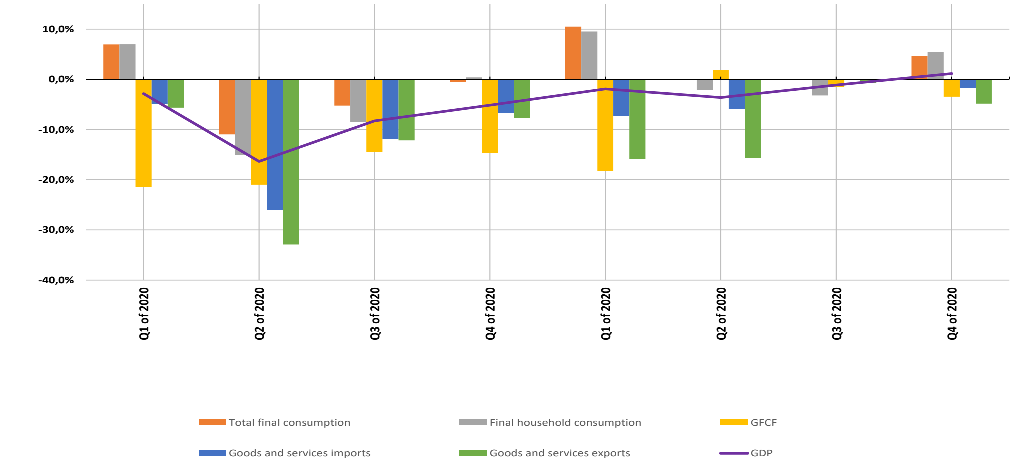
Based on data released by the Foreign Exchange Office, this situation can be attributable to a year-on-year increase by 12.7 percent in imported finished equipment products, and 23.9 percent imported semi-finished products. The same source points to a year-on-year increase by 20.5 percent in net foreign direct investments flows, equivalent to 3,432 million dirhams more compared to 2020. Nevertheless, the drop in equipment loans did not cripple such increase, estimated, according to Bank Al-Maghrib data, at -6.9 percent at an annual rate at the end of 2021.

Hence, it appears that investment has been less resilient and the extended health crisis as well as the uncertainties that predominate firms' expectations delay its full recovery, despite the resumed investment programs, particularly planned by large businesses.

Overall, the new domestic demand shock, which followed the one occurred during the lockdown, is less acute but may last beyond 2021.

The chart below shows that the domestic demand components mostly record negative gaps, compared to the levels reached at the end of 2019, except for the beginning and end of 2021 during which it exceeded its pre-crisis level thank to an upturn in the final consumption.

Chart N°. 15: Quarterly evolution of demand components (gaps compared to the fourth quarter on 2019)



Source: prepared based on data released by the High Commission for Planning

Though these gaps tend to ease gradually, the circumstantial recovery of demand does not yet meet the requirements of its consolidation because of uncertainties, which not only involve price and income levels, but also the supply trends.

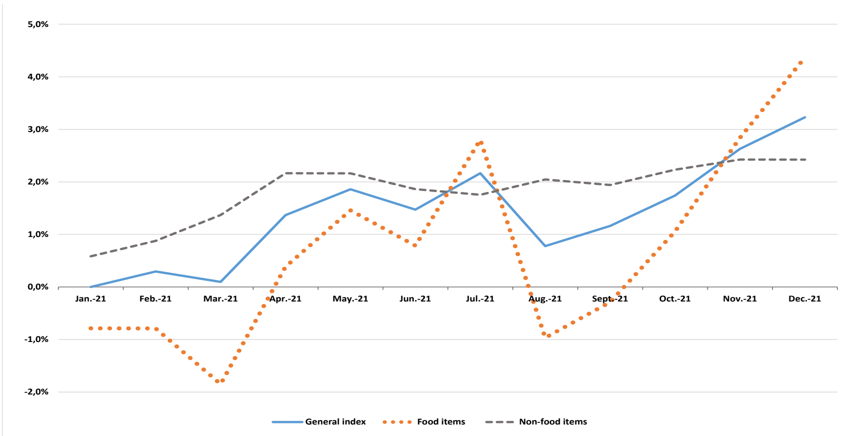
C. Price inflation

Notwithstanding the apparent effect of food price fall recorded in the first quarter and August 2021, the consumer price growth accelerated sharply as from September to reach a year-on-year level of +3.2 percent at the end of December.

The significant inflation recorded in the last months of 2021 is the outcome of the double upward effect of both the Food Price Index, which was more than 3 percent as from October, and to a lesser extent, the Non-Food Price Index, which persistently stood at more than 2 percent at the end of summer (see chart n° 16).

The price rise was noticeable to varying degrees depending on the type of goods and services (see table n° 4).

Chart N°. 16: Evolution of the monthly inflation rate during 2021 (Base 100: 2017)



Source: prepared based on data released by the High Commission for Planning

In fact, food price waxed and waned significantly in 2021. The sharp increase noticed throughout the year seems more like the after-effects of the deflationary trend, which affected several products at the end of 2020, namely citrus fruits, fresh vegetables and poultry meat, and extended over the fourth months of 2021.

Table N°. 4 : Heatmap of the monthly inflation rate by product type (Base 100: 2017)

	Jan.-21	Feb.-21	Mar.-21	Apr.-21	May.-21	Jun.-21	Jul.-21	Aug.-21	Sept.-21	Oct.-21	Nov.-21	Dec.-21
General index	0,0%	0,3%	0,1%	1,4%	1,9%	1,5%	2,2%	0,8%	1,2%	1,7%	2,6%	3,2%
Food items	-0,8%	-0,8%	-1,8%	0,4%	1,5%	0,8%	2,8%	-1,0%	-0,3%	1,1%	2,8%	4,4%
Non-food items	0,6%	0,9%	1,4%	2,2%	2,2%	1,9%	1,8%	2,0%	1,9%	2,2%	2,4%	2,4%
Food and non-alcoholic beverages	-1,0%	-1,0%	-2,1%	0,1%	1,3%	0,6%	2,7%	-1,1%	-0,3%	1,0%	2,9%	4,5%
Alcoholic beverages, tobacco and narcotics	4,4%	4,4%	4,3%	4,3%	4,3%	4,4%	4,4%	2,4%	2,4%	2,4%	2,7%	2,4%
Clothing and footwear	0,4%	0,7%	1,0%	1,6%	1,9%	2,1%	2,1%	2,4%	2,5%	3,0%	3,1%	3,0%
Housing, water, gas, electricity and other fuels	0,6%	0,5%	0,7%	0,7%	0,8%	0,8%	0,8%	0,9%	0,9%	0,9%	0,9%	1,0%
Furniture, household items and routine household maintenance	0,5%	0,5%	0,5%	0,7%	0,8%	0,9%	1,1%	1,2%	1,4%	1,5%	2,0%	2,4%
Health	0,6%	-0,1%	0,0%	0,1%	0,1%	0,2%	0,1%	0,1%	0,2%	0,2%	0,1%	0,0%
Transport	0,6%	2,5%	5,0%	9,5%	9,5%	7,1%	5,2%	6,1%	5,8%	6,2%	7,1%	6,2%
Communication	0,0%	-0,1%	-0,1%	-0,1%	-0,2%	-0,3%	-0,3%	-0,4%	-0,4%	-0,4%	-0,3%	-0,2%
Entertainment and culture	-0,4%	-0,1%	0,1%	0,2%	0,7%	0,7%	0,8%	1,0%	1,1%	1,5%	1,6%	2,4%
Education	1,7%	1,7%	1,7%	1,7%	1,7%	1,8%	1,8%	1,8%	1,3%	1,4%	1,3%	1,3%
Restaurants and hotels	0,6%	0,8%	0,9%	0,9%	1,1%	1,1%	1,3%	1,3%	1,2%	1,0%	1,0%	1,0%
Goods and various services	0,6%	0,6%	0,9%	1,3%	1,4%	1,6%	2,8%	2,6%	2,9%	4,2%	4,2%	4,3%

Source: Based on HCP data.

Legend: For each sector of activity

Lower value — 50th Centile — Higher value

Hence, largest price increase, recorded at the end 2021, involved vegetable oils, poultry, eggs and unprocessed cereals, all of which reached +10 percent, +6.6 percent, +4.8 percent and +1.2 percent respectively, added to +9.7 percent recorded at the end of 2020.

In addition, red meat prices have risen following reduced slaughtering that took place after the significant price fall in 2020. The price of some leguminous plants, such as lentils, has risen temporarily throughout the year, but faded quickly.

As far as non-food items are concerned, inflation was driven by a price hike of both energy and manufactured products, especially clothing and footwear whose price averaged 4.3 percent during the seven months of 2021.

Such inflation also affected several services, especially transport prices which increased by 9.5 percent in March and April, before fluctuating thereafter between 5.2 percent and 7.1 percent. This was attributable to a significant price rise in road passenger transport, estimated at 7.2 percent at the end of 2021. Moreover, restaurants and cafés recorded a price hike during summer, causing the inflation rate to climb by +1.2 percent at the end of the year.

On another front, data released by Bank Al-Maghrib show that nearly 84 percent of accelerated "core inflation" rate stems from the price rise of exchangeable products, driven by the increase of food items. In contrast, the price rise of non-exchangeable goods was due to successive increase of certain services intended for individuals.

Inflationary pressures have heavily weighed on both low-income consumers, who found it very difficult to get their supplies, and those whose savings, built at the outbreak of the crisis, gradually disappeared.

These pressures currently put the entire sectors of Moroccan economy at stake, as they trigger extended decline in demand.

Accordingly, their persistence raises issues on their circumstantial and structural characters, assuming their close link to the economic effects of the Pandemic on the one hand, and highlighting the permanent stalemate of economic activities, which particularly relates to the market structure and government intervention, on the other.

Understanding the nature of this apparently exceptional inflation, given its breadth, requires reviewing its origins.

This situation dates back to the period that coincided with the Government's decision to start lifting the Pandemic restrictions in July 2020. In this context, it is worth recalling that the Government paid, during the lockdown, particular attention to market surveillance to avoid uncontrollable price rise, especially for basic goods, by ensuring their adequate availability based on existing stocks at home and overseas.

Hence, the 2020 economic activities recovery stimulated several mechanisms, which gradually triggered noticeable inflationary pressures, and heightened the risk of economy overheating.

The following three points sum up these mechanisms:

1. **Insufficient supply constrained by a relatively rapid recovery in demand, especially for non-basic goods and services.**

Following the end of lockdown, supply did not manage to restore the same level of demand, as this required rebuilding the stock of goods and meeting the consumers' requirements in terms of services in time.

Such situation, which caught up and readjusted the productive capacities, triggered a price fall from the second half of 2020 until the outset of 2021. Nevertheless, supply kept below its potential level, thus prompting slow and steady price rise of several goods and services throughout the second quarter of 2021, and lower levels of the final consumption.

The supply recovery, achieved in summer, was instrumental in easing the inflationary pressures. However, the economic production difficulties were so stronger that they generated a far-reaching price rise, intensified further in the fourth quarter of 2021.

The complete lifting of restrictions for the hotel and restaurant sector in the 2021 summer period did not produce the expected ripple effect on other sectors of the economy, due to a lack of visibility on production conditions.

Regardless of inflationary pressures, such situation raises concerns over economy overheating. In fact, and based on data released by Bank Al-Maghrib, the output gap[13] dropped from -5 percent in the second quarter of 2020 to -0.4 percent in fourth quarter of 2021. This shows that the actual economic performance may match the potential output, and the economy's ability to absorb increasing demand is gradually waning.

2. **Supply dynamic constrained by production difficulties**

Further to the structural difficulties encountered by certain businesses and sectors during the pre-Pandemic period, the supply of good and services endured the following circumstantial and originally external inflationary pressures:

- Noticeable International price rise of inputs and capital goods. The price of the entire raw materials, essential for the domestic economy, has dramatically risen in the various international markets, including, in particular, energy (oil and its products, gas, coal and hydrocarbon), agriculture (cereals, rape, maize crude vegetable oil, palm oil, etc.) and metals (iron, steel, copper, etc.).

[13] The difference between the real and potential GDP.

Moreover, there was a price surge of semi-finished products (semiconductors, electric components and chemicals) due to the shortage triggered by the temporary cessation of international producers' activities. Capital goods prices have risen sharply in times of the crisis.

- **Apparent Rising costs of container shipping.** The sharp increase in trade flows unprecedently pressured on supply chains, and led to record container freight rates in almost all trade routes.

  Circumstantial and structural constraints exacerbated such increase. The former included inadequate empty containers, port entry and exit restrictions, congested ports, and insufficient labour force in the terminals, while the latter encompassed, in particular, the quality of port infrastructure worldwide, the facilitated trade environment and the connectivity of maritime transport.

  The surge in container maritime freight was passing on the cost of purchasing imported goods, thus naturally affecting the price of traded goods and services nationwide. Furthermore, it triggered a shortage of certain products, such as intermediary goods used in producing manufactured goods, hence affecting the production volume. Simultaneously, it reduced the comparative benefits of exported products.

- **Supply difficulties undergone by businesses,** and caused by significant global supply chain disruptions. These bottlenecks were attributable to the difficulties encountered by cargo owners in ensuring the rapid transport of containers, and the geopolitical tensions as well. The entire constraints, which generated additional costs, systematically triggered soaring prices of consumer goods nationwide.

3. **An economic recovery plan funded through a drop in policy and interbank rates by 1.5 percent and a significant cash injection that exceeds the banks' cash requirements**

At the end of 2021, and based on data released by Bank Al-Maghrib, these requirements averaged 69.9 billion dirhams per week, while the central bank's injection increased to 83.4 billion dirhams, of which 24.7 billion dirhams was dedicated to fund guaranteed loan operations, granted as part of support programs for small, very small and medium-sized enterprises. Such assistance even reached 97 billion dirhams in the third quarter to meet cash requirements, which averaged 83.2 billion dirhams per week.

Though this money supply rise was slightly lower than in 2020, it may partially account for the existing inflationary pressure. It was designed to stimulate demand, while the level of real output did not increase significantly.

Moreover, it appeared that guaranteed funds addressed rather the working capital than investment requirements, thus exacerbating the risk of intensifying the growth of currency in circulation.

It should be noted, however, that the expansionary monetary policy trend would slightly affected inflation, given the incomplete recovery of the domestic consumption components from the crisis.

At any rate, there are numerous signs that surround the price rise recorded in the last months 2021 and are likely to persist in 2022, especially the unstable recovery in demand and the supply inability to adjust efficiently.

Given the slackened economic growth, a stagflation cannot be ruled out, especially if inflation accelerates further and unemployment increases.

Therefore, rebalancing prices, in the medium-term, would require a positive supply shock based on sound international market dynamic. This would inevitably involve increasing the production and scrambling the supply chain bottlenecks.

Enhancing the national market dynamic requires consolidating fair competition, which serves as a driving force for disinflation.

In fact, high market prices may suggest underlying competition issues, which would trigger a drop in demand and jeopardize the consumer's well-being. Disruptions will foster supply pressures, especially those stemming from businesses crippled by crisis or others undergoing pre-crisis structural difficulties.

On another front, the persistent inflationary pressures risk turning markets into a fertile space for various competitive risks. These may include price-fixing agreements, barriers to entry impeding supply adjustment or strengthening unexpected market powers triggered by the crisis, or even abuse of dominant positions, which aim to drive competitors out by exploiting their fragile situations to set up predatory pricing strategies.

Given the aforementioned elements, it is not appropriate to link the extended price rise in the various goods and services markets to excessive pricing practices, even in situations that highly demonstrated the implementation of predatory pricing.

Rather, the changes observed reflect increases naturally generated by external economic parameters, particularly in relation to the pandemic. As production costs are generally affected, it is difficult to accept an abnormal growth in cost-price margins at the company level.

On the other hand, monitoring businesses' strategies to adapt to supply and demand shocks is persistently crucial to avoiding abusive consumer behavior by triggering inflated prices through speculation, monitoring the supply chains or leading unbalanced negotiations, which aim to subject or attempt to subject consumers to these behaviors.

Besides, monitoring goods and services prices, deemed essential in times of the crisis, in the form of a "tariff shield"[14] , may constitute a cautious solution should markets fail to restore their normal course in the short term.

Nonetheless, such a strategy risks hindering markets from restoring their pre-Pandemic equilibrium in the long term, by reducing incentives to increase production, delaying new firms entry or redirecting production.

D. Economic recovery and competition regulation

While the Pandemic sorely tested the Moroccan economic resilient capacities to absorb the repercussions of the recessionary shock, the competition regulation challenges had to be preserved to support crisis exit, especially in the recovery period.

To this end, several issues challenge the implementation of this regulation, including the availability of goods and services in markets and the merger dynamic.

1. The strategic stock of basic and health products

In November 2021, and in line with the Royal High Instructions, the Government adopted a raft of measures, which aimed at setting up a strategic stock of basic and health products.

This approach, which seems to strengthen the existing market surveillance system in times of crisis and even beyond, would supply markets regularly, while keeping aware of international markets volatilities.

The perpetuated Pandemic risks and subsequent drought periods as well as the unstable international geopolitical environment have prompted the Government to consider ways, which would ensure available and adequate stock to meet the Moroccan consumer's requirements at reasonable prices.

[14] It aims at limiting the price rise of certain goods and services for a given period by reducing taxes, capping price rise or granting direct aids to households.

The inherent strategic objectives of this project are threefold:

- Sustaining optimal supply, which requires regular market supply, sufficient diversity of offered products, and broad coverage of needs
- Reducing discrepantant product prices subject to supply and demand law, despite the fluctuated international prices and the bottlenecks affecting supply chains,
- Sustaining the normal levels of prices of regulated and subsidized products, especially in relation to goods such as butane gas, sugar and national bread wheat flour.

If setting up and managing the strategic public stock, whose mechanisms differ from those of reserve stock, are initially instrumental in supplying the Moroccan population with basic goods, they constitute, at the same time, an efficient tool to regulate physical markets.

In fact, the spontaneous supply and demand may optimally take place by striving to provide better visible supply of goods and services over the medium and long terms, thus hindering any excessive price rise that is systematically driven product shortages.

On another front, the Government, which involves itself in increasing the storage capacities, shrinks the private operators' power in controlling available stocks by avoiding extended shortages of these goods in different national markets, and containing, accordingly, competition restrictions, including the secret storage for speculative purposes.

Moreover, the strategic supply project, which requires a thorough analysis of global value chains to distinguish vital items from those falling under Morocco's economic sovereignty, should enable private operators to counter risks via relevant tools, such as public insurance. The latter covers different types of events that endanger supply operations, be it political and economic or linked to foreign exchange or force majeure.

2. Merger trends

If there is a certain event that is currently looming and should be emphasized is that the Pandemic has not slowed down the merger dynamics nationwide, which continuously flourished thanks to the revitalization of movement factors worldwide and the globalized reorganization of production chains.

In fact, the total number of transactions, cleared by the Competition Council, grew from 43 in 2019 to 120 in 2021, up to 179 percent.

