

Niger: Selected Issues



NIGER

SELECTED ISSUES

July 2019

This Selected Issues paper on Niger was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed on June 13, 2019.

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Washington, D.C.



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June 13, 2019

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African Department

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NAVIGATING THE CHALLENGES OF GOVERNANCE IN NIGER¹

Over the past few years, Niger has made significant headway in improving governance and strengthening its anti-corruption framework. While welcome steps have been taken to update legislation, gaps remain, and implementation poses major challenges, with surveys finding that corruption is still pervasive and entrenched. This paper takes stock of Niger's tools to directly and indirectly combat corruption and shows that shortcomings in public-sector governance take a toll on private-sector development, especially young firms and exporters. Measures to advance Niger's anti-corruption agenda are laid out.

A. Background

1. As is often the case in low-income countries, corruption is pervasive and entrenched in Niger (Figure 1). According to a widely accepted definition, corruption refers to the abuse of public office for private gain (IMF, 1997) and can take various forms, ranging from “petty” (small-scale) and bureaucratic corruption to “grand” political corruption involving high-level officials. President Issoufou’s “Maïboulala” (whip) anti-corruption drive launched at the start of his second mandate in 2013 brought to light financial malpractices in public enterprises, favoritism in customs, and ghost contractual workers, and irregular recruitments in the education and health sectors. Nonetheless, much remains to be done to improve the situation on the ground. A recent government survey found that 86 percent of respondents recognized widespread corruption in Niger, with customs and tax administrations perceived to be the most corrupt, followed by the police and public procurement services. Political organizations, civil society, and traditional leaders are not immune either, albeit to varying degrees. Corruption ranked fourth among the main obstacles in the business environment, according to the World Bank enterprise survey conducted in 2017.

2. While most recent indicators on governance concur with the government survey results, corruption in Niger seems perhaps somewhat less prevalent as in SSA on average (Figure 1).² The Afrobarometer readings imply lower perceptions of corruption for virtually all segments of the society relative to the WAEMU and SSA averages. While 62 percent of respondents in Niger felt that the level of corruption in the country increased over the past year (against 46 and 51 percent for the WAEMU and SSA respectively on average), they were relatively fewer to report the need to pay a bribe to access basic government services. The Transparency International Corruption Perceptions Index (TI-CPI) and the Worldwide Governance Indicator for control of corruption (WGI-CCI) suggest that Niger performs above the SSA average. But it scores below the

¹ The author would like to thank the Niger team and participants of the governance brainstorming session for extensive comments.

² WAEMU: West African Economic and Monetary Union; SSA: Sub-Saharan Africa.

WAEMU average according to the Varieties of Democracy Project,³ except for judicial corruption capturing the extent to which individuals or businesses offer kickbacks to influence judicial decisions in their favor.

3. The government survey lists a combination of factors behind the prevalence of corruption in Niger. The politicization of public services, lack of administrative controls, and weaknesses in the judicial system, including limited capacity to enforce the law, prepare fertile grounds for corruption. This is further exacerbated by low public-sector salaries, poor professional integrity, and deteriorating civic values.

4. The adverse macroeconomic implications of corruption have been extensively documented in the literature. Corruption can undermine the ability of the state to achieve sustainable and inclusive growth through a variety of channels. It can lead to suboptimal economic performance by lowering the volume and quality of public and private investment and undermining the ability of the state to carry out its basic functions, including raising revenues and providing public services. It distorts the use of public funds by diverting resources to projects or activities that offer greater opportunities for kickbacks, usually at the expense of social spending. Corruption also hinders monetary and financial stability and weakens citizens' trust in public institutions and processes.⁴

5. Against this background, this paper describes Niger's anti-corruption framework, discusses how broader public-sector governance reforms can contribute to curbing corruption, assesses the impact on the private sector, and suggests measures to advance anti-corruption reforms. It accords particular attention to those governance weaknesses that typically give rise to corruption, in line with IMF's 2018 guidance note. After taking stock of the state of anti-corruption legislation and institutions in Niger, as well as the asset declaration and AML/CFT regimes, the paper turns to broader reforms that do not explicitly target corruption but make an indirect contribution by reducing susceptibility to corruption. These include reforms in revenue administration, public financial management (PFM)—including procurement and investment—the governance of state-owned enterprises (SOEs), natural resource management, and fiscal transparency. The paper goes on to discuss how poor public-sector governance affects the conduct of business by the private sector and concludes with suggestions to take Niger's anti-corruption agenda forward.

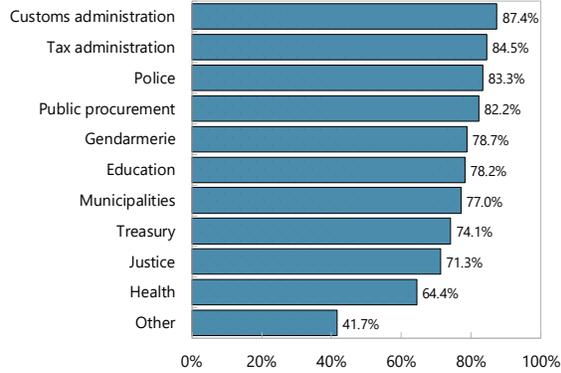
³ The Varieties of Democracy (V-Dem) Project is a worldwide collaboration co-hosted by the University of Gothenburg in Sweden and the University of Notre Dame in the U.S., aimed at collecting a wide range of democracy-related data, currently covering 202 countries from 1789 to 2018. Funding comes from research foundations and donor countries. The database includes original indicators compiled from expert surveys and covering the perception of both petty and large-scale corruption in the executive, legislative, and judicial branches. They measure the extent to which public sector employees (public sector corruption) and members of the executive (executive corruption) engage in bribery, embezzlement and theft, as well as abuse of position by members of the legislature for financial gains (legislative corruption), and bribes extended by businesses to influence law making in their favor (judicial corruption).

⁴ See IMF (2016) for a detailed discussion of the economic and social costs of corruption and weak governance.