The benefits offered by economies of scale and the conglomerate increasingly stimulate businesses' strategic growth, operating or wishing to operate in different national markets, despite the Pandemic-related supply and demand dynamic constraints.

Furthermore, analysing the features of merger projects, notified to the Competition Council and increased from 53 in 2019 to 121 in 2021, found out that their trends have been changed compared to the pre-crisis period.

First, it is noted that the share of control transactions slightly dropped from 83 percent in 2010 to nearly 78 percent in 2021, due to a greater increase of notified transactions that involved asset purchase. The latter grew from 2 percent in 2019 to 10 percent in 2021.

Simultaneously, it is worth mentioning that the number of notified joint control transactions was 9 in 2020 and rose by 29 in 2021, thus raising their share of overall merger proposals from 15.3 percent to 24 percent. This situation may depict a gradual trend towards more complex forms of partnership, intensified further by the crisis.

Table n°5 : Crossover distribution of mergers based on turnover thresholds nationwide/worldwide

	2019		2020		2022	
Threshold	Number	%	Number	%	Number	%
Turnover achieved nationwide, lower than 250 million dirhams, and worldwide, which is less than 750 million dirhams.	0	0.0%	2	3.4%	0	0.0%
Turnover achieved nationwide, lower than 250 million dirhams, and worldwide, which is higher than 750 million dirhams.	26	49.1%	27	45.8%	44	36.4%
Turnover achieved nationwide, higher than 250 million dirhams, and worldwide, which is lower than 750 million dirhams.	7	13.2%	4	6.8%	13	10.7%
Turnover achieved nationwide, higher than 250 million dirhams, and worldwide, which is higher than 750 million dirhams.	20	37.7%	26	44.1%	64	52.9%
Total	53	100,0%	59	100,0%	121	100,0%

Source: The Competition Council

The analysis of thresholds of notified transactions highlighted the predominance of projects whose turnover worldwide was higher than 750 million dirhams. They increased from 46 in 2019 to 108 in 2021 (see table N° 5). Among these transactions, the number of projects, whose turnover nationwide was higher than 250 million dirhams, rebounded significantly. Their share of overall merger proposals rose from 38 percent in 2019 to 53 percent in 2021.

Besides, it is observed that the cross-border transactions keep outweighing the domestic ones, as shown in table n° 6. This shows that the Pandemic did not affect this trend change. Nevertheless, it reduced the share of transactions that involved a Moroccan and foreign parties.

All these features indicate that companies, which initiate these mergers, seem to be more interested in the domestic internal market and its potential in terms of consumption level and habits. Their strengthened position encouraged them to discover the opportunities offered by Morocco as a gateway to Africa.

Table N°. 6: Distribution of mergers based on capital origins (2019-2021)

	2019		2020		2022	
Threshold	Number	%	Number	%	Number	%
Transactions that involved Moroccan parties only	11	20,8%	8	13,6%	22	18,2%
Transactions that a Moroccan and foreign parties	13	24,5%	14	23,7%	25	20,7%
Transactions that involved foreign parties (without any Moroccan participation)	29	54,7%	37	62,7%	74	61,2%
Total	53	100,0%	59	100,0%	121	100,0%

Source: The Competition Council

Hence, the change of mergers evolution may prospectively affect market structures, and potentially influence their conditions.

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Within a global environment that is marked by a less intense global economic recovery and unfavorable to expectations, the periodic good and services markets has been disrupted by significant inflationary pressures, fueled by an uncertain future of the Pandemic and the rising of geopolitical risks, which triggered higher commodity prices and major supply chain disruptions.

The Governments' interventions worldwide focused on implementing monetary and fiscal stimulus steps.

The first type of these steps helped lowering the interest rates, leading stock market valuations that have widely been used to fund mergers. The second type facilitated the mobilization of substantial financing to support demand recovery and rescue businesses and sectors in difficulty. Nevertheless, it fueled the inflationary context and triggered a record rise in public debt.

Therefore, competition authorities persistently adapted their analytical frame in a bid to sustain acceptable market competition levels in a merger-tended context.

The noticeably developments worldwide have affected the domestic economy. Notwithstanding the promising outlook supported by open borders, the nearly completed removal of restrictions and a far-reaching vaccination campaign, the level growth slowed down in the last two quarters.

As far as sector-specified disparities are concerned, the dynamic of secondary activities rebounded greatly, including, in particular, food and tobacco firms as well as mechanical, metallurgical and electrical industries. Simultaneously, the tertiary activities kept enduring the effects of the crisis, namely the hotel and restaurant sectors.

The domestic economic recovery outlook was longer than expected due to uncertain supply determinants on the one hand, especially the incomplete recovery of productive activities and the rising costs of production, and demand determinants on the other, including, in particular, the unstable household final consumption and investment.

Furthermore, the persistent recessing is expected to exacerbate the likely occurrence of market competitive risks by strengthening dominant positions, increasing rescue mergers and inciting further speculative practice, thus calling for more vigilance in monitoring anti-competitive practices.

In this respect, supporting supply and demand was instrumental in reducing the extended effects of the Pandemic on the domestic economy, and controlling the general price level. It shall keep decisive in shaping crisis exit strategies.

Regarding supply, support mechanisms varied. They encompassed government aids granted to businesses as part of the "Pact for Economic Recovery and Employment", and mechanisms scheduled as part of the Industrial Acceleration Plan, especially those seeking to reduce Morocco's dependency on foreign countries in the context of import substitution strategy. They also included planned packages to attract investment, to be boosted further by the new investment charter.

As for demand, and regardless of efforts made to stabilize revenues, promoting the purchasing power was a challenge to meet. To this end, the future establishment of the Unified Social Register constitutes a sufficient instrument to transfer government aids to the most vulnerable social classes, and is deemed more effective than price subsidy.

Notwithstanding the supply and demand support package, the consumer price growth started accelerating sharply as from September onwards.

Therefore, the economic activities recovery stimulated mechanism, which gradually intensified the noticeable inflationary pressures, and simultaneously triggered economy overheating. These mechanisms encompass:

- Insufficient supply constrained by relatively sustained rebounded demand, especially for non-essential goods and services,
- Supply dynamic encountering production difficulties, due to higher in international output and capital goods prices, rising container shipping costs and businesses'' supply difficulties,
- An economic recovery funded via a drop in supply and interbank rates, and a significant cash injection that exceeds the banks' cash requirements.

PART 2

Track record of the Competition Council's activities

I. Market regulation

A. Overview

The statement issued by the Royal Cabinet, on 22 March 2021, marked the year 2021. During that day, His Majesty the King Mohammed VI, may God assis Him, received Mr. Ahmed Rahhou at the Royal Palace in Fez, and appointed him President of the Competition Council.

This appointment comes after His Majesty the King received, on 28 July 2020, the report prepared by the ad-hoc commission, tasked with ruling on the Competition Council's decision process on possible agreements between oil companies.

Statement of the Royal Cabinet

«His Majesty the King Mohammed VI, may God assist Him, received today at the Royal Palace in Fez,

Mr. Ahmed Rahhou, whom the Sovereign has appointed President of the Competition Council.

This appointment follows the submission to the High Royal Attention of the report of the ad-hoc Commission entrusted by the Sovereign to conduct the necessary investigations to clarify the situation arising from the confusion created by the conflicting decisions of the Competition Council in the case of possible cartels in the hydrocarbon sector contained in the divergent notes brought to the High Attention of His Majesty the King on July 23 and 28, 2020.

In accordance with the mission entrusted to it by the Sovereign, the Commission has ensured compliance with the laws and procedures relating to the functioning of the Competition Council and the conduct of the litigation and has concluded that the process of handling this case has been marred by numerous procedural irregularities. It also noted a clear deterioration in the climate of the deliberations.

In view of the elements submitted to the High Royal Attention, His Majesty the King, may God assist Him, ordered the transmission to the Head of Government of the recommendations of the ad-hoc Commission, in order to remedy the inaccuracies of the current legal framework, to reinforce the impartiality and the capacities of this constitutional institution and to strengthen its vocation as an independent body contributing to the strengthening of good governance, the rule of law in the economic world and the protection of consumers.

It is recalled that the ad-hoc Commission was not intended to examine the merits of the contentious case before the Competition Council, nor, even less, to substitute itself for the Council in its treatment».

In 2021, the Competition Council issued 143 decisions and opinions.

This report covers the various areas of competence of the Council, as provided for in Article 166 of the Constitution, the provisions of Law No. 104.12 on freedom of pricing and competition and Law No. 20.13 on the Competition Council, as well as the texts adopted for their implementation.

This concerns the control of economic mergers, contentious referrals and requests for opinions within the scope of its consultative missions.

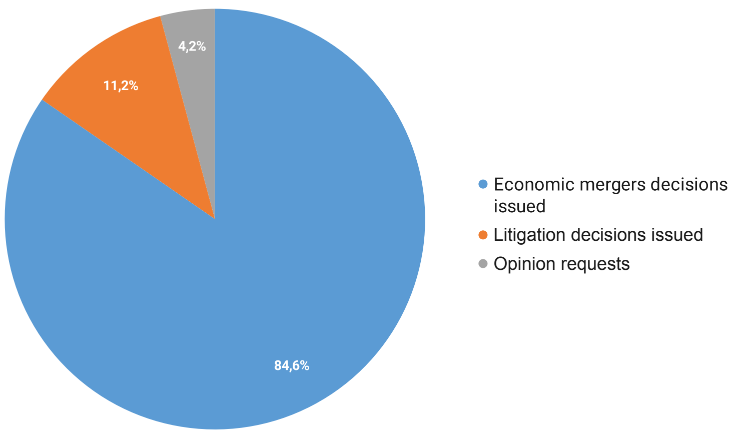
On this basis, the breakdown of the 143 decisions and opinions is as follows:

Table N°. 7: Decisions rendered by the Competition Council in 2021

Type of files	Number of decisions
Decisions rendered in economic merger matters	121
Decisions rendered in contentious matters	16
Request for opinion	6
Total	143

It should be noted that the control of economic mergers occupies the first place in terms of decisional production of the Council with 121 decisions rendered in 2021, representing 84.6% of the total of the decisions and opinions rendered against 15.4% for the contentious and advisory activities which materialized by 16 decisions and 6 opinions.

Chart N°. 17: Distribution of decisions rendered by the Competition Council in 2021 (in percentage)



In addition, it should be noted that the analysis of the flow of cases shows that one of the decisions issued in 2021 concerns the request for an opinion related to the draft law No. 94.17 on the natural gas sector, inherited from the year 2019.

This analysis also shows that 20.9% of decisions concern cases registered in 2020, i.e. 30 cases, 20 of which concern applications for approval of economic mergers, 7 referrals and 3 requests for opinions.

With regard to the analysis of the state of liquidation of the stock of files in general, the data as of December 31, 2021, show that 32 files are still under investigation, that is to say a ratio of liquidation of files of 82.02%.

Table N°. 8: Summary of the flow of cases handled by the Competition Council in 2021

Year	Initial inventory	New Business	Completed business	Ending inventory	Liquidation ratio
2021	44	134	146[15]	32	82,02%

The highest clearance ratio is for economic mergers, as shown in the table above, which reached 92.48%, an improvement of 18 points compared to 2020, due in particular to the implementation of an accelerated (simplified) procedure for proposed mergers that do not raise competition concerns in the relevant markets.

The remaining 10 applications for approval of economic mergers still in progress include mainly one transaction referred to in-depth review and applications received in November and December 2021, the decisions on which will be taken in 2022, given the unavoidable delays associated with the investigation of these cases.

Table N°. 8 bis: Flow of applications for economic merger approval processed by the Competition Council in 2021

2021	Initial inventory	New Business	Completed business	Ending inventory	Decisions made	Liquidation ratio
Applications for approval of economic merger operations	21	112	123[16]	10	121	92,48%

[15] The difference between the number of cases handled and the decisions rendered is justified by the decisions of the Reporter General to group the investigation of cases. This concerned two requests for opinions registered in 2020 and closed by a decision rendered in 2021, and 4 requests for authorization of economic mergers which gave rise to 2 decisions rendered during the same year.

[16] *Ibid.*

It should be noted that among the cases under investigation are two self-referrals initiated by the Competition Council on the proposal of the Reporter General in accordance with the provisions of Article 4 of Law No. 20.13 on the Competition Council:

- The first concerns the study of the state of competition in the market for the delegated management of urban bus transport, adopted by the plenary session of the Competition Council on July 29, 2021 and the subject of decision no. 2021/89/ق of July 29, 2021;

- The second relates to the failure to comply with the provisions of Article 14 of Law No. 104.12 on the obligation to notify economic merger operations, the subject of Decision No. 2021/ق134/ق of December 6, 2021.

In accordance with the provisions of Article 16 of Law no. 20.13 relating to the Competition Council and Articles 18, 19 and 20 of the implementing decree of Law no. 104.12, the investigation departments have carried out a number of investigations, including hearings, requests for information and market tests.

The Council's investigation departments have held more than 200 hearings, specifically in the context of the investigation of applications for approval of economic merger operations.

In addition to the representatives of the notifying parties and the parties concerned, the Council has interviewed representatives of the ministerial departments responsible for the sectors to which the markets concerned belong and the bodies responsible for regulating them, as well as the various private players in the sectors and industries concerned, for the purpose of examining the notified transactions and assessing their possible effects on the competitive position of the parties and on the competitive structure of the relevant markets defined.

It should also be noted that, since the declaration of the state of health emergency, most of the hearings organized by the Direction des Instructions have been held by videoconference.

B. Approval of economic merger projects

Compared to the previous year, the year 2021 has seen a significant qualitative and quantitative leap in the activity of economic merger control, and it is more than double the number of decisions that have been rendered in economic merger control (121 decisions in 2021 against 59 in 2020).

In terms of financial commitments, the 121 economic merger operations approved in 2021 totaled a volume of 1,213.371 MMDH[17], more than double the commitments related to economic mergers approved a year earlier.

[17] Ce montant n'intègre que les montants francs portés sur les contrats ne tenant pas compte de toute autre possible compensation financière convenue entre les parties.

Out of this global volume of commitments recorded in 2021, the merger operations involving Moroccan capital total 13.198 billion dirhams, representing a little more than 1% of the global volume of transactions.

As for the objectives sought through the economic mergers approved during the year 2021, they relate in particular to the diversification of the markets and the strengthening of the positioning of the companies involved, targeted by half of the approved projects.

For a proportion of a little less than 30% of the approved projects, it is rather the consolidation of the competitiveness that is sought. A share of 9% of approved projects is perceived as an opportunity to create synergies and complementarities. Similarly, the remainder of the operations are part of strategies to diversify investment or refocus activity on strategic areas, in proportions of 6% and 4% respectively.

1. Nature of merger decisions

According to the nature of the decisions rendered by the Competition Council in 2021 and out of the total of 121 approved economic merger projects:

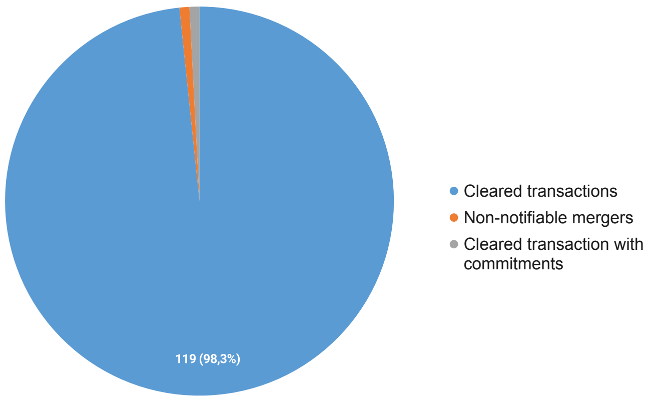
- 119 transactions were approved during the first phase of the audit within 60 days;
- 1 transaction was cleared with commitments;
- 1 transaction was declared non-notifiable as it does not constitute a merger within the meaning of Article 11 of Law 104.12. The joint ventures proposed to be created by Volkswagen AG and Tracetronic did not meet all the criteria for a full merger.

In addition, it should be noted that the Council has referred for detailed examination a transaction raising competition concerns, in accordance with the provisions of Article 17 of Law 104.12. This is the acquisition of exclusive control of Sodexo Maroc SA by the company Newrest Maroc Services SA.

Table N°. 9: Breakdown of economic mergers by type of decision rendered in 2021 (in number)

Nature of decisions	Number of decisions
Approval decisions	119
Approval decisions with commitments	1
Decisions of non-reportability	1
Total	121

Chart N°. 18: Breakdown of economic mergers by type of decision in 2021 (in percentage)



2. Typology of the examined economic mergers

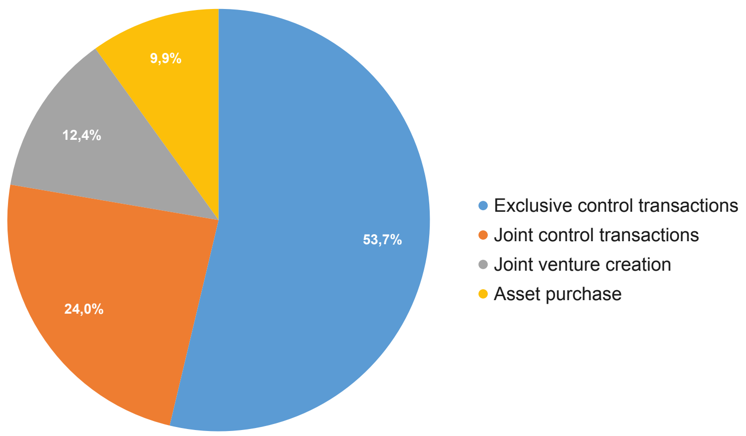
The breakdown of decisions rendered by the Competition Council in relation to economic mergers by type of transaction reveals the predominance of acquisitions of exclusive and joint control, which accounted for more than 77% of the 94 notified projects, of which more than two-thirds were acquisitions of exclusive control (65 notifications).

The creation of joint ventures concerned 15 approved notifications, representing a share of more than 12.4% of the total number of approved economic mergers.

Table N°. 10: Distribution of economic mergers according to their typology in 2021 (in number)

Typology of economic mergers	Number of decisions
Acquisition of sole control	65
Acquisition of joint control	29
Creation of a joint venture	15
Purchase of assets	12
Total	121

Chart N°. 19: Distribution of economic mergers by type in 2021 (in percentagee)



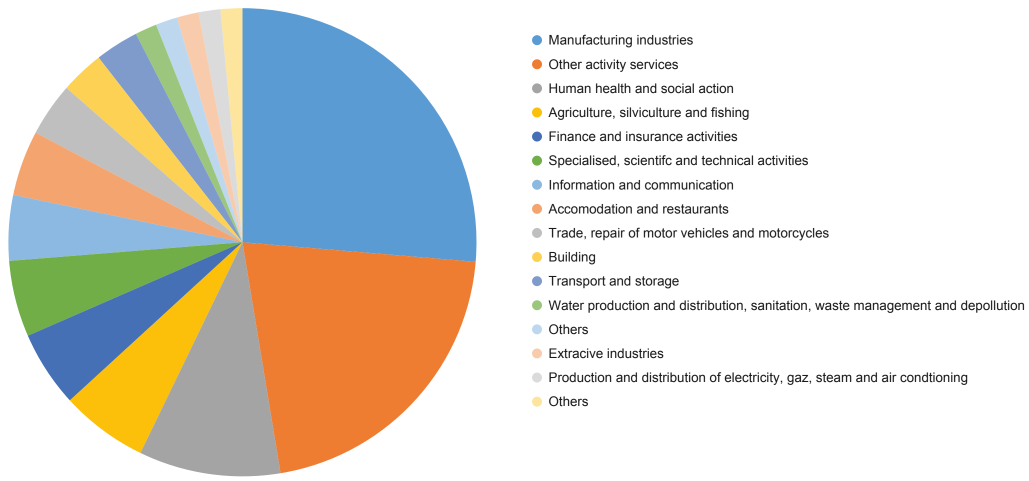
3. Sectoral distribution of economic mergerss

Most of the economic merger projects licensed by the Competition Council, for the year 2021, emanate from the manufacturing industries, which alone account for more than a quarter of the authorizations granted. The sectors of human health and social action and agriculture, forestry and fishing represent, respectively, proportions of 9.9% and 6.1%.

Table N°. 11: Sectoral distribution of economic mergers in 2021 (in number)

Sectoral breakdown of economic mergers	Number
Manufacturing industry	35
Other service activities	28
Human health and social work	13
Agriculture, forestry and fishing	8
Financial and insurance activities	7
Specialized, scientific and technical activities	7
Information and communication	6
Accommodation and food services	6
Trade, car and motorcycle repair	5
Construction	4
Transport and storage	4
Water production and distribution, sewerage, waste management and remediation	2
Education	2
Mining and quarrying	2
Production and distribution of electricity, gas, steam and air conditioning	2
Miscellaneous	2

Chart N°. 20: Sectoral distribution of economic mergers licensed in 2021 (in percentage)



This statement relates a gross distribution of the cases investigated according to the attachment of their respective concerned markets to the sectors of economic activity as defined by the Moroccan Nomenclature of Activities -NMA 2010-. The total of 133 assignments exceeds the 121 decisions rendered, due to the fact that some cases concern more than one product or service market and are found with a double or multiple assignment to different sectors.

4. Breakdown of economic mergers by volume of activity of the parties

In accordance with the provisions of Law No. 104.12 on the freedom of prices and competition and Decree No. 2.14.652 issued for its implementation, the obligation to notify the Competition Council of economic merger projects applies when one of the following three conditions is met:

- A worldwide pre-tax turnover of all the companies concerned is greater than or equal to 750 MMAD;
- A turnover excluding taxes in Morocco of at least two of the companies concerned is higher or equal to 250 MMAD;
- A market share of more than 40% of the sales, purchases or other transactions on the national market of goods, products or services of the same nature or substitutable, or on a substitutable part thereof, during the previous year.

With regard to these thresholds, nearly 64% of the economic mergers licensed in 2021 meet the condition of exceeding the national turnover threshold, while more than 89% of them meet the condition of the worldwide turnover threshold.

Table N°. 12: Distribution of economic mergers according to turnover thresholds in 2021

Morocco Threshold	Number	%
Turnover less than 250 MMAD	44	36.4%
Turnover over 250 MMAD	77	63.6%
Total	121	100%

Morocco Threshold	Number	%
Turnover less than 750 MMAD	13	10.7%
Turnover over 750 MMAD	108	89.3%
Total	121	100%

The junction of the notification thresholds applicable to both the Moroccan and the world market, allows to note that out of the 77 notifications whose parties realize a turnover on the Moroccan market exceeding the threshold of 250 MMAD, a proportion of 64 operations is carried by parties whose turnover in the world exceeds 750 MMAD.

On the other hand, out of the 108 operations whose parties realize a turnover in the world exceeding 750 MMAD, a proportion of 44 operations is notified by parties realizing a turnover at the national level of less than 250 MMAD.

Table N°. 13: Cross distribution of economic mergers according to the thresholds of the turnover Morocco & World in 2021

		World Threshold				Cumulative 2021	
		Turnover less than 750 MMAD		Turnover over 750 MMAD		Total	
		Nbr	%	Nbr	%	Nbr	%
Morocco Threshold	Turnover less than 250 MMAD	0	0%	44	36,4%	44	36,4%
	Turnover over 250 MMAD	13	10,7%	64	52,9%	77	63,6%
	Total	13	10,7%	108	89,3%	121	100%

5. Breakdown of economic mergers according to the origin of the parties' capital

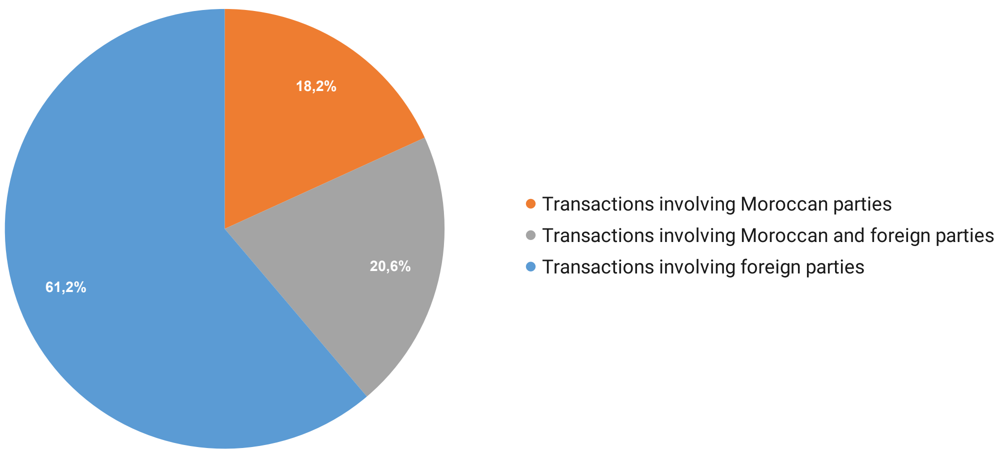
The breakdown of the licensed economic mergers, during the year 2021, according to the countries of origin of the capital of the concerned parties, shows a preponderance of the operations engaged by foreigners without any Moroccan participation (74 operations representing more than 60% of the licensed total). For these operations, it is more than 1.200,172 Billion of MAD which could be mobilized, representing nearly 99% of the global volume of commitments related to all the operations licensed in 2021.

Transactions associating Moroccan companies with foreign companies concerned 25 decisions representing nearly 21% of the total number of licensed economic mergers.

Table N°. 14: Distribution of economic mergers by origin of capital invested in 2021 (in numbers)

Distribution of economic mergers according to the origin of the capital	Nombre de décisions
Operations between Moroccan parties	22
Operations involving a Moroccan party and foreigners	25
Operations between foreigners without any Moroccan participation	74
Total	121

Chart N°. 21: Distribution of economic mergers by origin of capital invested in 2021 (in percentage)



C. Referrals

In the course of the year 2021, the Competition Council issued a total of 16 decisions concerning contentious cases in the exercise of its decision-making power.

1. Nature of the decisions issued

In terms of the nature of the decisions issued, apart from two cases of withdrawal by the referring parties, all of the referrals closed during the year 2021 were declared inadmissible for lack of standing and interest to act on the part of the referring party or for lack of competence on the part of the Council in relation to the subject of the referral.

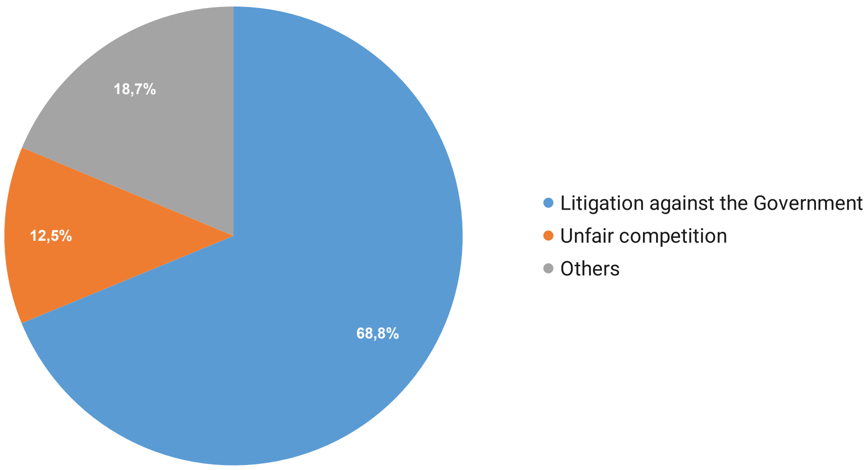
2. Typology of referrals

Almost all of the referrals handled by the Competition Council in 2021 concerned litigation against the Administration, accounting for nearly 70% of all decisions related to these referrals.

Table N°. 15: Type of referrals (in number)

Type of referrals	Number of files
Litigation against the Administration	11
Unfair competition	2
Miscellaneous	3
Total	16

Chart N°. 22: Type of referrals (in percentage)



Of the 11 referrals involving litigation against the Administration, 9 concerned public procurement.

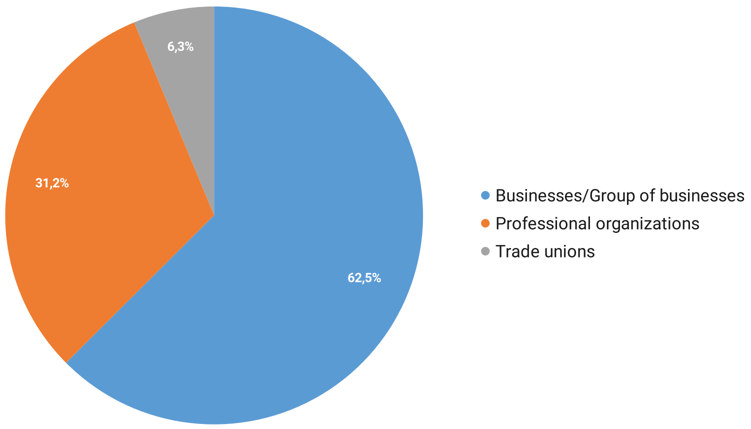
3. Profile of the seizing parties

The referrals examined by the Competition Council in 2021 came mainly from companies and professional organizations in proportions of 62.5% and 31.2% respectively.

Table N°. 16: Distribution of referrals issued in 2021 by profile of referring parties (in number)

Profile of the seizing parties	Number of files
Company/Group of companies	10
Professional organization	5
Trade union organization	1
Total	16

Chart N°. 23: Distribution of referrals issued in 2021 by profile of referring parties (in percentage)



4. Distribution of referrals by sector

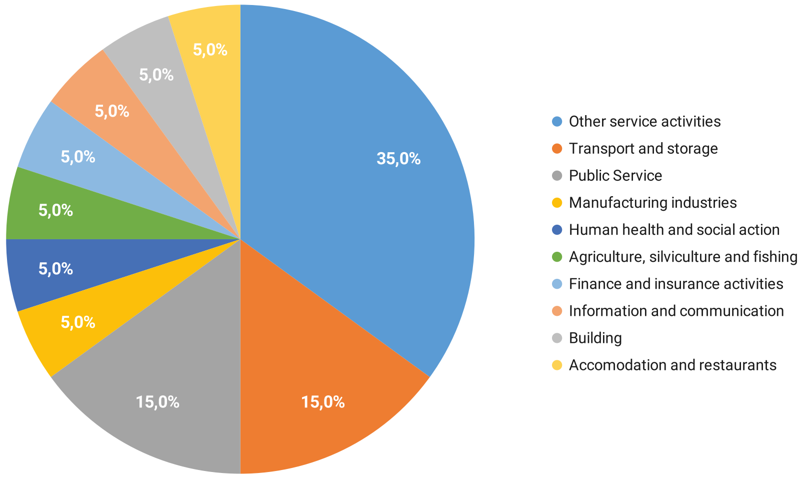
For the most part, the referrals on which the Competition Council ruled during the year 2021 concerned, in order of importance, the other service activities sector[18], with transport and warehousing together accounting for 40% of the total number of decisions rendered.

Table N° 17: Sectoral distribution of referral decisions in 2021 (number)

Areas of activity	Number
Other service activities	7
Transportation and storage	3
Public administration	3
Manufacturing industry	1
Human health and social work	1
Agriculture, forestry and fishing	1
Financial and insurance activities	1
Information and communication	1
Construction	1
Accommodation and catering	1

[18] Same as the management of cultural heritage and waste treatment.

Chart N°. 24: Sectoral distribution of referral decisions in 2021 (in percentage)



This statement provides a gross breakdown of the cases investigated according to the attachment of their respective markets to the sectors of economic activity as defined by the Moroccan Nomenclature of Activities –NMA 2010. The total of 20 assignments exceeds the 16 decisions rendered, as some referrals concern more than one product or service market and are found with a double or multiple assignments to different sectors.

D. Request for opinion

In 2021, the Competition Council issued 4 opinions that concern:

- The state of competition in the private school education sector in Morocco;
- Price regulation of Covid-19 screening tests;
- The examination of the respect of the rules of a free and fair competition by the producers and importers of table oils in Morocco;
- The draft law No. 94.17 relating to the downstream sector of natural gas and modifying the law No. 48.15 relating to the regulation of the electricity sector.

In addition, the Council received two requests for an opinion which were declared inadmissible for lack of standing and interest to act. These were the following:

- The request for an opinion from the Association of Insurance Intermediaries and Entrepreneurs in Morocco concerning the request for precautionary measures in the insurance intermediation sector and the issue of the sale and distribution of life insurance products by banks;
- The request for an opinion concerning the existence of possible anti-competitive practices in the profession of adouls.

1. Typology of the opinions issued

Of the 4 opinions issued, 2 concerned the examination of questions of principle on competition19, 1 concerned a consultation in relation to a legislative text20 and the last was related to a consultation in relation to price fixing[21].

2. Profile of the parties requesting the opinions issued

The requests for which the Competition Council has issued an opinion have come, in equal proportions, from Parliament and the Government.

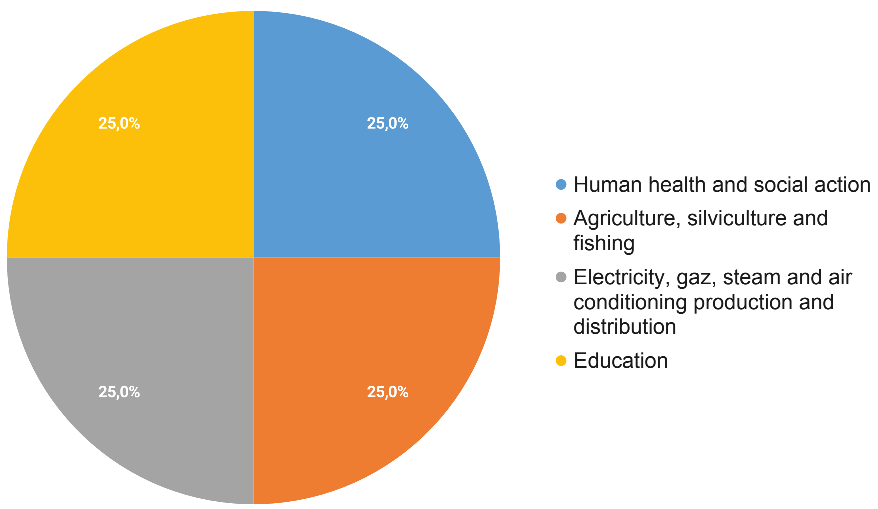
Table N°. 18: Distribution of notices issued in 2021 according to the profile of the requesting parties (in numbers)

Breakdown of opinions issued	Number
Parliament	2
Government	2
Total	4

3. Sectoral distribution of the opinions issued

The opinions issued by the Competition Council in 2021 concerned the sectors of education, human health and social action, agriculture, forestry and fishing, as well as the production and distribution of electricity, gas, steam and air conditioning.

Chart N°. 25: Sectoral distribution of opinions issued in 2021 (in percentage)



[19] The first one is related to "the rules of competition in the establishments of the private school education in Morocco" and the second one to "the examination of the respect of the rules of a free and fair competition by the producers and importers of table oils in Morocco".

[20] In this case the draft law No. 94.17 on the natural gas sector.

[21] Related to Covid-19 tests.

4. Summary of the opinions expressed

4.1 Opinion No. A.1.21 on the rules of competition in private educational institutions in Morocco

a) General framework of the notification

The Council was seized by the President of the House of Representatives, on July 10, 2020, to issue its opinion on the rules of competition in private educational institutions in Morocco.

b) Admissibility of the request for an opinion

1. At the form level

The request for an opinion was declared admissible as a matter of form, since it fell within the consultative powers of the Competition Council and came from the President of the Chamber of Representatives.

2. At the object level

The request for an opinion was declared admissible on the merits since it raised a question related to the study of the state of competition in the private education market and thus fell within the remit of the Council.

c) Reality of the private school education market

1. Definition of the relevant market

Given that the subject of the request for an opinion concerns the rules of competition in private educational institutions in Morocco operating in the primary, college and secondary cycles, the relevant market retained for the competitive analysis under this opinion is that of private school education under the supervision of the national system.

2. Components of the market concerned

The market of private school education under the national system has counted, for the year 2019-2020, a total of 6,229 institutions adopting the national mode of education and at the level of which are enrolled more than one million students (1,068,423 students).

The characterization of the establishments operating on this market has allowed us to note a structural change in the legal nature of these establishments during the last two decades in terms of the status of the founders. The statistics also show the predominance of small and medium-sized establishments, as well as those whose services are limited to the primary cycle program with a strong geographical merger in the regions of Casablanca-Settat, Rabat-Salé-Kenitra and Fez-Meknes.

The staff of these institutions has reached, for the year 2019-2020, more than 104,533 people distributed, of which 54,557 belong to the teaching staff.

3. Evolution of private versus public school education

Compared to public education, the number of private national schools has been on an upward trend over the past ten years. The number of units has increased from 3,168 in 2010-2011 to 6,229 units in 2019-2020, an increase of 96.62%, which has exceeded the growth rate of the number of institutions in the public sector with 11,213 units (15.54%).

In parallel with this development, the share of private education in the total number of schools has increased by 11 points during the same period, to represent 35.71% of schools under the year 2019-2020.

This development has affected the various school cycles, with a particularly marked growth for the secondary college cycle whose number of institutions has increased from 747 (representing 31.6% of all public and private institutions) in 2010-2011 to 1,718 units (representing 45.7% of all public and private institutions) in 2019-2020.

For their part, the primary and secondary qualifying cycles have recorded an almost similar growth, respectively of 9.5 and 9 points, during the same period, that is to say a number of elementary school increased from 1,954 to 3,518 units and a number of high schools increased from 467 to 993 units.

In terms of the number of students enrolled, private school education has recorded a similar rate of growth to that of the number of private schools, with an increase of 74.50%. It has thus counted more than one million students, while it was only 620,000 students in the 2010-2011 school year (the number of students enrolled in public schools has for its part increased by 9.09% during the same period).