Figure 1. Niger: Perceptions of Public Sector Corruption

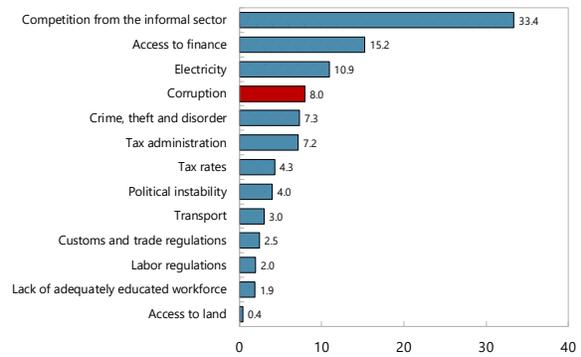
Perceptions of Corruption in the Public Sector, 2018

(percent of respondents)



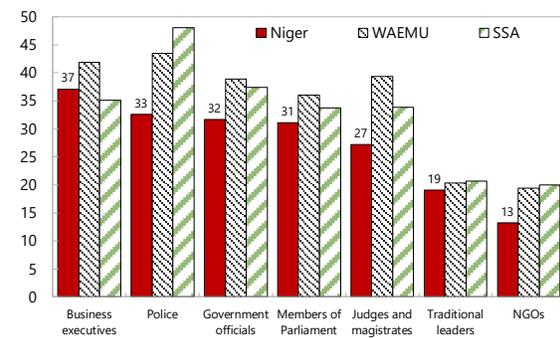
Top Business Environment Obstacle for Firms, 2017

(percent of firms)



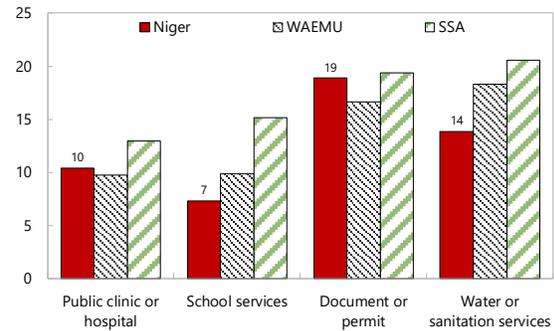
Afrobarometer: Perceptions of Corruption by Occupation, 2016-18

(percent of respondents)



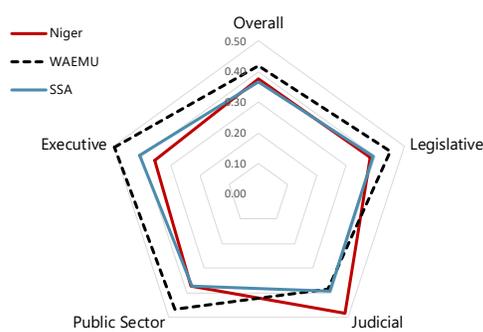
Bribe Payments to Access Public Services, 2016-18

(percent of respondents)



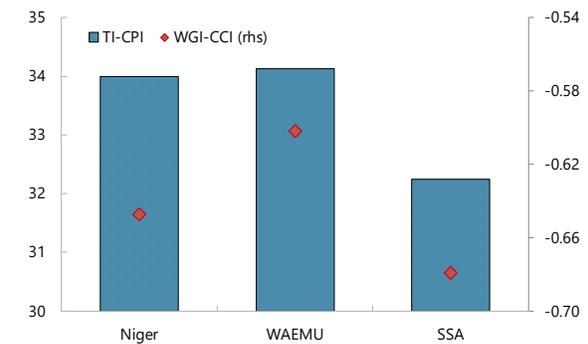
VDem: Perceptions of Corruption, 2018

(higher scores indicate better governance)



TI-CPI and WGI-CCI: Perceptions of Corruption, 2017-18

(higher scores indicate better governance)



Sources: Nigerien authorities, World Bank Enterprise Surveys, Afrobarometer, Varieties of Democracy (VDem) Project, Transparency International, Worldwide Governance Indicators, and IMF staff calculations.

B. The Anti-Corruption Framework: Progress So Far and Challenges Ahead

Anti-Corruption Institutions and Legislation

6. The authorities profess commitment to fight corruption and have taken steps to revamp the anti-corruption framework. Niger is a party to the United Nations Convention Against Corruption (UNCAC), the African Union Convention on Preventing and Combatting Corruption (AUCPCC), and the ECOWAS Protocol on the Fight Against Corruption. At the national level, combatting corruption is mandated under the 2010 Constitution and the Criminal Code penalizes graft, trading in influence, and the misappropriation of public funds. In 2011, the government adopted a decree that created HALCIA, the High Authority to Combat Corruption and Related Infractions. It was strengthened in 2016, when the decree was replaced by organic law that bolstered HALCIA's investigative powers, allowing it to directly refer corruption cases to the Public Prosecutor and initiate investigations on its own, and that introduced a protective mechanism for witnesses, informers, and experts. Similarly, an anti-corruption hotline—*Ligne Verte*—was opened in 2011 within the Ministry of Justice and tasked with recording and investigating corruption offences in the judiciary. In January 2018, the government adopted a National Anti-Corruption Strategy (NACS)—a three-year action plan focused on reinforcing prevention, repression, and coordination in the fight against corruption. As part of its rollout, anti-corruption awareness campaigns have been stepped-up across the country since April 2018.

7. Niger is also equipped with legal and regulatory audit bodies that contribute to combatting corruption and promoting good governance. The Audit Court is the supreme audit institution (SAI) responsible for scrutinizing the lawful collection and use of public resources, and can therefore prevent, detect, and report on corruption cases. The office of the state inspector general (IGE) under the authority of the President of the Republic has a broad mandate for overseeing the proper use of public funds, while the office of the inspector general of administrative governance (IGGA) monitors compliance with the laws governing public administrations and reports to the Prime Minister. The office of the finance inspector general (IGF) has a similar role within the Ministry of Finance. More generally, each ministry hosts a technical inspectors' office charged with ensuring compliance with procedures and regulations. DCMP/EFE and ARMP oversee public procurement processes.⁵ Dedicated chambers specialized in trying cases of misappropriation of public funds were also established within the Commercial Court of Niamey and the Appeals Court.

8. Despite significant headway, legal, institutional and implementation gaps remain. Niger is not fully compliant with UNCAC requirements, with the 2016 implementation review report of UNCAC's Chapter III (Criminalization and Law Enforcement) and IV (International Cooperation) identifying deficiencies in the legal framework. These include for instance the lack of criminalization of the active bribery of foreign public officials, and the absence of provisions and agreements to establish joint investigations with other states. While enjoying additional prerogatives, HALCIA remains attached to the Office of the President of the Republic, lacks financial autonomy, and faces

⁵ DCMP/EFE : Direction générale du contrôle des marchés publics et des engagements financiers de l'Etat ; ARMP : Agence de régulation des marchés publics.

constraints in terms of financial and human resources, which hinder its activities and independence. Despite receiving a sizable number of cases, the anti-corruption agency so far has only referred a handful to the Public Prosecutor. Sanctions are poorly enforced, with only three cases having led to convictions to date, partly also reflecting weaknesses and institutional shortcomings in the judiciary. Anecdotal evidence suggests that offenders are usually granted release if able to pay back the embezzled funds. In the same vein, *Ligne Verte* is underfunded and none of the complaints it recorded so far have had legal consequences. Finally, the multiplicity and overlap in mandate of actors overseeing the use of funds in the public sector is at odds with the limited availability of resources reported by audit bodies.