However, it should be noted that the number of students enrolled in private schools has not exceeded the proportion of 15% of all learners subject to the national system, which reflects the inability of the sector to achieve the goal set by the National Charter of Education and Training, aimed at enrolling 20% of all students in the sector in 2015.

d) Findings of the Competition Council

The economic and competitive analysis of the private school education market under the national system as well as the examination of its regulatory framework have confirmed that this market is open to any private investor, Moroccan or foreign, wishing to obtain an authorization to enter it, with the possibility of leaving the market on the basis of guarantees offered by the State in order to ensure the continuity of the students' schooling. Similarly, this market is marked by the multiplicity of operators and the diversity of the services offered and at the level of which the school fees are freely fixed by the operators according to the demand and its solvency, on the one hand, and the offer and the quality of the services, on the other hand. This being said, the functioning of this market comes up against a certain number of shortcomings and barriers that affect the competitive performance of this market or relate to its regulation:

1. Deficiencies and barriers affecting competition at the market level

A market characterized by marked differentiation in services and pricing, free competition is not incompatible with the application of high prices that may result from the interaction of schools with the competitive context of the market and the positioning chosen by the promoter. However, the validity of this rule cannot always be absolute, especially when the quality and characteristics of the services marketed are difficult to assess and families are faced with a lack of transparency that facilitates their choice of school.

A market based on a single settlement model and household contributions, the private school market is based on a model of for-profit investment, which makes demand dependent on household purchasing power, and access to its services is limited to children from the middle classes. This state of affairs explains the low coverage of areas characterized by higher rates of "monetary poverty". This reality illustrates a form of incompatibility with the principle of equality of opportunity and equity that should allow all children to enjoy their constitutional right to education, which calls for the correction of the duality between "free public education that is costly for the state budget and private for-profit education aimed at securing returns on the allocated capital and balancing expenses and income".

The situation of the teaching staff hinders the development of private school education, because of a kind of competition practiced by the public school on private schools impacting the quality of the educational offer in general, and the efficiency of small and medium-sized schools in particular, which lack adequate resources to cover the cost of recruiting highly qualified teaching staff. For the Competition Council, the current situation requires the adoption of a mechanism that could limit the influx of private teachers to public schools.

Similarly, and in order to upgrade the performance of the teaching staff, on which the quality of educational production depends, the advisability of implementing an action plan integrating both basic and in-service teacher training has been highlighted.

2. Regulatory deficiencies

Current provisions that do not serve the competitiveness of the market and the improvement of the quality of the educational offer, the promulgation of the Dahir on the fundamental status of private education and its implementing decrees date back to the beginning of this millennium, when the profile of schools and their services have undergone profound changes.

Draft legislative amendment serving the objectives of diversification and improvement of the quality of the educational offer arousing the fears of professionals, *Morocco launched in 2015 a national project for education reform, the framework of which was defined by the strategic vision 2015-2030 as well as the framework law No. 51.17. Despite being appreciated and expected by professionals, this legislative revision arouses their apprehensions, in particular because of the commitments associated with private investment in the field, including the setting of a tuition fees' scale.*

Multiplicity of supervisory bodies for private schools and the overlapping of their tasks, private schools operate under the supervision of the Ministry in charge of National Education to which several prerogatives are assigned as well as to its organs. However, this supervision is weakened by a set of shortcomings that affect the performance and quality of this education.

Support mechanisms not oriented towards achieving set objectives, particularly in terms of the contribution of this education to the national effort to educate pupils and guarantee equitable geographical distribution and a balance of supply, according to the needs and shortages.

Weak control by parent-teacher associations, affecting the dynamics of the private school education market.

e) Recommendations

Based on the analyzes conducted and the findings, the Competition Council issued recommendations aimed at improving the conditions of competition in this market:

– ***Develop a new contractual framework defining the objectives and responsibilities between private schools,*** the State and its organs, in order to provide stakeholders with a clear vision of the strategic choices and the means to be mobilized according to a dedicated roadmap.

– ***Revise the legal framework to support the changes experienced by the private school education market and respond to the new challenges facing the national education system, which should in particular concern the market access authorization system,*** the encouragement of the free pricing system, the review of the classification of school transport services rendered by private schools and the implementation of the legislative provisions governing school insurance.

– ***Put in place mechanisms capable of strengthening the competitive dynamics between the various operators in the private school education market,*** aimed at establishing transparency in the relationship between the consumer-learner as well as supporting and encouraging investment in private school education.

– ***Rethink the role of the State in order to ensure a balance between the services provided by private establishments and those provided by public schools,*** mainly through the improvement and consolidation of the public school image as a reference as well as the improvement of the conditions of recruitment and gratification of the teaching staff in private school education.

– ***Put in place, by the State, measures to allow families access to the services offered on the private school education market,*** in particular through broadening access to private schools by opening them to excellent students coming from needy and low-income households, to consolidate the principles of social justice and solidarity,

– ***Put in place a territorial policy linked to the development models adopted by the twelve regions of the Kingdom,*** through contractual partnerships between the State, regions and the private sector with a view to increasing the dynamism of the private education market, specifically in regions suffering from shortages.

4.2 Opinion n° A.2.21 on request submitted by the Minister of Economi, Finance and Administration Reforme on price sertting of Covid-19 screening tests.

In accordance with the provisions of Article 4 of Law No. 104.12, relating to the freedom of prices and competition, which makes the decision to regulate the prices of products and services subject to prior consultation with the Competition Council, the Minister of the Economy, Finance and Reform of Administration, requested on August 31, 2021, the council's opinion on the prices setting of Covid-19 screening tests, in derogation from the principle of the freedom of prices and competition enacted by article 2 of the aforementioned law.

The Competition Council issued its opinion A.2.21 on September 6, 2021, while recalling that the implementation of the provisions of Article 4 requires the meeting of two conditions, in this case the supervening of exceptional circumstances, a manifestly abnormal market situation, or a public calamity, on the one hand, and the existence of excessive price rises or falls, on the other hand.

After verifying these two conditions, the Council noted that, with regard to the evolution of the offer structure in the Covid 19 test market and despite the efforts made by the relevant public authorities to ensure a continuous supply of the national market, the conditions for effective competition between private medical biology analysis laboratories have not been previously met. This did not make it possible to stimulate a virtuous competitive dynamic pushing these laboratories to lower their prices by trying to attract as many customers as possible. The Council recalled that the proper competitive functioning of the markets necessarily involves diversifying the offer by guaranteeing access to a greater number of actors.

In this context, it was demonstrated that the growing demand for screening tests, due to the constant increase in recorded cases of people affected by Covid-19, has not been accompanied by a sufficient and sustained expansion of offer in the relevant market due to the stringent regulatory restrictions required to access the network of authorized Covid-19 laboratories.

These restrictions have not allowed to mobilize all the available capacities and potentialities available to the private sector of biomedical analysis laboratories, in order to widen as much as possible, the scope of screening and diagnosis of Covid-19 cases in a preventive manner and limit, accordingly, the spread of the viral infection and its exacerbation.

The restrictions and regulatory requirements stipulated in the specifications, particularly in the first and second version, and which aimed, according to the statements collected by the Council's investigation services, at locking in the access conditions to the Covid-19 test network, by raising the bar disproportionately high in terms of technical, logistical and human requirements, have excluded a large number of private laboratories from this market.

Initially, a reduced number of laboratories, which did not exceed 10, were authorized to carry out these tests (June 2020), i.e. approximately 1.6% of the total number of private biomedical analysis laboratories. This number subsequently increased to 17 authorized private laboratories in August 2020, to 53 in September 2020 (i.e. 8.8%), to 90 in January 2021 (15%), 100 in April (16%)

This situation has led to the creation of an artificial shortage in supply, while the demand for tests has continued to increase given the growing number in cases infected with Covid-19, which caused malfunctions in the Covid-19 test market:

- At the level of the offer and the quality of the services provided, in particular the significant congestion observed that these authorized private laboratories have experienced and are experiencing due to the increasing affluence of citizens seeking to carry out these tests, which has increased, as a result, the risk of infection and spread of the virus;

- In terms of prices, which has resulted in the increase in prices charged by private biomedical analysis laboratories, or at least the absence of their reduction despite the drop in the price of inputs, in particular reagents and consumables, in addition to reductions in costs linked to the depreciation of equipment, which were not passed on by certain laboratories according to the declarations of the auditioned parties.

Added to this, the additional financial costs associated with traveling to carry out the test in other regions, given that the screening test market remains a relevant market with a local rather than a national dimension.

Thistrue as the demand for these screening services is captive, whether for health or legal reasons (travelers, employers, and public and private sector personnel, etc.). All these factors have led to the dysfunctions observed at the price level by creating tension at the level of the supply structure, with the current price level as a consequence.

On the other hand, the National Health Insurance Agency and the provident and social protection funds (CNOPS and CNSS) have made significant efforts to determine, together with professionals in the sector, a national reference tariff, on the basis of which the expenses related to the tests of the Covid-19 will be reimbursed for the benefit of the insured persons of the Compulsory Health Insurance (AMO).

The Council noted that this negotiation process, which was crowned on October 28, 2020 by an agreement with professionals in the sector to reduce the price of the RT-PCR test in the private sector from 750 to 450 DH, experienced disruptions and administrative difficulties that have made this agreement not being implemented until now. However, the particular epidemiological situation that our country is experiencing requires greater flexibility and fluidity in the administrative decision-making process in order to follow and react to the rapid changes associated with the spread of this pandemic.

The Council considered, in fact, that despite the decision to open up the market to all laboratories in the private sector, the expected effects of this opening on the structure of supply on the market and on prices could only be observed in the medium term.

The Council therefore considers that despite this conditional opening, the government's request to temporarily regulate the prices of Covid-19 screening tests remains justified in the current uncompetitive market context.

The Council found that the government's decision to take temporary measures to regulate the prices of Covid-19 tests must take into consideration the following elements:

– **Regarding the prices that will be set:** setting the price level for Covid-19 screening tests must:

- Guarantee a reasonable level of incentive margin to encourage the entry of new actors into the market, and thus enable competition with private laboratories already operating in this market, with a view to creating a new dynamic and effective competitive pressure;
- Ensure that the fixed price level does not give a competitive advantage to actors already active on the market, because their previous presence on the market has enabled them to reduce the cost through the depreciation already made of the equipment acquired;

- Ensure that the setting of the sale price to the public must not only cap the profit margin of private biomedical analysis laboratories, but also cover by its scope the margins of all stakeholders in the chain, in particular producers and importers of reagents and consumables needed to carry out Covid-19 tests.

– **Regarding the broadening of the supply base on the market allowing more equitable access to Covid-19 tests:** The Council considers that the fight against this pandemic requires the adoption of a proactive and preventive approach, favoring the opening of the market to new entrants by easing and lightening the conditions of access.

This measure will allow citizens to have better access to tests by making them available to them at an appropriate price which adapts to their purchasing power, in particular those who do not benefit from medical coverage, knowing that to date, that even for populations with this social coverage (10% of the total population), the question of reimbursement of medical costs related to Covid-19 screening tests has not yet been decided.

– The Council also recommended the need for openness to other screening techniques and technologies, in particular molecular biology, antigenic or serological tests, like many other countries:

- By allowing all healthcare professionals to carry out antigenic tests;
- By facilitating citizens' access to self-tests to prevent and limit the spread of the virus, while taking the necessary steps to ensure their proper use.

Opinion No. A.3.21 relating to the examination of compliance with the rules of free and fair competition by producers and importers of edible oils following the increases in selling prices of these products, observed on the national market

a) General introduction of the referral's subject

1. Presentation of the content and context of the opinion request submission

The Competition Council received a request for an opinion from the House of Representatives at the request of the Standing Committee on Productive Sectors, in which it requested the opinion of the Competition Council on compliance with the rules of free and fair competition by producers and importers of edible oils following the latest sales price increases for these products, observed on the national market.

2. Legal framework for the referral

This referral falls within the framework of the provisions of Article 5 of Law No. 20.13 relating to the Competition Council which provides in its 1st paragraph that: "The Council may be consulted by the standing committees of Parliament on legislative proposals as well as on any question relevant to competition, in accordance with the internal regulations of the Chambers of Parliament…'.

This request falls within the scope of the advisory and non-contentious powers of the Competition Council: The Council has taken no the behavioral aspect of the operators of the edible oil market or the legal qualification of their practices with regard to competition law.

b) Main conclusions

The results of the study carried out within the framework of this opinion led to the conclusion that the increases in the selling prices of edible oils recorded on the national market are explained by the conjunction of objective factors associated with the structure of the market itself and to changes in the external market on which it is dependent.

1. **Explanatory factors related to the market itself**

i. Almost non-existent agricultural upstream of the oilseed sector

Morocco is experiencing a structural deficit in terms of raw materials used for the manufacture of edible oils. Nearly 98.7% of domestic needs are imported in the form of crude oils and only 1.3% are covered by seeds produced locally.

ii. A transformation activity marked by a virtual absence of trituration

The low local production of oilseeds, combined with the dismantling of tariffs related to the reduction of customs duties on imports of crude oils and cakes, have considerably reduced the competitiveness of the local trituration activity (led by Lesieur Cristal and HSB). As a result, there is a standstill trituration activity almost, since only 3.5% of the refined oils produced come from local trituration, including 2.2% from imported seeds and 1.3% from local seeds.

iii. All of Morocco's imports in crude oils is concentrated with Three countries

The supply of crude oils is concentrated at the level of three countries or groups of countries which, together, make nearly 95% of imports. The EU represents 54%, followed by Argentina with 34%, then the United States of America with 7%.

Morocco is one of the top ten importing countries of edible oils in the world; This situation is explained by the absence of local seed production and by the fact that the major edible oil consumer countries are at the same time the major producers.

iv. Refining activity with reasonable profit margins

The refining activity remains competitive with regard to imports of refined oils, which remain marginal. Nevertheless, this segment continues to be protected by a non-tariff barrier related to the implementation of the rule of origin given that at the level of imports of already refined oil, the 0% customs duties only apply if the oilseeds are of EU origin. Otherwise the rate of 40% is applied.

v. Supply concentrated in three regions and local demand dominated by soybean oil

100% of national production is concentrated in three regions which at the same time constitute the largest consumption basins in Morocco.

Of the overall 90% of the market's overall supply, 73% is sold in the form of edible oils intended for households and nearly 17% is directed towards food manufacturers.

By type of oil, the national market is a market for soybeans (considered cheap) insofar as this represents 90% of local consumption.

With regard to marketing channels, the traditional channel comprising wholesalers, semi-wholesalers and grocery stores represents the core and covers more than 88% of overall demand, while the modern supermarket chain represents around 12%.

vi. Access conditions making the market very unattractive

Access to the edible oil market is subject to the fulfillment of a myriad of conditions, including: obtaining health approval from ONSSA, investment in industrial facilities and in a distribution network.

Added to this are other structural conditions linked, on the one hand, to the stagnation of the market and the low margins generated on edible oil and, on the other hand, to its oligopolistic structure marked by the dominance of Lesieur Cristal which is also capable of bringing into play the range effect since it is an operator with diversified activity.

This situation is amplified by three other structural factors that would make it difficult for new investors to enter this market: the first relates to the maturity of the market; The second is linked to the economies of scale that characterizes this market and the third is associated with the dependence of the local market on imports.

vii. A highly concentrated and highly oligopolistic market

The domestic edible oil market is a highly concentrated market. The historical operator Lesieur Cristal dominates the market and holds nearly [45-50]% of the market share. Lesieur Cristal and HSB alone hold more than 80% of the market and Lesieur Cristal, HSB and Savola account for more than 95% of the market turnover.

During the last five years, the configuration of the market in terms of distribution of market shares has not changed (relative stability). This fact is mitigated by the continuous fall in the gap between Savola's market shares and the two leading operators on the market.

viii. A market configuration favorable to potential coordination of operators

The maturity and stagnation of the edible oil market, combined with the existence of structural and strategic access barriers, are real obstacles to the entry of new competitors capable of challenging the current structure of the market.

The competitive risk is amplified by the high level of merger, by the symmetry in terms of the evolution of operators' market shares over the last five years and finally, by the transparency of the market: operators could easily obtain information on their competitors' behavior, particularly in terms of applied selling prices.

ix. A virtually stagnant edible oil market

The edible oil market is estimated at around 6 draft law ion dirhams (B to C, B to B and export).

The national market seems to be reaching its level of maturity, given that over the past five years, the market has only shown very low growth rates, less than 1.5%/year, which is significantly lower than the growth of 3.6% achieved per year for the period 1991-2011.

x. An operation mode of the traditional distribution circuit generating high margins

The current mode of operation of the trade where the traditional circuit reigns supreme means that, on the one hand, grocers generally apply the prices of the leading operator to all brands of edible oil, whatever the selling prices of the competitors' products and on the other hand, these same grocers automatically and immediately pass on price increases but take the time to sell their stock when it comes to price reductions.

2. Explanatory factors related to the external market

i. World crude oil prices rising sharply since the start of the easing containment measures associated with the Covid-19 pandemic9

Since the start of the lifting of containment measures, at the beginning of the second half of 2020, strong tension has been observed on the world oilseed market. The FAO's CRB reference index for vegetable oils, which measures the monthly variation in the international prices of these products, has evolved by nearly 29% between 2019 and 2020.

The fall in world oil supply compared to 2018-2019, the simultaneous recovery in demand from importing countries coupled with the effect of the security stocks rebuilding by these countries and investor speculation caused a surge in prices world crude oils. In May 2021, soybean oil prices exceeded 1,600 US dollars per ton, an increase of 196%, a year earlier (May 2020: 557 dollars per ton).

ii. Raw material costs worsened by the concomitant rise in energy and transport prices

The upward trend in world crude oil prices is accentuated by the recent sharp increase in energy, ocean freight and global freight rates due to the rapid and simultaneous recovery of the world economy, characterized by a high demand, a shortage of containers and port congestion.

iii. A correlation between domestic market selling prices and world commodity prices

Between 2016 and 2020, the two variables: purchase cost (72% of the cost price) and selling price excluding VAT experienced identical trends with practically similar rates of change. With regard to the period from the end of 2020 to March 2021 which corresponds to the period of the increase in selling prices on the local market, it was noted that this increase was at a lower level than that of the purchase cost.

The analysis of the correlation coefficients showed the existence of a strong correlation between the evolution of selling prices and purchase costs since this coefficient is close to 0.86 for the last five years (2016-2020) and rises to 0.9 in 2020.

iv. Close changes in the implementation of factory selling prices

There was a similarity between the changes in value and the timing of the implementation of sales price changes, especially amongst Lesieur Cristal, HSB and Savola.

Selling price changes are generally initiated by the market leader, followed within very short timeframes (3 to 5 days) by other market operators.

Price changes with the leader are scheduled and announced for implementation one week in advance, while the three other operators generally apply these changes on day +1 of their announcements.

The analysis of all the aforementioned factors leads to the conclusion that the increases in the selling prices of edible oils recorded on the national market are due on the one hand to the structural shortcomings of the local oilseed sector and on the other hand to economic factors linked to fluctuations in the world prices of crude oil in energy and transport.

c) Main recommendations

Considering all the elements of the aforementioned analysis and in the light of the conclusions drawn in this regard, the Competition Council issued recommendations to help improve the competitive functioning of the national edible oil market.

i. Support the upstream part of the sector relevant to the local production of oilseeds

Taking into account Morocco's potential in annual oilseed crops, which amounts to more than 600,000 ha, it is a priority and essential to develop upstream agriculture associated with the production of local oilseeds.

The Council recommends the renewal of the program contract (2013-2020), by integrating it into the new "Green Generation 2020-2030" strategy.

In this context, it should be noted that any budgetary effort undertaken by the State will be an element of national sovereignty and should not be apprehended solely from the perspective of additional budgetary charges considerations.

ii. Encourage olive oil consumption to partially reduce dependence on oilseed oils

Taking into account the potential of the olive sector and in order to reduce, at least partially, Morocco's deficit in edible oils, the Council recommends leveraging and capitalizing on this sector's agricultural upstream achievements.

This recommendation mainly involves increasing the supply of olive oil, accelerating the pace of modernization of the "Maâsras" artisanal crushing units which process the major part of the production resulting in significant losses[22] and the alignment with global practices in terms of supply and demand by encouraging both professionals and consumers to work for the gradual conversion to olive oils mixed with seed oils.

iii. Strengthen storage capacities and rehabilitate the pipeline linking Costoma to the port of Casablanca

The Competition Council proposes to restore and restart the operation of the pipeline which was operational before, directly linking the storage tanks of the Cooperative for the Storage of Raw Fatty Substances "Costoma" with the port of Casablanca in order to reduce the charges for unloading and transporting crude oil and quay mobilization times; to increase existing storage capacities by setting a more ambitious objective, since this is a vital product for citizens. This objective can relate to a capacity of 120,000 tons, the equivalent of 3 months of consumption; and to put into service at the port of Casablanca a dedicated or priority wharf for strategic products in order to avoid demurrage costs related to the stand-by times for ships to unload.

[22] Oil yield in traditional units is around 14%, while the total content is nearly 22% for the fully mature Moroccan Picholine variety.

Thus, the implementation of these two mechanisms could reduce the cost of the raw material and, in turn, lower the final selling price of edible oil.

iv. Encourage operators to set up risk hedging mechanisms

To reduce the uncertainties associated with the volatility of world commodity prices and allow operators to have visibility on the market, the Competition Council recommends giving operators who so wish the possibility of easy access to all hedging instruments (may concern both the risk linked to the raw material and that related to exchange rate fluctuations) of the same nature as those practiced by international operators such as hedging.

The use of these instruments could have at least three positive effects: securing the stock, smoothing the risk of volatility in world prices and procrastinating the impact of increases in these prices on the selling price to the final consumer.

v. Strengthen competition between operators at the point of sale

The Competition Council suggests that manufacturers set up recommended retail prices on packaging. Such an approach will have a double advantage: first, it will allow a distinction between brands and competition between manufacturers on price and second, it will be in favor of the consumer since it will allow him to benefit from the various reductions decided by the manufacturers.

vi. Modernize traditional distribution channels

Given the preponderant weight of the traditional channels in the distribution of edible oils, which represents approximately 88%, and the significant difference between the factory selling price and the final selling price to the consumer, the Council recommends accelerating the modernization of the traditional commerce with a view to shortening and reducing the number of participants in the distribution channels and consequently reducing the selling prices to the consumer.

4.4 Opinion of the Competition Council no. A.4.21 concerning the draft law no. 94.17 relating to the downstream natural gas sector and amending law no. 48.15 relevant to the regulation of the electricity sector

a) Context of the referral

By letter registered on December 31, 2019 under number 19/A/113, the Competition Council was seized by the Head of Government of a referral concerning Articles 7 to 10 and Articles 11 to 15 of the draft Law No. 94.17 relating to the downstream natural gas sector.

The referral concerns the rules related to “the exclusivity of the supply company to import and buy natural gas from local producers” and to the “concession” of the transport activity to the transport company on the whole national territory.

However, and after examining and considering this referral, the finalized report of which was about to be submitted to the members of the Competition Council, the Head of Government seized the Council a second time, sending it a new version of the draft law in question dated October 26, 2020.

The second version of the draft dated October 26, 2020 submitted for the assessment of the Competition Council, has undergone a profound change compared to the first version submitted on December 31, 2019 both in terms of form and content.

These changes mainly concerned:

– The transition from a legal monopoly of the "supply company" to a free regime open to all candidates who meet the requirements provided for by the draft law and this within the framework of an administrative authorization regime;

– The introduction of the concept of supplier of last resort in order to guarantee the continuity of public service. Its mission is to supply natural gas to the final customer in the event of failure of its supplier or its distributor for a period not exceeding twelve months;

– The creation of a Transmission System Operator (hereinafter " TSO") which is a public limited company with a Council of directors responsible for the design, construction, operation, management, maintenance, and the development of transport and strategic storage facilities for natural gas, throughout the national territory;

– The TSO has the power to delegate to private companies the construction, operation and/or maintenance of gas facilities within the framework of the public-private partnership;

– Reinforcement of rules for third-party access to TSO infrastructures in accordance with the transparency principles;

– Concerning the distribution activity, this version devoted several provisions to explain the distribution authorization regime and its exercise (articles 25 to 35). This activity is carried out by any legal entity in possession of a distribution authorization for a period of [15] years, renewable only once. The authorization is granted by the administration, after competitive bidding, to any legal entity providing proof of the technical and financial capacities necessary for the conduct of natural gas distribution activities;

– Another specificity of this version resides in the granting to the local producer of the status of distributor at the national level without the obligation to obtain prior authorization;

– The transformation of the National Electricity Regulation Agency into a National Energy Regulation Agency with new missions such as the publication of an annual report on the results of its monitoring of the operation of the natural gas market;

The compliance with the rules of free competition in the natural gas market; the issuing its opinion on authorization requests; carrying out any study on the gas sector; the publication of any information intended to enlighten actors in the gas sector, including consumers, the setting of the natural gas selling price by the distributor, and the setting methods for calculating the selling price of natural gas by the distributors and the supplier of last resort.

Following the review of this new version, the Instructions Council presented the report to the members of the Competition Council during the plenary council on April 1, 2021. However, the members of the Council decided to defer ruling on the draft opinion taking into account the fact that the Head of Government was going to seize the Council for a third time by sending it a new version of the draft law in question dated June 10, 2021.

This new version of the draft did not bring significant changes compared to the second version since it maintains the provisions which grant the monopoly to the TSO and the provisions related to the exclusivity of regional distribution.

The amendments mainly concern the deletion of the provisions related to the supplier of last resort (Article 10 to Article 13); the deletion of the provisions which make the administration responsible for any rejection of a request for a supply authorization (article 6) and distribution (article 27) and the power of the National Energy Regulation Agency to set the calculation terms and regulations of the sale price of natural gas (article 50 § 6).

Given this new version, the Competition Council proceeded, once again, in July 2021, to the hearing of all the actors concerned by the natural gas sector such as the Ministry of Energy, the Ministry of Industry, ONEE, ONHYM, Masen, OCP, the Energy Federation and Sound Energy Company.

b) Conclusion

Given that the natural gas sector is not yet established, it is mandatory to take advantage of the benefits of competition on this market and to avoid, from the initial establishment of this sector, freezing positions, establishing monopolies and granting exclusivities which will have a negative impact on the development of the sector.

Considering that the TSO's monopoly on all services and all means of transport risks undermining the rapid development of the natural gas market, the diversification of means of transport, the innovation of new transport technologies and the freedom to undertake sourcing suppliers and distributors;

Considering that the TSO's monopoly risks foreclosing and shutting down the natural gas market and constituting a hindrance to the entry of new operators and the expansion of existing operators to the disadvantage of intermediate consumers;

Considering that the TSO risks not making the investments to develop the gas facilities;

Considering that the TSO's monopoly is not justified given the drop in demand from large consumers such as ONEE and OCP;

Considering that exclusive territorial distribution does not take into account the level of development of the region, current consumption and the potential for future demand, consumption capacities and population density;

Considering that any regional distribution exclusivity risks hindering the development of a competitive market because it would maintain the dominant position of incumbent operators, in particular distributors of substitute solutions such as GPL, with the risk of abusive exploitation of their dominant position vis-à-vis their industrial customers;

Considering that the ANRE sets, after consulting the Administration, the distributor selling price of natural gas by derogation from Law No. 104.12 relating to freedom of prices and competition and the methods for calculating this price;

Considering that the ANRE sets the methods for calculating the selling price of natural gas;

Considering that the draft law allows predominant intervention of the governmental Authority in charge of Energy, to the detriment of the regulation of the natural gas sector by the ANRE;

Considering that the ANRE has limited powers which prevent it from effectively carrying out its missions in terms of regulation of the natural gas sector;

Considering that Article 50 § 2 of the draft law empowered the ANRE to ensure compliance with the rules of free competition in the natural gas market;

Considering that the provisions of the draft law lack clarity, particularly with regard to the exercise of the distribution and the supply activities;

Considering that the draft law refers to 11 of the regulatory texts to set the terms for granting authorization for supply, that for distribution or even the terms for compliance with public service obligations;

For the recitals set out above, the Competition Council issues an unfavorable opinion on draft law No. 94.17 relevant to the downstream natural gas sector in Morocco and amending law No. 48.15 relating to the regulation of electricity sector.

The Competition Council proposes to redraft this text, and puts forward the following recommendations, some of which refer to the current draft text.

c) Recommendations

After an in-depth examination of the draft law, enlightened in this by listening to the stakeholders, as well as the main relevant actors, the Competition Council recommends resuming the drafting of the draft law in question with a view to harmonizing it with the fair competition rules, as enacted by law No. 104.12 relating to the freedom of prices and competition.

These recommendations aim to:

1. 1. Improve the visibility and predictability of the draft law

In order to ensure the legal certainty of the draft law in question, the Council considers that the new wording of the draft law must allow better understanding and readability of the various provisions provided for in the texts, as well as their predictability, which will reassure national and international investors in natural gas sector.

For this purpose, the Competition Council considers that it would be useful to:

– Provide a preamble that sets out the principles that guided the drafting of this draft law;

– Exclude hydrogen from the scope of the draft law given its specificities compared to natural gas;

–Clarify the notions of "natural gas fuel" (article 1), "of common economic interest" (article 13 §1) and "economically justified consumer" (article 27);

– Define the notion of final customer by specifying the different categories: energy producers, large industrial customers, small industrial and commercial customers and residential customer;

– Define the profile of the various natural gas customers according to their level of consumption;

– List clearly the recipients of any study on the gas sector that could be carried out by ANRE (article 51);

– Embody the rules relating to the export of natural gas;

– Highlight in the new wording of the draft law the distinction between the competitive and non-competitive parties of the gas chain;

– Distinguish the wholesale price of natural gas from the retail price;

– Embody the notion of natural gas supplier (who sells purchased gas to consumers at retail) in order to avoid any confusion with the activity of the distributor who also ensures in addition to the establishment, operation, upkeep and maintenance of distribution works, the activity of marketing natural gas to the final customer;

– Include and provide for the consultation of the Competition Council on the setting of the selling price of natural gas by the distributor in accordance with Article 2 of Law No. 104.12 relating to the freedom of prices and competition (Article 28 §1);

– Define powers' boundaries between the ANRE and those of the Competition Council (article 55 §2);

–Explain the cases of force majeure where the company can interrupt the gas supply chain (article 47).

2. Guarantee free competition in the transport and storage segment

Given the development of natural gas processing and transport technologies "compression or liquefaction technology", the Competition Council considers that it would not be appropriate to jeopardize the development of the natural gas market solely by transport technology via gas pipelines and therefore recommends not to grant a monopoly on all services and means of transport because it will undermine competition in an embryonic market, and will prevent the rapid development of the natural gas sector in Morocco.

To this end, the Competition Council encourages the public authorities to favor a long-term concession system when the necessary investments are significant.

The transport of gas by gas pipelines and by mobile means transporting natural gas by road, rail or sea must be subject to free competition in order to diversify the sources of supply so as to no longer depend on a single source of supply and to guarantee the security of supplies for the wholesale and retail markets.

Economic operators (particularly local producers with expertise and savoir faire) must be free to build and operate any transport works and develop LNG terminals and regasification works, under ANRE supervision.

The Council also recommends, following the example of Spain, that these operators obtain prior to their authorization a certificate of compliance with the requirements of separation of activities granted by the Competition Council.

3. Guarantee free competition in the distribution segment

The Council recommends not to grant regional distribution exclusivity and to encourage the operators to carry out the works of distribution. Indeed, the Competition Council considers that competition is necessary in the distribution segment. Final consumers, in particular industrial customers (who do not have direct access to the transport network) must have the choice amongst several distributors (such as local producers or even ONEE) in order to anticipate any risk of harm to competition by existing incumbent distributors who would migrate from the energy sources currently used by GPL-Fuel manufacturers to natural gas.

In this regard, the Council considers that the new wording of the draft law should facilitate access for domestic industrialists to competitive natural gas covering their energy needs and improving their competitiveness.

4. Replace the authorization system with a declaration system

The Competition Council, with a view to removing the regulatory barriers to entry into the natural gas market, recommends reviewing the drafting of the draft law with a view to removing the prior authorization regime issued by the Government Authority responsible for the Energy through a system of prior declaration to the ANRE. Consequently, it would be unnecessary to provide any reference to a regulatory text.

5. Allow the local producer to be exempted from the import authorization

The Competition Council, taking into account the desire of certain local producers to develop opportunities for supplying the domestic market by setting up solutions for importing natural gas into the national territory, is of the view that the local producer may be exempted from the supply authorization to import natural gas given their commitments made within the framework of the partnership established with the State.

6. Ensure compliance with the principle of separation of activitiess

The Competition Council, by virtue of the principle of competitive neutrality, recommends taking all necessary measures to guarantee the independence of the Manager(s) of the Transport Network and the heavy infrastructure (storage) vis-à-vis the supply and generation structures to maintain market transparency and ensure fair access to the network for new entrants.

7. Harmonize Law No. 21.90 on the hydrocarbons code with the draft law relating to natural gas

The Competition Council considers that an effort to harmonize Law No. 21.90 on the Hydrocarbons Code and the draft law relating to natural gas is essential to increase the visibility of operators in the sector and to guarantee fair competition conditions.

The draft law includes several provisions which are relevant to the hydrocarbons code, such as the exercise of the natural gas activity by operators who have oil and gas agreements mentioned above, the exemption from the distribution authorization of local producers or even the notion of the holder or the co-holder of the operating concession, as provided for in article 2 § 8 of the aforementioned code.

Regarding the aforementioned exemption, it should be recalled that local producers are, in fact, holders of an exploitation concession awarded by the Ministry of Energy, Mines and the Environment under the hydrocarbons code.

8. Put in place strong ex-ante regulation and avoid overlapping of competences between the ANRE and the Competition Council

For this purpose, the Council considers that it is necessary to review in depth the wording of the draft law concerning the competences of the ANRE. The project must explicitly provide that ANRE is legally distinct and functionally independent from any other public or private entity and can take decisions autonomously, independently of any political body and of the Administration.

Indeed, to allow ANRE carry out its missions effectively, its powers must be broadened and its room for maneuver must be sufficient to guarantee to all users non-discriminatory and transparent access to the transport network and become the main interlocutor for operators on the natural gas market.

Thus, the ANRE must also have powers to dissuade economic operators from violating the obligations incumbent on them. These powers should not be limited to control missions, but also encompass upstream orientation powers, in order to ensure compliance with sector regulations.

In addition, the Competition Council recommends completely revising the wording of Article 50 of the draft law in order to specify ANRE's ex-ante missions with regard to compliance with the rules of free competition in the natural gas market.

On this subject, the Competition Council considers that this mission must be carried out without prejudice to its competences of the Competition Council, which has cross-cutting competence, pursuant to Article 1 § 2 of Law No. 104.12.

The Council recommends, in order to avoid confusion, the following:

– To list the powers invested in the ANRE to guarantee the competitive operation of gas;

– Expressly provide that ANRE's mission will not encroach on the powers of the Competition Council as provided for by Law No. 20.13 relating to the Competition Council.

In the main, coordinated regulation between the ANRE and the Competition Council seems necessary to monitor developments in the market for the end consumption of natural gas as well as in the market for electricity generation, where demand is fully controlled by ONEE and in the market of industrial customers, where the supply risks being dominated by established operators in the distribution of substitution solutions such as Liquefied Petroleum Gas.

A cooperation agreement between the Competition Council and the ANRE must be concluded. It will provide, among other things, for a mutual exchange on all anti-competitive practices or merger operations in the sector, or even the development of joint studies on the various competitive aspects in the gas sector.

Finally, ANRE must inform the Council of any distortion of competition or any contractual and other restrictive practices, including exclusivity clauses which may prevent large customers from signing contracts simultaneously with more than one supplier, or which could limit their choice in the matter.

9. Embody the protection of consumer rights

The Competition Council considers that it is of the utmost importance to include provisions aimed at ensuring the protection of consumer rights by guaranteeing in particular:

– The right to obtain natural gas and to freely choose operator;

– The right to a transparent procedure allowing him to change supplier;

– The right to have stipulations in particular detailed in the marketing contract, namely the services requested and their level of quality, the maintenance service, the duration of the contract and the conditions of renewal, the terms of termination and termination without payment compensation;

– The right to information before any modification of the conditions of the contract;

– The right to clear and understandable useful information on their rights concerning the various suppliers and supply possibilities;

– The right to receive all relevant data regarding their consumption;

– The right to receive transparent information on the price and technical and financial conditions;

– The right of access to dispute resolution mechanisms.

10. Put in place procedures and mechanisms to monitor restrictive contracting practices

The Competition Council calls for vigilance regarding the need to monitor the appearance of restrictive practices of contractual origin on the natural gas market.

At this level, international decision-making practice reveals that competition on the gas market remains limited due to the nature of the sector (significant entry investments, limited capacities in terms of physical infrastructure), a high degree of vertical integration, a lack of transparency, foreclosure of downstream markets (through long-term contracts with gas consumers), and abusive practices aimed at preventing competitors from gaining access to networks.

In this respect, the Competition Council recommends that the conclusion of long-term contracts incorporates provisions that guarantee compliance with the rules relating to the free prices and competition, as provided for by Law No. 104.12 on free pricing and competition.

Also, if long-term contracts reflect the need to make investments, they must not go through the market by means of transport contracts and abnormally long supply contracts, either with suppliers or with final customers.

The Council's objective at this level is to enable our country to have a law on natural gas which can establish in practice the equality of all actors on the market before the economic act and unite all the legal and procedural conditions for free, sound and fair competition, offering a transparent, stable and attractive legal framework for national and foreign investors and preserving the purchasing power of consumers and guaranteeing their rights to energy.