Asset Declaration

9. The coverage of high-ranking public officials required to declare assets is incomplete, with key legislation missing, and family members and close associates are not included. While the range of public officials obliged to disclose assets tends to vary across countries, international experience recommends a risk-based approach striking a balance between public-sector transparency and implementation capacity. In Niger, the Constitution mandates asset disclosure of the President of the Republic, the members of the government, the presidents of the other institutions of the Republic and heads of independent administrative authorities.⁶ While it relegates the coverage of other high-ranking officials to subordinate legislation, such legislation has not been adopted to date. Under the previous Constitution, Law n°2002-003 enumerated the other government officials in the executive, legislature, judiciary, and public administration subjected to asset declaration, but without prioritizing individuals at particularly high risk of corruption. As a result, the list of officials with filing obligations is rather long, especially given Niger's capacity constraints in processing all declarations. Moreover, although best practices recommend the inclusion of family members and close associates in disclosure requirements since proceeds of corruption can be easily registered under their name, they are not covered by the current asset declaration regime.

10. The law also fails to specify the list of assets to be declared. International best practices recommend the depth and breadth of disclosure requirements reflect the objectives assigned to the asset declaration regime (e.g., identifying conflicts of interest, detecting illicit enrichment, etc.), without overburdening the filer and the entities tasked with collecting, processing, and verifying the data. Subsequently, filers should be mandated to provide a broad range of information including personal identification information, such as filer's name, date of birth and position, immovable and movable assets, income, stocks and securities, bank accounts, liabilities, cash, interests, gifts, and beneficial ownership (Rossi et al., 2017). According to the Audit Court, high-level public officials in

⁶ The other institutions of the Republic refer to high-level bodies such as the National Assembly, the Constitutional Court, the Audit Court, the Court of Cassation, the State Council, the Economic, Social and Cultural Council, the Independent National Electoral Commission, the National Human Rights Commission, the Office of the Ombudsman and the Higher Council for Communication. Independent administrative authorities are regulatory bodies operating in various sectors such as telecommunications (ARCEP or Autorité de Régulation des Communications électroniques et de la Poste) and water (ARSEau or Autorité de Régulation du Secteur de l'Eau). There is no legal text clearly laying out the list of institutions of the Republic or independent administrative authorities.

Niger are expected to declare immovable and movable assets—including animals possessed—and bank accounts, but the underlying piece of legislation formally establishing these requirements is missing. There is no legal text setting the content of the disclosure form either, resulting in disparities across submitted forms. More importantly, the law is silent about whether filers are obliged to declare assets beneficially owned, both domestically and abroad, hence leaving large loopholes.

11. The frequency of asset disclosure by high-ranking officials is in line with best practices, with only the President of the Republic’s submission deadline at exit from office missing. Submission deadlines are regulated by the Constitution and the Audit Court’s 2012 organic law. Public officials are required to declare their assets at the beginning and at the end of their tenures, with annual updates. Specifically, the President of the Republic is mandated to disclose his assets within 48 hours following the investiture ceremony, with the declaration received by the Constitutional Court and communicated to the Audit Court and tax authorities. The Prime Minister, Ministers, presidents of the other institutions of the Republic, heads of independent administrative authorities and any other public official subjected to asset disclosure are expected to submit their declarations to the Audit Court within 7 days after the start of their mandate. Annual updates should be submitted to the SAI within the first month following the anniversary of the initial declaration. Discrepancies between the initial declaration and subsequent updates must be duly justified. As for termination of service, declarations are due during the month following the date of leaving office.

12. The Audit Court is responsible for verifying the accuracy and completeness of asset declarations of all public officials, including the President of the Republic.⁷ The SAI has the power to investigate the content of asset declarations, and can request clarifying information from the financial sector, tax authorities, and property registries for this purpose. In the event of irregularities, the case is referred to the competent law enforcement body. Verification is carried out for all declarations and is solely offsite.

13. While the law provides for criminal sanctions in case of inaccurate or false disclosures, it does not penalize non-compliance with the requirement to declare. According to the Criminal Code, public officials convicted with fraudulent submission could face between 5 and 10 years of prison and a fine of CFAF 20,000 to CFAF 1 million. According to the Audit Court, there are no major obstacles to the application of sanctions once the facts have been clearly established. However, failure to file a declaration, late submissions, and incomplete filings are not sanctioned by law, translating into a relatively high prevalence of non-compliance by government officials (those covered by the Constitution), as flagged by the Audit Court. While the SAI publishes the list of non-filers in its annual general reports, in practice such disclosure has little effect on deterring non-compliance, with most non-filers continuing to violate disclosure requirements in subsequent years.

14. Consistent with international standards, the law mandates public access to government officials’ asset declarations, but compliance is uneven. The declarations (initial, updates, and at exit from office) of all government officials mandated to disclose their assets are to

⁷ The Constitutional Court also controls the asset declaration of the President of the Republic.

be published in the Official Gazette and by way of press. This should facilitate scrutiny by civil society, ease information sharing with foreign authorities and facilitate implementation of customer due diligence measures by local and foreign banks. In practice, the website of the Audit Court is not functional, and only the President of the Republic's asset disclosures are up-to-date and accessible on the Constitutional Court's website, those of the Prime Minister and Ministers being only available through 2008. Asset declarations of the presidents of the other institutions of the Republic and heads of independent administrative authorities are also missing.

AML/CFT⁸ and Financial Sector Oversight

15. An effective AML/CFT framework can contribute to both prosecuting and deterring corruption. Niger has made commendable progress in updating and aligning its AML/CFT framework with international Financial Action Task Force (FATF) standards, including by transposing the WAEMU 2015 uniform law into national legislation in 2016. While compliance with the 2012 FATF standards will be formally assessed by the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) in January 2020, legislation to improve the AML/CFT regime continues to be adopted. Recent measures include (i) the revision of the Criminal Code to introduce new criminal offences, such as illicit enrichment and abuse of office; (ii) the revision of the Code of Criminal Procedures to empower the judiciary regarding asset tracking, freezing, seizure, and recovery; and (iii) decrees on the administrative freezing of funds and assets, and (iv) the creation of the Central Agency for the Management of Seized, Confiscated, Frozen, and Recovered Assets, with appointment of its director general. Provisions obligating the real estate sector, the business introducer profession, and public notaries to participate in the AML/CFT effort were also adopted in 2018.