11. Veiller à concilier entre les impératifs liés aux contrats à long terme des concessions conclus en vertu de la loi n°21.90 portant code des hydrocarbures et le respect de l'ordre public concurrentiel

Pour ce faire, le Conseil recommande de revoir la rédaction de l'article 53 du projet de loi qui prévoit que les personnes morales qui exercent des activités en lien avec le secteur aval du gaz naturel continue leurs activités jusqu'à expiration des accords pétroliers, des concessions conclus en vertu de la loi n°21.90 portant code des hydrocarbures.

Compte tenu des impératifs liés à la durée des concessions d'exploitation (25 ans-35 ans), le Conseil de la concurrence recommande de garantir l'exercice des activités gazières dans des conditions égalitaires afin d'éviter que les nouveaux entrants ne subissent pas de discrimination et/ou un désavantage quelconque.

12. Guarantee all users non-discriminatory and transparent access to the transport network

It should be noted that the Competition Council is against the granting of a monopoly at all levels of the gas value chain and recommends the use of a long-term concession system when the necessary investments are significant. In the latter case, the Council considers that the new wording of the project must be in line with the case of non-discriminatory access for all market operators to essential infrastructures in order to avoid any abusive behavior by dealers (concessionaires).

II. The activity of deliberative bodies

In order to effectively accomplish its missions and contribute to the defense of the principles of free, sound and fair competition, the Competition Council has reorganized, during the year 2021, the texts governing its internal functioning. To this end, it amended its rules of procedure by incorporating new provisions concerning, in particular:

– The precision and clarity of the responsibilities of the various deliberative bodies of the Council and of the decision-making methods within them;

– Improving the rules for organizing and holding meetings;

– The strengthening of the principle of separation of deliberative and instruction bodies;

– The increase in the minimum number of plenary training meetings to 11 times a year, instead of 4 times set previously;

– The introduction of new provisions relating to the holding of distant on-line meetings;

– Adoption of the principle of audio recording of Council meetings;

– The establishment of a new section responsible for preparing the annual report.

Following these amendments, the Council adopted a procedure for holding meetings by videoconference, a procedure relating to the recording of meetings of the Competition Council, as well as four operating charters for the following sections:

– The section responsible for agreements and relations with national regulatory bodies;

– The section responsible for abuse of a dominant position or economic dependence;

– The section in charge of economic mergers;

– The section in charge of state aid, public orders and advisory powers.

A. Plenary board

In accordance with the provisions of Articles 9 and 13 of Law No. 20.13 relating to the Competition Council, the plenary Council is composed of the President, 4 Vice-Presidents, 8 Advising members and a Government Commissioner who attends the meetings of the Council in an advisory capacity.

Pursuant to Article 19 of the Council's Rules of Procedure, the Secretary General, the General Rapporteur, the Deputy General Rapporteur and the rapporteur in charge of the file case may attend meetings of the plenary board separately or together, but may not attend deliberations of the Council, with the exception of the rapporteur in charge of the file case if the Council so requests and without voting rights.

Article 20 of these Regulations stipulates that pursuant to the provisions of Article 14 of these Regulations, *"The Council meets in plenary board eleven times a year, on the last Thursday of each month, unless this date coincides with a national holiday. In this case, the President determines another date for the meeting during the same month.".*

During the 2021 financial year, the Competition Council held nine ordinary sessions of its plenary board and two emergency sessions.

1. **The tenth session of the plenary board**

The Competition Council held its tenth session of its emergency plenary board on Friday February 12, 2021, by videoconference. This session was devoted to the examination and adoption of the Council's draft opinion on the response to the request for an opinion from the Head of Government on draft law no. 94.17 relating to the downstream natural gas sector in Morocco and amending Law No. 48.15 relating to the regulation of the electricity sector.

This session was also marked by the information of the members of the Council of the agreement concluded with the competition regulatory body of the Republic of Turkey (Rekabet) on January 12, 2021.

The second meeting of this session was held on March 9, 2021 by videoconference and devoted to continuing the examination and adoption of the draft opinion of the Council concerning the draft law No. 94.17 relating to the downstream gas sector in Morocco and amending Law No. 48.15 relating to the regulation of the electricity sector.

The third meeting with the same agenda was held on April 1, 2021, at the end of which the discussions concluded on the need to deepen research on this strategic sector, especially in terms of economic and environmental impact. Similarly, it was agreed to consult the opinion of the National Electricity Regulatory Authority (ANRE) on this subject, by organizing other hearing sessions.

The fourth meeting of the tenth session of the plenary board was held on April 8, 2021 at the headquarters of the Competition Council. This meeting was devoted to the study of the proposals for amendments to the rules of procedure of the Competition Council, formulated and communicated by the members.

These changes relate to the meetings of the Competition Council, the decision-making process, the sections, communication between the different bodies of the Council, etc. It was decided, following the discussions, to set up an ad hoc committee which will be responsible for proposing a draft amendment to the rules of procedure.

During this meeting, the members were also informed that the Ethics Charter of the Competition Council will also be amended and that a section will be designated to be responsible for preparing the draft annual report of the Competition Council.

This meeting was also an opportunity to report to the members that the Council's proposals concerning the amendment of laws No. 20.13 and No. 104.12 will be communicated to the Head of Government and that contact will be made with the Council's partners among the national sector regulators in order to define a procedure for handling certain issues and to immerse in its way of working.

2. The eleventh ordinary session of the plenary board

The Competition Council held the eleventh ordinary session of its plenary board on April 22, 2021 at the headquarters of the Council. This meeting was devoted to the study and adoption of the draft amendment to the rules of procedure submitted by the ad hoc committee appointed for this purpose.

This new regulation aims to further specify the organizational and procedural provisions provided for in the two laws No. 20.13 and No. 104.12 in order to enable all the bodies of the Council to best accomplish their missions.

3. The twelfth ordinary session of the plenary board

The twelfth ordinary session of the plenary board of the Competition Council, held on May 6, 2021 at the headquarters of the Council, was devoted to the study and adoption of proposed amendments to the Ethics Charter of the Competition Council.

After examining the proposed changes, it was decided to set up an ad hoc committee in charge of reviewing the old version of the Charter and the proposal for a new version which takes into account the principles of confidentiality, conflict of interest and disgrace.

This meeting also focused on the members' proposals aimed at mentioning in the annual reports the sectors which most respect the principles of free and fair competition. Similarly, open up more to universities and encourage them to set up curricula that provide modules on competition law and economics.

4. The thirteenth ordinary session of the plenary board

Held on May 27, 2021, the thirteenth ordinary session of the plenary board was devoted to the presentation, discussion and adoption of the 2020 draft annual report of the Competition Council.

This annual report, adopted unanimously, was built around the following axes:

– Analysis of the state of competition in the world and in Morocco in 2020;

– The report on the activities of the Competition Council in 2020;

– The outline of the Council's action plan for 2021.

During this same meeting, it was brought to the attention of the members that the processing of the litigation related to the possibility of the existence of anti-competitive practices in the hydrocarbons market will continue after revision of Laws No. 20.13 and No. 104.12 in accordance with the recommendations of the special commission charged by His Majesty, may God assist Him, to carry out the investigations necessary to clarify the situation concerning the hydrocarbon issue.

5. The fourteenth ordinary session of the plenary board

The Competition Council held the fourteenth ordinary session of its plenary board on July 1, 2021, at the headquarters of the Council. It was devoted to the study and adoption of the Council's draft opinion in response to the request from the President of the House of Representatives on the situation of competition in the private education sector in Morocco.

To study this sector, the analysis focused only on the two levels of primary and secondary education. Higher education has been excluded from this analysis.

After an in-depth discussion on content and form, the Council's opinion was adopted unanimously, taking into consideration the modifications to be made to the final version.

During this same meeting, a committee responsible for supervising the work of translating the annual report into English was set up.

6. The fifteenth ordinary session of the plenary boarde

The fifteenth ordinary session of the Competition Council plenary board was held on July 29, 2019 at the headquarters of the Council.

This session focused on (i) the study and adoption of the new version of the rules of procedure of the Competition Council after its revision by the General Secretariat of the Government, (ii) the study and adoption of the draft decision related to the in-depth study concerning the operation of economic merger of the two companies Newrest Morocco and Sodexo Morocco, (iii) the study and adoption of the draft decision concerning the internal referral related to the delegated management in the urban bus transport sector as well as (iv) the presentation of the construction project for the Council headquarters.

7. The sixteenth ordinary session of the plenary board held in emergency

The sixteenth ordinary session of the plenary board of the Competition Council was held urgently on September 6, 2021 at the headquarters of the Council.

This meeting was devoted to the examination and adoption of the draft opinion of the Competition Council concerning the regulation of the prices of Covid-19 tests, in response to the request of the Minister of Economy, Finance and Reform of Administration.

8. The seventeenth ordinary session of the plenary board

The Competition Council held the seventeenth ordinary session of its plenary board on September 30, 2021 at the headquarters of the Council.

This meeting was devoted to the examination and adoption of the draft decision concerning the operation of economic merger related, on the one hand, to the control of the shares and activities of the Company "Suez SA" by the company " Veolia Environnement SA" after a public takeover bid for the shares and, on the other hand, on the sale of the shares and activities of the company "Suez SA for a consortium of investors which includes the company "Meridiam", the investment fund "Global Infrastructure Partners" as well as the Deposit and Consignment Office "Caisse des Dépôts et Consignations" and its subsidiary "CNP Assurance".

This meeting was also devoted to the presentation of the results of the opinion poll on the perception of competition in Morocco.

During this meeting, it was decided to (i) devote the last quarter of the year 2021 to the development of the Council's action plan for the coming year, (ii) review the Council's information system, (iii) launch the construction of the Council's headquarters after the necessary authorizations have been issued, (iv) launch the project to draw up draft section charters and procedures for holding meetings, voting and consulting recordings, as well as (v) setting up a working group in charge of the compliance guide.

It was also decided to set up an economic and legal monitoring observatory to follow, on the one hand, the economic mergers operations carried out without the Council being notified and, on the other hand, the legal texts adopted without the Council's opinion, lacking compliance with the texts of the law in force.

9. The eighteenth ordinary session of the plenary board

On October 28, 2021, the Council held at its headquarters in Rabat the eighteenth ordinary session of its plenary board, devoted to the examination and adoption of the draft opinion of the Council on the situation of competition in the edible oil market, the presentation of the Council's draft budget for 2022 and the study and adoption of the draft section charters.

10. The nineteenth ordinary session of the Plenary

The nineteenth ordinary session of the plenary board of the Competition Council was held face-to-face on November 25, 2021.

This session was devoted to the examination and adoption of the draft opinion of the Competition Council related to the natural gas sector and the adoption of the budget of the Competition Council for 2022.

11. The twentieth ordinary session of the plenary board

The twentieth ordinary session of the plenary board of the Competition Council took place on December 23, 2021 at the headquarters of the Council in Rabat.

This meeting was devoted to the study and adoption of the framework and scoping note for the study of the insurance sector.

During this meeting, the members were informed of the Council's new organization chart and of the institutional twinning project between the Council and the consortium made up of three competition authorities from the Member States of the European Union, namely the Competition Authority of the Greece (Project Manager), the Competition Authority of Poland (Junior Project Manager) and the Competition Authority of Italy (Junior Project Manager).

B. The standing committee

In accordance with the provisions of Article 28 of the Rules of Procedure of the Competition Council, taken pursuant to the provisions of Article 14 of Law No. 20.13, the standing committee is made up of the President and the four Vice-Presidents.

It is in charge of the preparatory work for the meetings of the plenary board s. It deliberates and decides on economic mergers when the additional cumulative turnover of the relevant parties is between 10% and 30%, the dismissal of proceedings, as well as the inadmissibility of contentious referrals in accordance with the provisions of the Article 26 of Law No. 104.12. It also examines the files submitted to it by the plenary board.

To this end, it held a total of 41 meetings during 2021, after which it deliberated on 129 decisions. Its work has essentially focused on the review and approval of decisions on economic mergers, which amounted to 113.

C. The sections

Article 34 of the Rules of Procedure of the Competition Council stipulates that, pursuant to Article 14 of Law No. 20.13 and Articles 4 and 5 of Decree No. 2.15.109 of Chaaban 16, 1436 (June 4, 2014), sections are set up within the Council, each of which is chaired by one of the Vice-Presidents.

The sections discuss and decide on matters falling within their competence, which are transmitted to them by the President of the Council or the plenary board or the permanent committee.

The rules of procedure, as amended and supplemented by decision of the Competition Council No. 32/D/21 promulgated on Ramadan 9, 1442 (April 22, 2021) BO No. 7044 of Rabii II 26, 1443 (December 2, 2021), provide for a new section responsible for preparing the annual report.

1. The section responsible for agreements and relations with national regulatory bodies

During 2021, the section responsible for agreements and relations with national regulatory bodies held 36 meetings. During this financial year, it contributed to the examination of the legal texts and administrative procedures governing the work of the Council with a view to proposing elements for improvement aimed at increasing the performance of the Council's bodies.

In this regard, it was a question of examining the rules of procedure of the Competition Council, its code of ethics and its organization chart.

To this end, the section in charge of agreements looked into its new attributions extended by decision of the Competition Council No. 32/D/21 mentioned above, in particular the Council's relations with other sector regulatory bodies, such as provided for by the 2nd paragraph of Article 5 and Article 8 of Law No. 20.13 relating to the Competition Council.

Thus, the section analyzed the texts governing Bank Al Maghrib (BAM), the National Telecommunications Regulatory Authority (ANRT), the Moroccan Capital Market Authority (AMMC), The Supervisory Authority of Insurance and Social Welfare (ACAPS), the National Electricity Regulatory Authority (ANRE) and the High Authority of Audiovisual Communication (HACA). On the one hand, it is a question of focusing on the relations which bind these regulators to each other and, on the other hand, their relationship with the Competition Council.

This section also carried out, during the year 2021, the study of several economic sectors in order to verify the possible existence of anti-competitive practices (concerted actions, treaties, agreements or express or tacit combinations, in any form and for any cause whatsoever) having as its object or its effect of preventing, restricting or distorting competition.

In this regard, the section has analyzed the sectors of private clinics, insurance, public procurement and contracts, public works, accounting experts (auditors) and edible oils.

It also reviewed and advised on the Arabic and English drafting and translation of the 2020 annual report.

Regarding the external activities of the Council, the section participated in:

– 2nd Arab Area Competition Forum, organized on 23 and 24 March 2021 by the Economic and Social Commission for Western Asia (ESCWA) in partnership with the Organization for Economic Co-operation and Development (OECD) and the Conference of United Nations on Trade and Development (UNCDAT);

– 2021 Global Forum on Trade, Development and Competition, organized by videoconference on 6 December 2021.

Similarly, the Section participated in the "Common Economic Prosperity" dossier developed by ESCWA, contributing to its assessment conducted by the Office of Internal Oversight Services of the United Nations Secretariat (OIOS- IE) on August 26, 2021.

2. The section responsible for dominant position or economic dependence abuses

This section is responsible for examining subjects related to the abuse of a dominant position or economic dependence through referrals submitted to the Competition Council, as well as questions raised by public opinion.

Due to the pandemic circumstances, the section continued to hold its meetings by videoconference until March 15, 2021. The number of meetings held by the section during the year 2021 reached 43 meetings, 26 of which were held in face-to-face at the headquarters of the Competition Council and 17 meetings were held by videoconference.

During 2021, the section continued to study the work of the permanent committee, including decisions related to economic mergers operations and those related to referrals deemed inadmissible. This work also covered the decisions rendered by the Competition Council related to requests for Opinions registered at the Council.

The section also studied certain referrals, following which practices identified in professional and industrial sectors could be qualified as anti-competitive.

Just like the other sections, it was also a question, on the one hand, of contributing to the project of reforming the laws on the Competition Council and on competition and freedom of prices and, on the other hand, of examining the rules of procedure of the Competition Council, its code of ethics and its organization chart.

At the level of sector studies, the section was responsible for monitoring the implementation of the sector study related to the situation of competition at the level of private clinics and similar establishments, as it contributed to monitoring the implementation of the study made for the preparation of the opinion of the Competition Council on the situation of competition at the level of private educational establishments, as well as the follow-up of the realization of the opinion poll on the perception of the competition in Morocco.

Regarding the external activities of the Council, the section participated in:

– 2nd Arab Area Competition Forum, organized on March 23 and 24, 2021 by ESCWA in partnership with the OECD and UNCTAD;

– The virtual meeting for the joint regional dialogue between UNCTAD and ESCWA, on April 8, 2021;

– The training cycle organized remotely from May 27 to June 24, 2021 by the General Confederation of Moroccan Enterprises (CGEM) in partnership with the World Bank Group (WBG) and an international business law firm.

3. Section responsible for economic mergers

Pursuant to Article 35 of the Rules of Procedure of the Competition Council and in accordance with its charter, the section in charge of economic mergers carries out three types of activities which are directly in line with its mission, namely:

– Contributing to the review and assessment of decisions to be taken by the Council with regard to economic mergers;

– Participation in the development and production of opinions requested or initiated by the Council;

– Participation in the definition and conduct of sector studies included in the Council's action plan as well as participation in scientific events.

The section held 43 meetings in 2021 during which it examined 120 economic merger operations.

Of the total files handled, 111 were decided by the Standing Committee, 7 by the Merger Section and 2 by the plenary board, being specified that from September 2021 and pursuant to the Charter, the Section began to examine and authorize certain requests for economic merger when the parties' additional cumulative turnover does not exceed 10%.

The sector breakdown of authorized mergers shows that 4 sectors of activity dominate these operations: manufacturing industry (26.32%), services (21.05%), health (9.7%) and finance (5.26%).

The number of files authorized has more than doubled compared to that of 2020 (which amounted to 59 files), which is explained firstly by the growing number of requests received due to the economic restructuring following the health crisis and then, by setting up an accelerated file processing procedure

With regard to types of merger, the figures show that the operations were mainly carried out by taking exclusive or joint control and, to a lesser extent, by merger or creation of a joint venture.

Depending on the origin of the capital invested in these merger operations, it appears that most of the capital is of foreign origin, while Moroccan capital represents only a small proportion, which shows that with the start of the resumption of economic activity nationally and internationally, investors are seizing new opportunities and strengthening their projects in Morocco.

The Section has also actively contributed to the Council's work in drafting opinions. Accordingly, it had participated in:

– Examination of the framework and scoping note related to the delegated management of urban bus transport;

– The drafting of the Opinion of the Competition Council concerning the regulation of the prices of Covid-19 screening tests;

– The drafting of the Opinion of the Competition Council on the examination of compliance with the rules of free and fair competition by producers and importers of edible oils following the increases in selling prices these products, observed on the national market;

– Drafting of the Opinion of the Competition Council concerning the draft law no. 94.17 relating to the downstream natural gas sector and amending law no. 48.15 relating to the regulation of the electricity sector.

In addition to the opinions issued, the Section contributed to the revision of the translations of the 2020 annual report and to the evaluation and follow-up of the sector study on the issue of competition in the sector of the wholesale markets for fruit and vegetables, red meats and fish.

As part of the preparatory work for the establishment of a national competition barometer (NCB), the section took part in two scientific events organized by the Council by intervening on the one hand, during the internal workshop organized by the NCB working group on March 3, 2021 and on the other hand, during the international workshop on the NCB project organized on March 17, 2021.