16. Niger's financial intelligence unit (FIU) plays a key role in the fight against ML/TF but effectiveness remains a challenge and collaboration with the regional banking supervisor is limited. CENTIF⁹ was created in 2004 within the Ministry of Finance and is a member of the Egmont Group, an international network of FIUs. It organizes capacity building, training workshops, and awareness-raising seminars for entities involved in AML/CFT. It was recently involved in the elaboration and validation of AML/CFT guidelines aimed at supporting financial institutions and designated non-financial businesses and professions (DNFBPs) in implementing the law. Despite these efforts, only the banking system has been carrying out customer due diligence and transmitting suspicious transactions reports (STRs). By end-2018, only two out of the 33 cases referred to the Public Prosecutor since its inception has led to a conviction despite several indictments, possibly reflecting weaknesses in the judiciary. Collaboration with the regional regulator is weak, as the WAMU Banking Commission does not share the outcome of its supervisory activities with the FIU. It reported having visited only one bank and two microfinance institutions in Niger during 2016-18.

⁸ Anti-Money Laundering and Combatting the Financing of Terrorism.

⁹ Cellule Nationale de Traitement des Informations Financières.

17. Niger’s recently-completed national risk assessment (NRA) identifies corruption as a predicate offence to money laundering. The NRA was launched in November 2016 to identify sectoral vulnerabilities to ML/TF and was conducted with support from the World Bank and GIABA. Early results highlight several sources of vulnerability to money laundering, including the large size of the informal sector, the cash-based nature of the economy, poor border control and enforcement, and weak supervision and sanction of financial institutions and DNFBPs.

C. Public Sector Governance and Corruption Vulnerabilities

18. Measures to improve the treasury system and revenue institutions under the IMF’s Extended Credit Facility (ECF) arrangement come with the added benefit of reducing opportunities for corruption, thereby helping to reduce it indirectly.

- **Once fully implemented, the Treasury Single Account (TSA) should enhance the oversight of public funds** by transferring the accounts of public entities to a designated account at the central bank and the treasury.
- **The computerization of revenue administrations contributes to lowering susceptibility to corruption.** It includes the rollout of the SISIC software in tax administration, increased utilization of ASYCUDA in the customs department, as well as the phasing out of cash payments of taxes and customs duties. Salaries of civil servants and government employees have also been paid through banks and the post office or with mobile money since early 2019. Such efforts to digitalize government financial operations could reduce vulnerabilities to corruption by limiting face-to-face interactions between taxpayers and officials, and by helping identify irregularities or ghost workers. Additionally, enhanced cooperation between tax and customs administrations through the linking of their IT systems could help detect and combat fraud.
- **The implementation of transaction valuation of imports and the adoption of a risk-based inspection regime of containers with emphasis on post-clearance audits** should reduce scope for tax evasion and collusion at the border.
- **The planned drive to consolidate and streamline tax exemptions and improve their management should curb the corruption-prone granting of discretionary tax exemptions.**
- **Incentives for corruption could also decline in the wake of the civil service law,** which emphasizes performance-based management, ethics, and better human resource management. A biometric census of civil servants, contractual government workers, and recipients of scholarships is underway, with a view to establishing a comprehensive registry which should, inter alia, help eliminate leakages by identifying ghost workers and duplicate payments.

19. A recent assessment of the governance of state-owned enterprises (SOEs) against international standards highlights weaknesses that can create corruption vulnerabilities. First, the 1986 legal framework regulating SOEs is outdated, thus creating legal gaps and inconsistencies.

Second, while a directorate (DEP/PE)¹⁰ within the Ministry of Finance exercises financial supervision of SOEs, its mandate is not defined by law and limited resources hamper its activities. Also, in practice, supervision is fragmented between the Ministry of Finance and line ministries, and, even within the former, several directorates are involved in the monitoring of SOE activities without systematic coordination. Third, the assessment of SOE performance and tracking of financial operations are hindered by the lack of comprehensive and reliable statistics. Together with poor IT systems that complicate data recording and access, this creates opportunities for misappropriation of public funds, especially given the substantial resources received by SOEs from the central government. Fourth, the appointment of the board of directors is rarely consultative and transparent. The absence of objective selection criteria can lead to the nomination of board members with inadequate backgrounds. Their performance is seldom assessed, compensation packages are opaquely negotiated, and public accountability remains low since board reports are neither systematically transmitted to supervising ministries nor made publicly available. Fifth, audits are not always carried out, of low quality, or performed with delay, and results are rarely shared with DEP/PE. Online publication of financial statements is not mandatory.

20. While the legal and regulatory framework for public procurement is sound, its effective implementation remains elusive. According to a recent diagnostic based on the OECD/DAC¹¹ methodology, the legal framework for public procurement in Niger broadly conforms with WAEMU directives and international standards. However, the assessment found that in practice, a third of public procurement is single sourced or awarded by restricted tendering, well above the WAEMU norm of 10 percent. Excessive recourse to derogations from the requirement to advertise tenders within legally prescribed timelines and lack of public access to tender results and statistics hampers transparency. Processing times for applications are longer than what the national and regional norms would recommend, and ARMP does not consistently maintain procurement records. Annual procurement audits are backlogged, and their recommendations seldom implemented. Internal and external control by IGF, IGE, and the Audit Court are poor, in part due to inadequate human resources. Additionally, staff lacks training and performance assessment, and recruitments are not always competitive and transparent. Finally, the diagnostic report deplores the lack of sanctions for corrupt public procurement officials, and insufficient effort to empower participants to report mal-practices.

21. Similarly, Niger has a relatively strong institutional framework for public investment management, but implementation is weak. Niger's recent Public Investment Management Assessment (PIMA) identifies deficiencies in project appraisal and selection. The committee responsible for choosing investment projects to be included in the budget usually makes selections without rigorous feasibility and impact evaluation studies, possibly creating corruption vulnerabilities. Budgeting for capital spending is weak with inadequate mechanisms to protect ongoing investment projects. Also, limited coordination between the Ministry of Finance, the Ministry of Planning, subnational governments, and the entities overseeing public-private

¹⁰ Direction des entreprises publiques et du portefeuille de l'Etat (DEP/PE).