Also, along with other sections, the section in charge of economic mergers contributed to the project seeking to reform the laws on the Competition Council and on competition and freedom of prices in addition to the examination of the regulation of the Competition Council, its ethics charter and its organization chart.

4. The section responsible for State aid, public orders and advisory powers

During the year 2021, the section responsible for State aid, public orders and advisory powers held 44 meetings, both at the headquarters of the Council (32 meetings) and by videoconference during the first quarter of the year (12 meetings), due to the constraints imposed by the health crisis.

The section contributed to the examination and discussion of all of the cases subject of a decision by the standing committee (economic mergers, litigation referrals or requests for an opinion).

In addition, the section was able to study all the agreements concluded by the Council during the year 2021 and contribute, just like other sections, to the project of reforming the laws on the Competition Council and on competition and freedom of prices, as well as examining and providing proposals for amendments to the rules of procedure of the Competition Council, its ethics charter and its organization chart.

Regarding requests for opinion, this section participated in the processing and analysis of the following files:

– The Opinion of the Competition Council on the state of competition in the private school education sector in Morocco, following the request of the President of the House of Representatives concerning the rules of competition in private educational establishments;

– The Opinion of the Competition Council concerning the regulation of the prices of Covid-19 screening tests;

– The Opinion of the Competition Council on the examination of compliance with the rules of free and fair competition by producers and importers of edible oils following the increases in selling prices of these products, observed on the national market;

– The Opinion of the Competition Council concerning the draft law No. 94.17 relating to the downstream natural gas sector and amending law No. 48.15 relating to the regulation of the electricity sector.

Concerning the study of the state of competition in the market for the delegated management of urban bus transport adopted by the plenary board of the Competition Council meeting on July 29, 2021 and subject to Decision No. 2021/ 89/ق of July 29, 2021, the section being exclusively responsible for monitoring this case, held 8 hearing sessions with the relevant authorities and actors.

In addition, and as part of the preparation of the National Competition Barometer project, the section contributed to the work of the international workshop organized in March 2021 by presenting an international benchmark on the competition measure tools and methods.

III. Administrative and financial governance

Having the human dimension at the forefront of the Competition Council's strategic system and apparatus, the Council continued to optimize its administrative and financial governance during the 2021 financial year.

Thus, and on the basis of its strategic areas of intervention, reflected in the missions assigned to it by law, the Council continued to strengthen its institutional capacities and consolidated the modernization of its governance.

A. Budget implementation for the year 2021

In financial terms, the budget allocated to the Competition Council for the 2021 financial year amounted to 73 million dirhams.

The expenses incurred and paid as of December 31, 2021, amount to 40.1 MMAD which represented a payment rate of 54.90% of the subsidy granted.

These payments are broken down into two parts, in accordance with the provisions of Article 18 of the Financial and Accounting Regulations of the Competition Council, as follows:

– The expenses of the 1st part (operating budget) include:

▪ Expenses related to salaries and permanent allowances of tenured and assimilated staff: 21.44 MMAD;

▪ Expenses related to allowances allocated to members of the Competition Council: 5.03 MMAD;

▪ Operating expenses (Goods and services): 10.58 MMAD.

– Expenses of the 2nd part (Investment budget): 3.05 MMAD.

B. Human capital of the Council

The Council 's workforce has moved from 50 in 2020 to 46 in 2021. The Council 's human resources management rate is 93% and the average age of employees is 41, with a fairly balanced distribution of the workforce between men and women who represent respectively 52% and 48%.

As part of the management of the career of Council staff, an evaluation and performance procedure has been put in place and a joint committee has been created.

The year 2021 also saw the strengthening of the investigation services with the recruitment of 13 rapporteurs who will join the Council in early 2022.

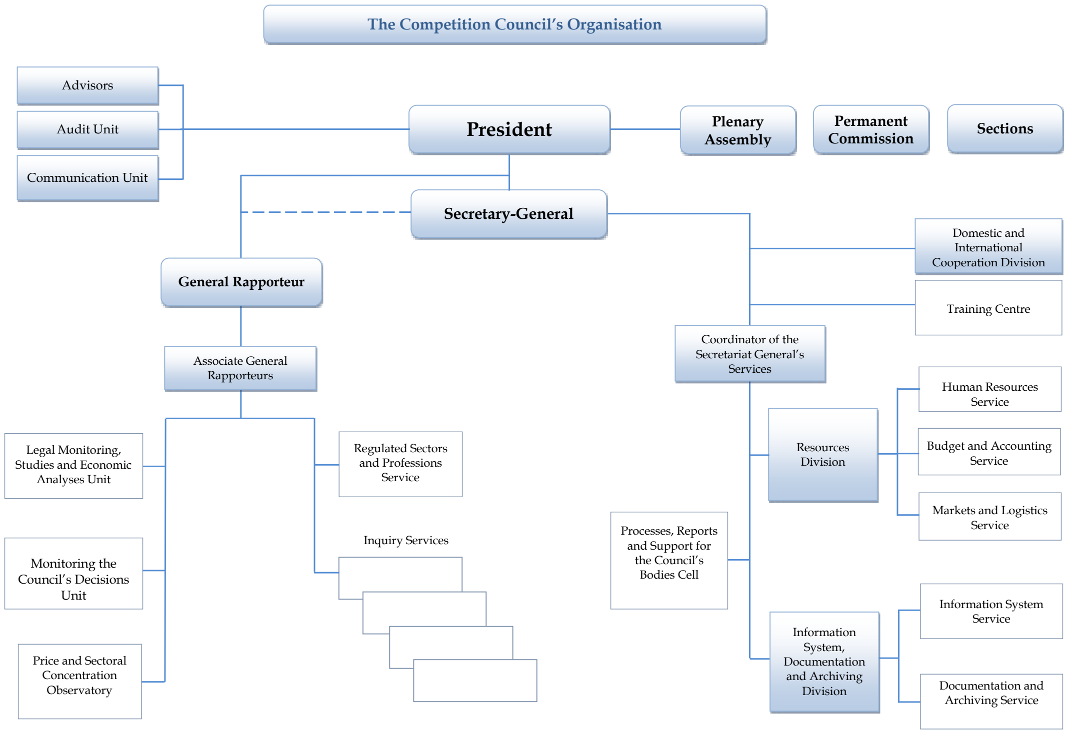
With regard to continuing training (in-service), a basic training plan has been developed, which will be provided to new rapporteurs recruited at the start of 2022.

And within the framework of the institutional twinning, concluded between the Competition Council of the Kingdom of Morocco and a consortium composed of the Competition Commission of Greece (Greece), the Polish Competition and Consumer Protection Authority (Poland) and the Italian Competition Authority (Italy), a rich and ambitious training program will be provided to all rapporteurs during the year 2022.

C. Administrative organization

The year 2021 also saw the implementation of a new organizational chart allowing the accomplishment of the missions entrusted to the Council within the framework of delimited functional structures and description of the hierarchical and functional links between the different structures.

Chart N°. 26: Organization chart of the Competition Council



D. Public procurement program

During 2021 and to meet its operating needs, the Council continued to renew its logistical and technical equipment.

With regard to the construction project for its new headquarters, the Council selected the design and inspection office, the architect and the service provider in charge of the construction work following open calls for tender launched in the framework of the delegated project management entrusted to the Compagnie Générale d'Immobilier (CGI) and the start of the construction, scheduled for January 2022, has been notified to the holder of the construction contract.

With regard to strengthening its internal control system, the Council has adopted an administrative and financial procedures manual and a physical and digital archiving tool for its documentary heritage.

E. The digital transformation project and the strengthening of information systems

The Council has continued the migration to digital and has undertaken the digitization of its administrative acts. To achieve this, it relied on new IT technologies and solutions as part of a strategy driven by the imperative of performance, the purpose of which was to integrate an information system in the form of "ERP"[23] developed in internal.

[23] Enterprise Resource Planning which stands for Integrated Management Software (PGI).

This "ERP" set up by the Information Systems Division, brings together a set of modules to digitize several services and needs within the Competition Council, In particular:

– The Council's Intranet: represents the Council's own Intranet platform, making it possible to guarantee fluid communication between the various departments and to facilitate access to information, it is represented in the form of a graphical interface. internally developed;

– Management of merger files: through an integrated application, designed to serve as a dashboard for the instructions department. It makes it possible to follow in real time all the files submitted to this service, in particular the deadlines for their implementation. This application is located at the core of the Council's information system, it facilitates internal workflows by streamlining and securing the transmission of information. It also makes it possible to optimize management processes, improve productivity and increase profitability;

– Human resources management: through an integrated application, set up with the Human Resources department, allowing the management of Council staff, as well as managing leave and requests for administrative documents (work certificates, salary certificates, orders mission, etc.);

– Stock management: based on an integrated module, developed in such a way as to optimize orders, rationalize future purchases and control the Council's stock in terms of office supplies, computer equipment, printer consumables and office furniture;

– The inventory of fixed assets: based on a module designed to manage the Council's fixed assets. It is integrated into the ERP using the same database and the resources of the other modules that make up the Information system;

– Management of audio recordings: at the level of a platform, developed to archive and manage audio recordings of internal Council events. It makes it possible to carry out an easy and fluid search in the archives of audio, video and document recordings (in different formats and extensions);

– The management of Council meetings: falling within the framework of the digitization of the various activities (meetings of the plenary board, meetings of the permanent committee and the sections, internal meetings, hearings, events, etc.) scheduled within the Council. This module is designed in the form of a digital diary available on the Intranet allowing meetings to be managed and to guarantee continuous communication with all the staff of the Council and to inform them about all the events organized within it.

As for the implementation of the English version of the Council's portal, all the necessary arrangements have been made so that the technical platform is ready to host an English version of the website. It could be extended to other languages.

PART 3

Partnerships, communication policy and the Competition Council's advocacy

I. National and international partnership

During 2021, the Competition Council signed cooperation agreements with several institutions and partners, both nationally and internationally.

A. National partnership

Relations between the Institution and the sector regulators are governed by Article 8 of Law No. 20.13 relating to the Competition Council.

Beyond this legislative framework, and within the framework of the complementarity between the institutions, the Council has decided to establish cross-functional cooperation relationships with sector regulators and bodies whose missions and attributions have a direct or indirect impact on markets and their competitive functioning.

It is within this framework that a cooperation agreement was signed on October 7, 2021 with ACAPS. This agreement aims to stimulate a dynamic of cooperation, based on a formalized basis guaranteeing the effectiveness and sustainability of the joint actions of the two institutions for good governance, in accordance with the legal framework governing the two entities.

Thus, the agreement relates in particular to the exchange of information and documents necessary for the exercise of the missions of the two regulators, as well as the organization of awareness-raising actions and the exchange of expertise.

The Council also signed, on November 9, 2021, a cooperation agreement with the AMMC. This agreement aims to establish a framework for consultation around aspects related to the regulation of competition in the capital market.

The two parties expect, within the framework of this agreement, to organize awareness-raising and support actions for operators in the capital market sector with a view to encouraging compliance with the best standards and competitive practices.

In addition, on December 27, 2021, the Competition Council signed a cooperation agreement with the Presidency of the Public Prosecutor's Office which reflects the desire of the two bodies to unify their efforts through coordination and consultation for efficient application of the law, in order to protect the markets vis-à-vis anti-competitive practices cited in Articles 6, 7 and 8 of Law No. 104.12 on freedom of prices and competition. The agreement mainly concerns cooperation in legal and procedural matters as well as the strengthening of institutional capacities through the capitalization of achievements and human capital.

B. International partnership

1. Bilateral cooperation

At the international level, and following the initiative of the Turkish Competition Authority (Rekabet), several exchanges took place translating the will and the shared desire for the signing of a memorandum of understanding.

The agreement reached, in January 2021, by videoconference in the presence of the Ambassadors of the two countries, is primarily focused on the exchange of expertise and know-how, as well as the exchange of non-confidential information concerning cases of anti-competitive practices or cross-border economic merger. This agreement also concerns the organization of joint events related to themes of common interest.

In addition, the Council was requested by the Egyptian Competition Authority (ECA) in November 2021 to explore possible avenues for bilateral cooperation between the two institutions. The ECA also wishes to have the Council's opinion on the potential for setting up a Mediterranean competition forum which would bring together, in addition to the Authorities of the MENA zone, the northern Mediterranean counterparts.

The Competition Council holds a prominent place in the platform bringing together the authorities of the MENA zone, set up in 2015 by UNCTAD. It enjoys this position because of its status as a constitutional regulatory body endowed with powers that meet international standards in the application of competition law, as well as because of its experience and achievements.

On the other hand, the Competition Authority of Greece (HCC) has expressed its wish to strengthen bilateral cooperation between the two authorities through a memorandum of understanding in order to optimize the framework of the twinning institutional agreement signed by the Competition Council in December 2021 with Greece, Poland and Italy.

2. Institutional twinning

The institutional twinning project between the Competition Council of the Kingdom of Morocco and a counterpart institution of a Member State of the European Union was validated by the Delegation of the European Union in Rabat at the end of December 2021, then transmitted to the European Commission in Brussels.

After the examination phase of the project, the Commission launched a call for tenders in June 2021 to which responded a consortium made up of three competition authorities from the Member States of the European Union, namely:

– The Competition Authority of Greece (Project Manager);

– The Competition Authority of Poland (Junior Project Manager);

– And the Italian Competition Authority (Junior Project Manager).

This offer was submitted to a technical committee made up of representatives of the Competition Council, the Delegation of the European Union in Rabat and the Directorate of Treasury and External Finance (Ministry of Economy and Finance), as contracting authority for the project.

After evaluation of the offer and favorable opinion of the Council, the twinning contract was signed in December 2021 and entitled as: "Strengthening the institutional capacities of the Competition Council" bearing the reference number MA 18 ENI FI 01.

This twinning aims to (i) strengthen the Council 's institutional capacities, (ii) share best practices in the fight against anti-competitive behavior and

(iii) harmonizing and converging legislation between Morocco and the European Union in the area of competition law and economics.

Thus, to meet the objectives of the Council, the consortium proposes the following 4 cooperation components:

Part 1: Support for the Council's legal monitoring;

Part 2: Update of the Council 's methodological tools in accordance with the achievement and shared best practices;

Part 3: Capacity building of trainers and executives of the Council following its new legislative attributions;

Part 4: Support for the promotion of a "culture" of competition.

The actions making up the twinning will be financed entirely by the European Union, for an overall budget amounting to 900,000 Euros, with a breakdown by component and disbursement by level. The project authorizing officer is the Resident Twinning Advisor.

C. International conferences, workshops and activities abroad

1. Contribution to international conferences

In October 2021, the Competition Council contributed to the work of the annual meeting of the International Competition Network (ICN).

Organized by the Hungarian Competition Authority, this meeting was held by videoconference due to the pandemic. As in previous years, it brought together all the competition authorities, law firms and experts specializing in the field as well as prestigious institutions such as the World Bank Group, the OECD and UNCTAD.

The Council first contributed to the special project carried out by the host institution on the theme of "Sustainable development and competition policy". The aim is to demonstrate

the correlations between sustainable development and competition law. The project represents the first initiative of a member of the ICN network to study the aspects and the approach of the different competition authorities in relation to the subject, in particular with regard to restrictive agreements. As part of this investigation, 52 competition authorities, including the Kingdom's Competition Council, actively contributed to it.

One of the most important conclusions is that, although there are so far few (mainly European) experiences, market practices that give rise to competition law issues related to sustainability are likely to become more widespread in the future, posing a global challenge for national competition authorities.

In particular, the project explored the legal context of the subject, the variety of research conducted by competition authorities around the world and the way they are preparing to meet the challenges of sustainability.

The Competition Council was also requested by the Hungarian competition authority to provide its support and expertise to the organizing committee as a former host of this prestigious meeting in April 2014.

Similarly, the Council followed the work of the Global Competition Forum organized each year by the OECD in Paris during December. The 2021 meeting focused on three important themes during these times of global economic crisis.

First, the meeting emphasized the need to take into account the interaction between trade policy and competition policy, which is often overlooked by policy makers.

This may change in coming years as policy makers seek to promote development through competition in a world marked by different economic and trading systems, as well as growing recognition of an internationally level playing field.

In addition, the experts discussed, during this meeting, an essential aspect in the investigation work within the competition authorities, namely the economic analysis as well as the convincing elements in the cases of abuse of dominant position.

Finally, the last theme of the meeting was devoted to the promotion of competitive neutrality by the competition authorities, an aspect which is of particular interest to the Competition Council of the Kingdom of Morocco and for which it has contributed on many occasions.

2.Actions organized within the framework of the partnership with the World Bank Group

Following the agreement signed with the International Finance Corporation (World Bank Group) in January 2020 for a period of three years, the Council benefits from assistance in 3 areas:

1. Strengthening of the antitrust framework to fight against anti-competitive practices and limitation of the negative effects of economic merger;

2. Promoting competition in sector policies to strengthen competitive dynamics in key sectors of the economy;

3. Development of an institutional ecosystem to support the effective implementation of competition policy.

As part of the third component, a training cycle was organized jointly by the Council, the World Bank Group, the CGEM and an international business law firm during the months of May and June 2021, for the benefit of the CGEM members.

This cycle is structured around five sessions dealing with (i) the powers of the Competition Council,

(ii) horizontal agreements, (iii) abuse of dominant position and (iv) merger control.

Following this event, a working session was held at the CGEM in July 2021, during which the presidents of the two organizations mainly discussed the issues and stakes of the judicial and legal framework relevant to competition, price freedom and consumer protection.

It was also an opportunity to lay the foundations and pave the way for a future partnership between the Council and the CGEM enabling them to work in favor of sound and sustainable economic development, creating growth and sustainable jobs.

In addition, Council teams and World Bank Group experts continued their actions to strengthen the antitrust framework through the review and improvement of internal procedures.

3. Institutional capacity building

Institutional capacity building, including training, is one of the major objectives of international cooperation.

It is in this way that Council rapporteurs followed two training cycles. The first was organized in September 2021 by the International Competition Network for junior level rapporteurs and focused on basic themes such as the identification of evidence in the investigation process. The second training cycle was jointly organized by the Egyptian Competition Authority and UNCTAD for the benefit of rapporteurs from competition authorities in the MENA region and focused on the dealing with of economic merger projects.

4. International Workshop on the National Competition Barometer

Due to health restrictions, the Council organized by videoconference, in March 2021, an international workshop on the project of designing a national competition barometer.

The objective of this tool is to monitor and analyze the state of competition in the markets and sectors of the national economy.

It was an opportunity to exchange with experts from various international organizations such as the OECD, UNCTAD, the World Bank Group, or partners such as the Competition Authority of Spain and South Africa.

First, the latest research on economic barometers around the world was reviewed and then the optimal modeling of indicators able to follow the evolution of competition was addressed.

This exchange of experiences facing issues of common concern and challenges, by mobilizing the collective intelligence of the authorities and international bodies responsible for competition issues, has been able to enrich the tools and analysis grids pre-established by the Moroccan Competition Council, based on scientifically valid standards, and on technical and statistical criteria complying with international standards.