¹¹ Organization for Economic Cooperation and Development, Development Assistance Committee.

partnerships (PPPs) hampers effectiveness. Ex-post controls of domestically-financed projects are not systematically carried out. Externally-financed projects are mostly audited by donors, with limited resources constraining the Audit Court to a restricted number of ex-post controls the result of which are neither published nor shared with the National Assembly, hence undermining accountability and transparency in the use of public funds.

22. Despite the adoption of a modern PPP law, weaknesses in implementation leave scope to corruption. The PPP legislation regulates the selection, procurement, implementation, and oversight of PPP conventions. It favors build-operate-transfer (BOT) operations free of government financing or guarantees. In practice, the selection process of PPPs is hampered by the predominance of spontaneous offers that are not opened to competition, although the PPP law allows this only under special circumstances. Direct negotiations with suppliers are vulnerable to overpricing and kick-backs.

23. Improving the governance of Niger's oil and mineral wealth can reduce opportunities for bribery and corruption. The Constitution provides for a high degree of transparency in government reporting on revenues from the extractive industries and mandates the disclosure of contracts pertaining to the exploration and exploitation of natural resources. Despite some progress in making data on exploration, production, and export available by modernizing the mining cadaster and publishing conventions, disclosure of revenues related to extractive industries is not systematic and the publication of annual audit reports of the government's natural resource revenue collection is delayed. Extractive companies' payments to SOEs are not published. While local governments hosting extractive industries are statutorily entitled to 15 percent of all mining and petroleum royalties, are typically not made and not disclosed. Niger also quit the Extractive Industry Transparency Initiative (EITI) in 2017 when suspension was looming, but has since undertaken steps to rejoin.

24. Fiscal transparency needs to be improved to ensure public sector accountability. Niger recorded the lowest score on the 2017 readings of the Open Budget Index, which measures the degree of budget transparency based on the online availability of eight key budget documents in a timely manner, with information presented in a comprehensive and useful way. For instance, the survey found that budget audit reports are inexistent, budget proposals and year-end reports are produced for internal use only, while the enacted budget is published with an excessive delay. Neither the executive, legislature, nor SAI provide the public with opportunities to engage in the budget process, a result also in line with the lack of public debates on quarterly budget executions flagged by the WAEMU Commission in its latest assessment of Niger's implementation of the regional PFM directives. However, there have been some recent efforts to improve fiscal transparency, including with the publication of the 2019 draft budget submitted to Parliament, and the government is committed to introducing legal requirements for timely publication of key documents such as budget outturns, draft, and approved budgets (including supplementary ones), a citizen budget, major conventions with foreign investors, PPP contracts, and tender awards.

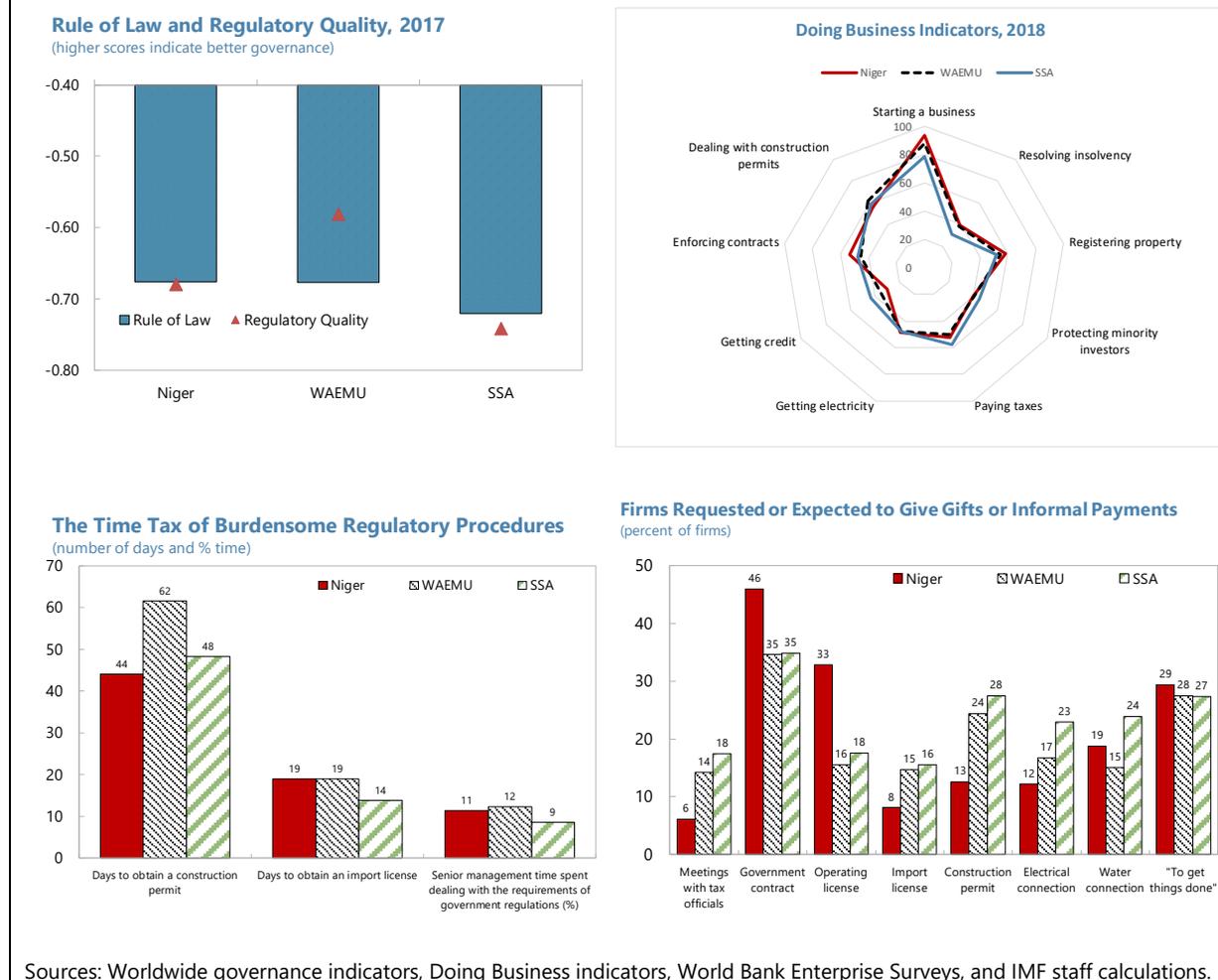
D. Implications for the Business Environment and Private-Sector Performance

25. Empirical studies demonstrate the adverse effects of poor public-sector transparency, complex bureaucracy, and corruption on the private-sector. Knack et al. (2019) find that firms are more likely to participate in public procurement markets when complete, reliable, and timely procurement information is available. They also report less kick-backs to officials when exceptions to open competition in tendering must be explicitly justified, and when effective and independent complaint mechanisms are in place. Protracted border clearance times due to burdensome customs procedures reduce export volumes (Djankov et al., 2010), while senior management's time spent dealing with regulations and inspections stunts employment growth (Aterido et al., 2011). Corruption reduces sales growth (Fisman and Svensson, 2007), with firms that pay bribes suffering more from bureaucratic red tape (Kaufman and Wei, 1999). This is also in line with Freund et al. (2015) who find that firms confronted with bribe requests take longer to get a construction permit, operating license, or electrical connection, and to clear customs when trading. Exporters faced with demands for bribes are also less likely to continue selling abroad (Vijil et al., 2019).

26. Burdensome regulatory procedures increase the likelihood of bribe requests. Interactions with public officials occur when firms pay taxes, trade, compete for a government contract, or apply for utilities connection, permits, and licenses. According to the World Bank Enterprise Surveys, it takes on average 44 days to obtain a construction permit in Niger, against 62 days for the WAEMU region (Figure 2). Delays in obtaining an import license and senior manager's time spent dealing with regulatory compliance are longer than on average in SSA. Similarly, private businesses are usually expected to give gifts or informal payments to obtain public services, with twice as many firms reporting bribe requests to obtain an operating license than in SSA on average. Exposure to corruption is also particularly pronounced for firms trying to secure government contracts.

27. Recent progress in simplifying administrative procedures should discourage public officials from exploiting complex bureaucracy to extract bribes. There have been efforts to simplify the creation of new companies at a one-stop shop in the Niamey Enterprise House, and to better process construction permits, including by reducing associated fees. The Commercial Court of Niamey that started operations in 2016 is increasingly helping to settle commercial disputes, typically within a few weeks, and draft legislation updating the law regulating the Commercial Court was adopted recently. In line with the literature, the modernization of revenue administrations underpinned by the growing use of IT should benefit private-sector businesses. For instance, Laajaj et al. (2018) show that the computerization of import declarations in Columbia reduced customs clearance time for manufacturing firms, boosted their imports and curbed corruption. Okunogbe and Pouliquen (2018) find that the introduction of electronic tax filing in Tajikistan lowered compliance costs for firms as well as bribe payments by reducing exposure to extortion by tax officials.

Figure 2. Niger: Governance and the Business Environment



28. Weaknesses in the judiciary, including corruption, translate into poor protection and enforcement of property and contractual rights that may hamper private investment. Niger scores at the WAEMU average but performs below the average SSA on the Worldwide governance indicator for the rule of law, which partly reflects perceptions of the extent to which economic agents have confidence in the quality of contract enforcement and property rights (Figure 2). Trust in the judiciary is compromised by limited resources and inefficiency, as well as unpredictability and political interference, which render judgements and execution of court decisions vulnerable to external influencing and corruption. As a result, outcomes from judiciary procedures are often inconsistent and generate uncertainty for investors.

29. Recent reforms attest however to the authorities' effort to address judicial bottlenecks and corruption. They include updates to the Code of Civil Procedure which may contribute to an expedited processing of claims, including through increased use of computerization. The latter also helps limit face-to-face contact between parties and judges, hence reducing scope for corruption. Recourse to arbitration and mediation for settling commercial disputes are now available. Access to

justice should benefit from the recent institution of additional courts across the country to ensure more timely and effective proceedings.

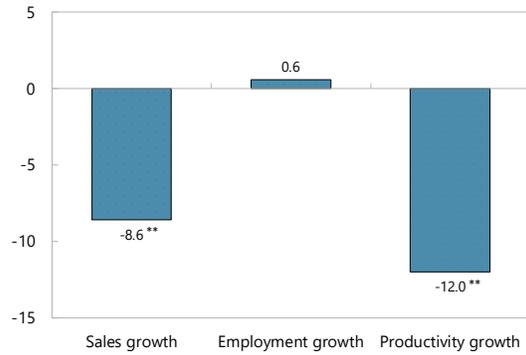
30. Descriptive statistics based on the World Bank Enterprise Surveys illustrate the negative association between corruption and private-sector performance in Niger (Figure 3). The analysis employs an unbalanced sample of 302 firms operating in manufacturing and services sectors in the years 2005, 2009 and 2017. To capture the extent of corrupt practices in the public sector that adversely affect private-sector performance, it considers firms in Niger that reported at least one bribe payment request across public transactions, including paying taxes, obtaining permits or licenses, and utility connections. Performance is alternately proxied by sales, employment, and productivity growth.¹² Results show that exporters that pay bribes record on average a negative sales growth of 20.5 percent against +6.6 percent for those trading in a “clean” environment. Young firms, defined as those in operation for less than 5 years, register an average sales growth rate of 28.7 percent in the absence of corruption, against 7.4 percent otherwise. The negative association is also verified for older firms and non-exporters, and when using productivity growth as a measure of private-sector performance.

31. Formal regression analysis confirms that firms subject to corruption record lower sales and productivity growth relative to those that do not pay bribes (Figure 3). Specifically, sales of firms confronted with bribe requests grow 9 percentage points less than those that are not, and their productivity growth is 12 percentage points lower (Table Annex 1). Results also find that public-sector rent-seeking hurts disproportionately more young firms and exporters. A complementary analysis using regression discontinuity design reveals that firms whose share of annual bribe payments in total sales is above the sector average record sales and employment growth rates between 8 and 9 percentage points less than firms below the sector average (Table Annex 2).

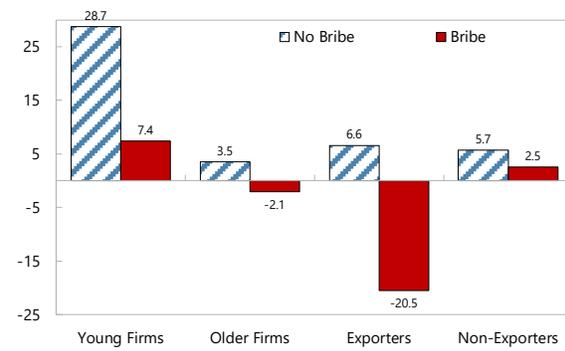
¹² In the interest of space, only descriptive statistics using sales growth as a proxy for firm performance are discussed.