For this purpose, the workshop allowed the identification and examination of recent developments in the setting up of economic barometers around the world, and highlighted the best approaches and instruments adopted for the development of a reference system based on competition measuring indicators.

The reference framework to be put in place by the Competition Council should be based for the definition of indicators on a reduced but reasonable and relevant number of indicators representative of the most essential and determining dimensions of the object of the National Competition Barometer, and focusing both on the behavior of the actors and those of the markets structures.

The examination of the sectors in this project will be based on a weighting corresponding to the respective weight of the sectors subject to malfunctions and those with good practices in terms of compliance with competition rules.

In this perspective, two categories of criteria are proposed:

– The criteria taking into account the strategic objectives of the Council, namely the sectors with a strong impact on the purchasing power of citizens, the competitiveness of companies, and the securing of the supply of the internal market in capital goods, consumer goods and strategic raw materials for the national economy;

– The criteria falling within the framework of the national economic roadmap.

II. Communication from the Competition Council

For the Competition Council, communication is a key tool for action and a strategic lever for popularizing sound competition rules and raising awareness in the national business ecosystem of competition regulation.

In this respect, the Council has embarked on a new advocacy dynamic, integrating both a constant openness to the economic world and a national and international strategic partnership.

Within this framework, and based on its attributions in terms of awareness-raising, the Council has pursued an educational approach enabling it to educate the public on the content of competition law and to highlight the benefits of sound, free and fair competition.

But beyond these very important objectives, the fundamental role of the Competition Council is also part of a perspective of strengthening the competitive culture of economic actors in order to advance the values of free and fair competition and promote this culture in society.

In this perspective, this effort has resulted in two major channels which are:

- The so-called substantive communication that resulted in the promotion of the work of the Council in terms of opinions, decisions, institutional mechanisms put in place as well as advocacy;

- The so-called educational communication which consists of raising awareness, informing and educating public on competition law and popularizing it to prevent any distortions that could occur in the markets. This is both a preventive and dissuasive approach aimed at encouraging competition actors who do not have a good knowledge of competition law or are unaware of it, not to infringe the rules of the market.

In terms of communication, public relations and advocacy, the year 2021 was marked by several actions:

A. The media and the Competition Council

Given the importance of the media in promoting the institution of competition regulation, its actions and the culture of competition, the Council has put in place during the year 2021, certain mechanisms allowing it to manage its relations with the press.

Among these mechanisms are:

- The publication and promotion of the Council's opinions, mainly through the media and publications in the written, digital and audiovisual press, interviews, as well as on the website of the Competition Council, which is an electronic platform providing relevant stakeholders and the general public with useful information concerning the institution, its activities, its publications and its news. It should be noted that the Council's website was consulted 6,072 times by 932 visitors in 2021;

- The promotion and media coverage of the various signing ceremonies for cooperation charters or partnership agreements, with sector regulators and constitutional and public institutions having a field of action of common interest, as well as the meetings planned for the exchange of experience and debate around themes relevant to markets in general.

1. Media Relations

A pedagogical approach of the Council is adopted consisting in associating the media in the process of raising awareness of the virtues of competition and their strong impact to promote a competitive environment and to anchor the culture of competition within the Moroccan public opinion.

For this purpose, the Council has forged, during the year 2021, constructive relations with the media to:

- Contribute to publicizing the Competition Council, as an independent institution responsible for competition regulation, transparency and the fairness of economic relations, which intelligently aspires to convince and guide the behavior of competition actors and whose role is crucial in economic governance;

- Raise awareness of the benefits of free and sound competition, in the service of consumer protection and the preservation of citizens' purchasing power;

- Highlight any anti-competitive practices observed in different sectors, as well as any unfair practices that could harm the proper functioning of the markets;

- Dealing with topics related to competition law and economics;

- Contribute to the work undertaken by the Competition Council with a view to supporting the economic world and encouraging it to respect the rules of competition law, by promoting its actions through reports, special files, articles, as well as analyzes on competition issues.

2. Press briefings and interviews

The Council organized, during 2021, several press briefings and granted interviews (audiovisual, written and electronic press) during targeted meetings or after the publication of opinion or decisions of the Council or the signing of cooperation charters with national or international partners.

Indeed, the year 2021 was marked by 5,227 reports citing the Competition Council, all media combined, with a monthly average of 439 articles. The peak was recorded in March with 1,357 articles, the date which corresponds to the publication of the press release from the Royal Cabinet related to the orientations of His Majesty the King Mohammed VI, may God assist Him, with regard to the missions of our institution and the appointment of the President of the Competition Council and these alone represent 25% of the overall volume

3. Press Releases

During the same year, the Competition Council inscribed in a logic of transparency and openness in terms of communication by working to publicize all its actions in a timely manner.

For this purpose, the Council published and disseminated 117 press releases relating to the receipt by the Council of economic merger operations, pursuant to the provisions of Article 10 of Decree No. 2.14.652 of 8 Safar 1436 (1st December 2014) taken for the implementation of law No. 104.12 on freedom of prices and competition.

In addition, the Council has issued several press releases to inform the media and public opinion about its publications, work and activities.

B. Awareness-raising and information meetings

During the year 2021 and in order to better target its communication with the main players in competition, the Council carried out actions to encourage listening and exchange with the business world and the academic world, with a view to associate and involve them in its strategy of promoting competition and the advantages of compliance with market rules.

Thus, were held:

- A meeting between the Competition Council and the General Confederation of Moroccan Enterprises

The Competition Council of the General Confederation of Moroccan Enterprises, held on July 13, 2021, at the headquarters of the CGEM, a first working session to discuss the issues of the judicial and legal framework concerning competition, price freedom and consumer protection.

During this meeting, the President of the Competition Council insisted on the fact that sound competition is an essential pillar for the construction of a solid and efficient economy. The fair competition and freedom of prices are able to ensure the consumer better availability of products and services at reasonable prices. Proper compliance by companies with the legal framework relevant to freedom of prices and competition is the guarantee of the protection and sustainability of their investments. The Competition Council will firmly ensure compliance with these rules, while remaining driven by an open-minded and pedagogical spirit to help companies move towards embracing in the best practices in this area.

The President of the CGEM reiterated the total adherence of the Confederation to the principles of free competition. He also recalled the major challenge for our booming economy, a clear, transparent and fair application of competition and merger control rules. The harmful impact of the informal sector on the national economy was also raised by the President of the CGEM, who considers the integration of the structured informal sector as an emergency that must be dealt with by adopting a progressive, incentive and inclusive approach.

The Competition Council and the CGEM have affirmed their desire to strengthen their cooperation and work together to involve more stakeholders in the process towards a free, transparent market accessible to all. This collaboration is part of the two institutions' commitment to sound and sustainable economic development, creating growth and sustainable jobs.

–A meeting at the International University of Rabat (UIR) with master students and law teaching fellow (teacher-researchers)

The President of the Competition Council was the guest of the International University of Rabat, on December 07, 2021, to lead a conference on: "The mission of the Competition Council".

This conference, to which the Secretary General of the Council contributed, focused on the missions and attributions of the Council, the genesis of competition law at global and national level, as well as certain procedural aspects concerning competition law and its implementation.

The President of the Council specified, during this conference, that the regulatory institution has embarked on a process of reconstruction, making it possible to rethink competition on new bases, and whose spirit emanates from the roadmap drawn up by the guidelines of His Majesty the King Mohammed VI, may God assist Him, as dictated in the Royal Cabinet press release of March 22, 2021.

It should be emphasized that this meeting is part of the Competition Council 's approach to communication, which consists of raising awareness among competition actors of the interest of compliance with competition law, highlighting the virtues the competition offers to consumers and businesses in terms of competitive prices, quality, innovation, choice, investment and, ultimately, job creation. But also, within an educational approach to promote and anchor the culture of competition among the actors in the ecosystem of competition regulation and in particular within the academic world, with a view to encouraging future lawyers and researchers to take an interest in this specific law, and to integrate the vision of the Competition Council, starting from the principle that compliance with competition law is a value of good Civic-mindedness and Citizenship and that free and fair competition is a component of the rule of law.

III. The perception survey of competition in Morocco

As part of its action plan for 2019-2023, the Competition Council has decided to conduct an annual opinion poll to measure the level of perception of competition by operators eligible to participate in it.

Carried out in 2021, this survey involved a representative sample of two types of actors:

– Companies from 16 sectors of the Moroccan activities classification;

– Stakeholders other than companies made up of regional councils, sector regulatory bodies, ministries, standing committees of Parliament, commercial courts, trade unions, professional associations, chambers of commerce, industry, services and consumer associations recognized as being of public utility.

The purpose of this survey is to collect indications and trends on practices and competition issues at the level of the sectors analyzed and to assess the level of knowledge of the regulations governing the field of competition and the action of the Council de competition.

In addition, and from the categorical data resulting from this survey, a competition perception index (CPI) was calculated by integrating four indices: the knowledge index, the satisfaction index, the perception index and the expectation index.

These indices provided the Council with indications on the points for improvement and the actions to be implemented for more appropriate governance and regulation of competition.

A. Major trends in surveys for companies

The main trends that emerge from the survey of companies is the existence of disparities at the level of sectors and regions concerning the themes measured:

– Competition law remains relatively unknown to the operators surveyed and adherence to its rules is limited. In fact, 41% of companies declared that they were familiar with competition law. This rate is more significant among large enterprises, of which 52% declared knowledge of this area. At the sector level, the production and distribution of electricity and water are the two sectors which are most familiar with competition law compared to the other sectors analyzed.

From a regional perspective, the regions of Draa Tafilalet and Oriental show the best knowledge of competition law, estimated for each at 49% for a national average of 43.3% overall.

– Knowledge of the existence of a competition regulatory authority represents an insufficiency which is noted at the level of the companies of the whole regions of Morocco. Overall, the latter show an average of approximately 12% of companies having confirmed that they are aware of the existence of the Competition Council. At sector level, companies in the financial and insurance activities sector declared that they were fully aware of the existence of the Council.

– The role of the Competition Council, in almost all companies, was measured by asking about at least one role that this institution should play, and 8% of companies were able to cite a case handled by the Competition Council over the last three years.

The companies also declared that the missions of an institution in charge of competition in Morocco should focus on the control and the fight against anti-competitive practices for 70% of companies and on the control of merger and monopoly practices and the regulation competition on the markets for respectively 58% and 49%. In relation to this subject, a disparity is observed between large enterprises and mid-sized enterprises. The first category displays a better awareness of the role that an institution in charge of competition should assume.

The survey devoted a section to identifying competitive issues specific to national business sectors. The following situations were cited by respondents as being problematic for the sectors concerned:

– The existence of informal units essentially concerns business sectors linked to extractive industries, followed by real estate activities mainly, real estate agencies and the catering and hotel sectors;

– Monopoly and unfair trade practices are present to probably varying degrees according to the respondents, who denounce them mainly within the sectors of water and electricity production; clinics and other health establishments and within trade and manufacturing industry sectors;

– The practice of excessively low prices was observed, according to respondents in companies operating in the transport and warehousing, manufacturing industry, commerce and private educational establishments sectors.

For the companies surveyed, these findings are reason enough to comply with competition law. Related to this, only 24% of them assured that they had a guide for compliance with competition law, while less than a third of the large enterprises interviewed said they had one.

The latter, up to 31%, considers the existing legal provisions which regulate competition at market level unsatisfactory.

Nevertheless, companies agree on the fact that their dissatisfaction with the business climate in Morocco stems mainly from the non-enforcement of the law and the lack of communication and transparency. Similarly, 92% of these companies confirmed the existence of remedies to guarantee rights in the event of unfair competition.

B. Trends for non-corporate stakeholders

The indicators that emerge from this second part of the survey show a better knowledge of the competition environment and its issues and expectations similar to those of companies in terms of competition regulation.

– Regarding knowledge of competition law, 65% of the respondents declared to know it and the majority of respondents are aware that this right is governed by several principles: economic merger and monopoly operations for 94.3% and the prohibition of anti-competitive and commercial practices and abuse of a dominant position for 92% of the respondents.

– Regarding the existence of a competition regulatory authority, 90% of the respondents declared to know the Competition Council as the competition regulatory authority in Morocco and 86% of the respondents were able to know at least one of the cases handled by the Competition Council competition over the past three years.

– Regarding the role of the Competition Council, 77% of the respondents, stated that the Competition Council is a regulator that monitors and fights against anti-competitive practices. It is also the guarantor of transparency in economic relations for 72% of respondents and of the regulation of competition in the various markets for 66% of respondents.

– Regarding competitive issues, which were the most frequent mentioned by respondents relate to unfair commercial practices for 75% of the respondents, practices that restrict competition for 67% and regulations restricting entry to the market for 65% of them. In addition, two out of three respondents indicated that they had faced a competitive problem in connection with the abuse of a dominant position or with abusively low prices and a minority declared that they had a compliance guide but do not provide any training on competition law for the benefit of employees.

The perception of the level of seriousness of anti-competitive practices is quite high according to respondents other than enterprises. The existence of informal units was cited as the most serious and impactful practice (92%). Abuse of a dominant position and restrictive market entry practices rank second in terms of seriousness (90%).

On the basis of these issues, the respondents affirmed that the Competition Council has decision-making power on issues related to economic merger for 73% of respondents and has authority to guarantee sound and fair competition for 50% of respondents.

Concerning the action of the Competition Council, despite the satisfaction expressed by more than 67% of the respondents, 60% of the latter estimated that the current legal provisions which regulate competition at the level of the Moroccan market do not meet the requirements and changes of the economic context.

Regarding the expectations expressed, enterprises of all sizes, as well as respondents, to serve the establishment of fair and appropriate governance and regulation of competition, have agreed on the necessity of the independence of the institution responsible for regulating competition as well as on the rapid processing of cases and on the appropriate application of sanctions in the event of anti-competitive behavior.

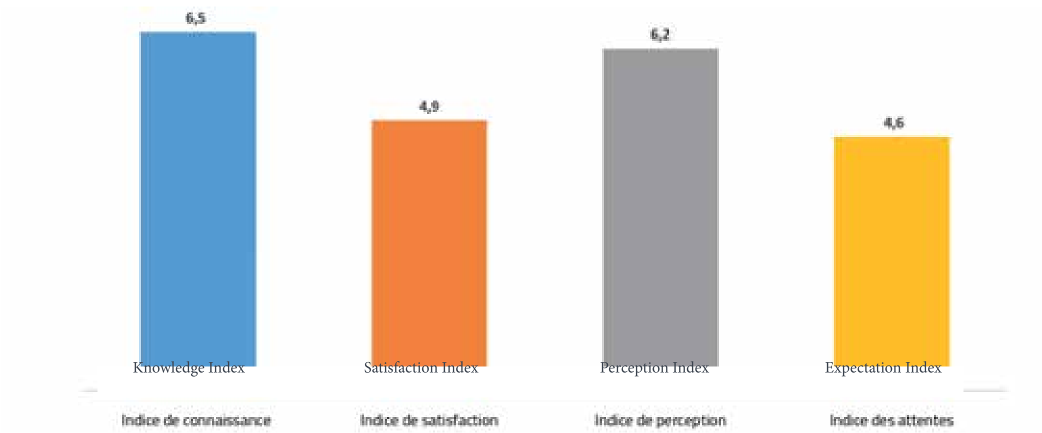
For 46% of the respondents, regulation could guarantee sound and fair competition within a sector of activity.

C. The competition perception index

The competition perception index (CPI) is a weighted average of four indices: the knowledge index, the satisfaction index, the perception index and the expectation index.

The perception of competition varies according to a scale of 0 to 10. It is considered high when this index is close to 10 and low, or even zero when it is close to 0. The calculation of the various indices gave the following results:

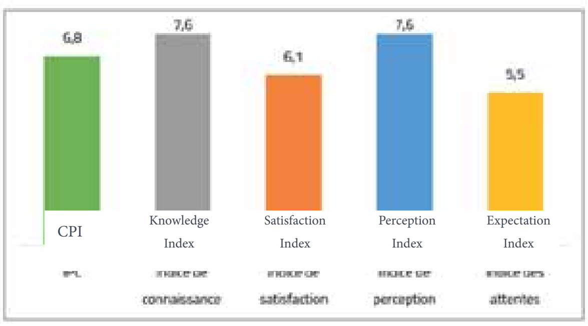
Chart N°. 27: The knowledge index, the satisfaction index, the perception index and the expectation index



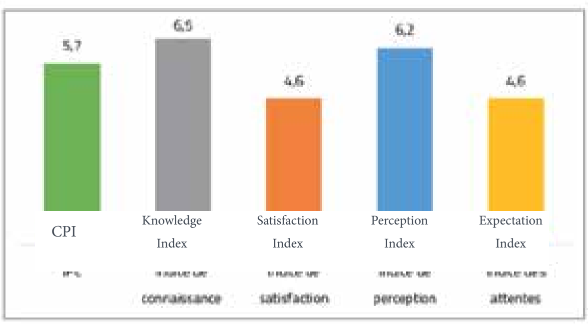
The CPI varies according to the size of enterprise. It is higher for large enterprises compared to other enterprises, i.e. 6.8 versus 5.7.

Chart N°. 28: The competition perception index, the knowledge index, the satisfaction index, the perception index and the expectation index for large enterprise and for VSEs and SMEs

- For Large Enterprises



- For VSEs and SMEs



The survey allowed to draw up a list of levers for improving the action of the Competition Council and the perception of competition:

Active and Transparent Communication	- Communicate widely on the law governing competition; - Communicate on the various actions undertaken by the Competition Council as well as the various partnerships; - Disseminate the progress of "ongoing" files using the various channels available, particularly digital one.
Conduct of change &	- Involve the various stakeholders as part of a change management plan with the main objective of ensuring enterprises adherence to good practice in competition law; - Offer training for the benefit of companies as well as for stakeholders.
Reactivity	- Accelerate the processing of referrals; - Implement a referral monitoring unit; - Automate the receipt of referrals by sending personalized emails according to specific deadlines
Periodic monitoring	-Opt for annual or biennial monitoring of levels of perception, knowledge, satisfaction and expectations

In summary, the expectations of enterprises and stakeholders concerning the action of the Competition Council, following the trends that emerge from the survey, relate essentially to two points for improvement: raising awareness and promoting the culture of competition in Morocco, communicating the decisions and opinions issued and putting at the outreach of all stakeholders the sector studies and inquiries carried out.

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Composition of the Competition Council

President	The Secretary General
Ahmed RAHHOU	Mohamed ABOU ELAZIZ
Permanent members	
Abdelghani ASNAINA	
Jihane BENYOUSSEF	
Abdellatif EL M'KADDEM	
Hassan ABOUABDELMAJID	
The advisory members	
Benyoussef SABONI	
Abdelaziz TALBI	
Touhami ABDELKHALEK	
Abdeltif HATIMY	
Rachid BENALI	
Saloua KARKRI BELKEZIZ	
El Aid MAHSOUSSI	
Bouazza KHERRATI	
The Government Commissioner	
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