Figure 3. Niger: Corruption and Private Sector Performance

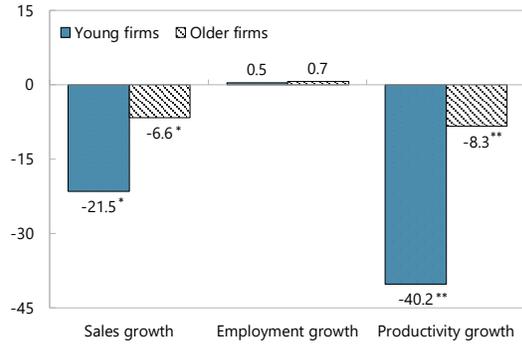
Effect of Bribery on Firm Performance: Main Results
(percentage points)



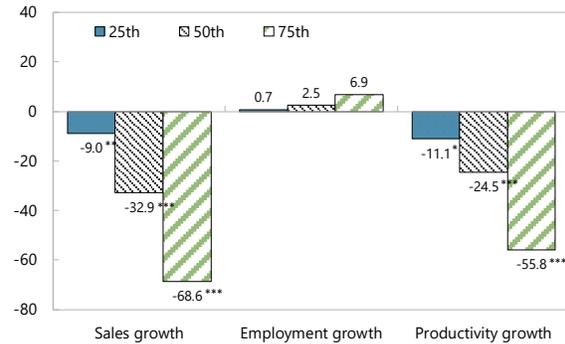
Firm Sales Growth by Age and Exporting Status
(percent)



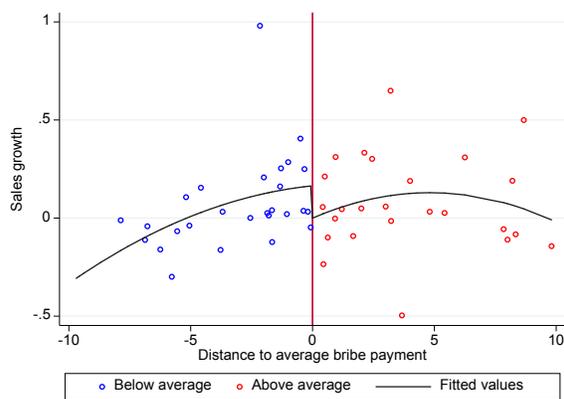
Effect of Bribery on Firm Performance: Young vs. Older Firms
(percentage points)



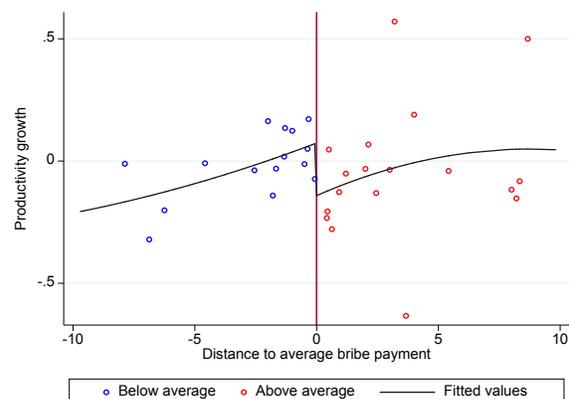
Effect of Bribery on Firm Performance by Percentile of Direct Exports
(percentage points)



Scatter Discontinuity: Corruption and Sales Growth



Scatter Discontinuity: Corruption and Productivity Growth



Sources: World Bank Enterprise Surveys, and IMF staff calculations.

E. The Way Forward: How to Further and Sustain Anti-Corruption Efforts

Addressing remaining gaps in the anti-corruption legislation

32. As part of their reform program supported by the ECF-arrangement with the IMF, the authorities are undertaking steps to strengthen the asset declaration regime. The envisaged new legal framework should aim to address the following issues, striking a balance between best practices and limited implementation capacity:

- **Filers.** The new legislation should identify the high-ranking officials other than those covered directly by the Constitution that should be subjected to asset declaration requirements. The now defunct Law n°2002-003 implementing the provisions of the previous Constitution provides a good starting point, but the list of government officials could be streamlined to target high-risk individuals and to better align it with resources and monitoring capacities of the Audit Court and the Constitutional Court. The authorities could also borrow from the AML/CFT regime, which already identifies a reasonable remit of politically-exposed persons (PEPs).¹³ More importantly, disclosure requirements should be expanded to cover close associates and family members to plug a key loophole. This could be done under a simplified regime to ease the compliance burden from large family sizes in Niger.
- **Assets.** The new legislation should also clearly define the assets to be declared. For the asset declaration regime to be an effective anti-corruption tool, details about movable and immovable assets, income, stocks and securities, and liabilities should be gathered to allow detecting and prosecuting irregular changes in wealth. Supplementary information on gifts, cash, and interests outside of public office could enhance the system's ability to support corruption investigations. Disclosure requirements should mandate that public officials declare not only what they legally own, but also all those assets that are actually used or controlled by them, despite being in the name of a third party.
- **Submission.** A user-friendly declaration form could be set by decree. Electronic filing could be considered at a later stage.
- **Verification.** While all declarations should be controlled for completeness, to better leverage limited resources, verification of accuracy should be risk-based. This would be consistent with practices across countries whereby only a subset of declarations is subjected to verification based on complaints/allegations, red flags detected in earlier screening of information in disclosures, media reports, and referrals from other agencies (Rossi et al., 2017).
- **Sanctions.** The law should set dissuasive administrative sanctions for non-compliance, including failure to file, failure to file in a timely manner, and incomplete filing. They could range from fines (amounting for instance to the national daily minimum wage applied each day until the public official takes remedial action) to suspension and removal from office. To ensure

¹³ PEPs are high-ranking public officials considered at greater risk of engaging in money laundering, as they may abuse their position and influence to carry out corrupt acts (Rossi et al., 2017).

enforceability, sanctions could be applied incrementally, distinguishing between initial and repeated offenses.

- **Publication.** Transparency and public scrutiny would benefit from posting declarations on a public website, thereby strengthening accountability. The Audit Court could also disclose statistics on the verification process and any sanctions imposed.

Stepping up the implementation of the anti-corruption legislation

33. A push to better enforce anti-corruption legislation is instrumental for achieving tangible results and safeguarding the credibility of the legal framework. The following measures could be considered to address the most pressing bottlenecks:

- **Strengthening anti-corruption institutions.** The capacity of the institutions would benefit from bolstering their independence to prevent political interference and providing them with sufficient human, physical, and financial resources to perform their mandate effectively and bolster their independence from political interference. Budgetary resources can be augmented by aggressively seeking donor financing and technical assistance. For HALCIA, strengthening its independence should be a priority, and the fund dedicated to its financing should be established as mandated by law. For CENTIF, upgrading capacity should not only hinge on stepped-up recruitments and staff training but also on finalizing the delayed acquisition of the automated software for processing STRs. To exploit synergies, a collaborative platform between HALCIA and the judiciary to improve the processing of corruption cases should be launched, with the option of broadening it to other actors at a later stage. Finally, anti-corruption institutions would benefit from publishing their annual reports to allow for scrutiny of corrupt practices by the general public. HALCIA should publish the number of cases it has taken up and their progression through the judicial system.
- **Improving the integrity and efficiency of the judiciary.** Reinforcing the capacity of the judiciary to prosecute corruption cases and enforce sanctions is vital as weaknesses in the justice system not only undermine the activities of the private sector but also dilute the efforts of other entities charged with combatting corruption. Measures to address corruption and inefficiency in the judiciary could include the following: (i) creating an independent body in charge of the recruitment, appointment, evaluation, promotion, transfer, dismissal, and imposition of disciplinary sanctions for all judges; (ii) reducing case backlogs in courts and guaranteeing that justice is served within a reasonable time frame; (iii) publishing and providing online access to all court decisions on a timely basis; and (iv) digitalizing the filing of legal actions to reduce face-to-face contact between clients and judges.
- **Advancing the AML/CFT agenda.** The active participation of non-financial entities in the reporting of suspicious activity is a priority given Niger's cash-based economy and the size of the informal sector. CENTIF should intensify capacity-building, awareness-raising activities targeted at DNFBPs, and the dissemination of guidelines to improve the application of legal provisions. Enforcement would also benefit from improved supervision of banks and DNFBPs

and strengthened coordination between the WAMU Banking Commission and CENTIF, ideally with the latter also participating in local banks' on-site inspections. Finally, accelerated progress toward the creation of the common information technology (IT) platform centralizing WAEMU FIUs' STRs would support national efforts to lower AML/CFT vulnerabilities.

Supporting public-sector governance through enhanced transparency

34. Strengthening fiscal institutions can improve integrity and accountability in the public sector.

- **Niger should make the most of IT in fast-tracking reforms to modernize revenue administrations and enhance spending quality.** Digitalization reduces susceptibility to corruption by reducing face-to-face interaction, allowing for better recording of transactions, limiting discretion, easing scrutiny, and improving transparency.
- **The governance of SOEs should be reinforced.** The authorities' plan to update SOE legislation to clarify the roles and responsibilities of the Minister of Finance and line ministries is a welcome step. Audits are currently underway to take stock of the status quo and pave the way for reforms. A three-year procurement action plan was also drafted, with concrete measures to enhance SOE governance and performance. It includes steps to professionalize boards (including by using performance contracts), strengthen financial oversight and audit, and improve transparency and accountability with the publication of audit reports and the salaries/benefits of board members and high-level officials.
- **Weaknesses in public procurement should be addressed to lower opportunities for corruption.** Competitive bidding should be the norm, with single-sourced procurement limited to exceptional circumstances. Tender award results should be published. Timely processing of applications and auditing of public procurement processes are instrumental, as well as setting up a comprehensive record maintenance at ARMP. The latter should also establish clear guidelines and rules about the competencies required for hiring staff. Accelerating the operationalization of the procurement monitoring system SIGMAP II should enhance the efficiency of public procurement processes and set the stage for e-procurement. Finally, reviving the toll-free number for denouncing fraud and corruption in public procurement processes should have a more direct impact on containing corrupt practices.
- **Public investment management and efficiency should be reinforced.** Only proposals with completed feasibility studies should be considered by the selection committee. Ex-post assessment should be strengthened, using for instance a risk-based approach targeting large investment projects that offer greater opportunities for kick-backs. This would allow better aligning control requirements with the resources of the Audit Court. Audit results should be published.
- **The government should reduce its reliance on unsolicited PPPs.** Tendered PPPs should be the norm to reduce opportunities for overpayment and kick-backs. Spontaneous PPPs should be opened to competition to the extent possible. All PPP contracts should be publicly disclosed.

35. Several measures could also be implemented to enhance fiscal transparency, especially for extractive industries:

- **Niger should re-join EITI and follow the initiative’s recommendations.** EITI requires member countries to disclose information on tax payments, licenses, contracts, and production, thereby informing the general public and enhancing trust. Recommendations include for instance the timely public disclosure of extractives licenses and contracts, and of payments to government entities by extractive companies. The authorities are also required to maintain and make publicly available a license register providing details on the license holder, the dates of application, award and expiry, and commodities covered. For enhanced transparency and civil society scrutiny, they could also consider building a live database of conventions related to the exploration and exploitation of natural resources to avoid the need to track contracts across various issues of the government gazette.
- **The Audit Court should ensure the timely publication of its audits of government extractive revenues collection.**
- **More generally, fiscal transparency should be stepped up to support effective PFM and reduce scope for misappropriation of public funds.** Requirements for public disclosure of information should be set by law and enforced. These range from the publication of key government documents such as draft and approved budgets, budget outturns and audits, and citizen budgets on the Ministry of Finance’s website, to the timely disclosure of conventions for PPPs. Online publication requirements should also apply to the financial statements and audits of SOEs, as well as statistics on tender awards and the oversight of public procurement processes. Ex-post assessments of large investment projects should also be disclosed, and the government gazette should be made available online free of charge.

Modernizing revenue administrations and getting the incentives right

36. Shifting from systematic physical controls at customs to risk-based checks would reduce opportunities for corruption. The authorities should develop and strengthen both internal and ex-post controls to incentivize reporting and transparency. Post-clearance audits would not only reduce delays at the border, but also help detect poor practices, such as inadequate implementation of transactional value for imports leading to poor screening of high-risk declarations. In the same vein, authorities can consider introducing the status of authorized economic operators which would allow low-risk operators to benefit from expedited clearance, hence simplifying customs procedures for the private sector.

37. While renewing revenue administrations’ performance plans should help with revenue mobilization efforts, introducing performance-based pay for customs inspectors may yield higher gains. Niger could benefit from the experience of Madagascar, which successfully introduced performance contracts for customs inspectors.¹⁴ They were carefully designed in

¹⁴ Performance contracts were also successful in Cameroon.

consultation with the inspectors and the private sector, and with seven objective indicators covering the speed of clearance, the efficiency of customs control, and targets for revenues and fraud detection. They reward good performance with bonuses, training opportunities, and accelerated career progression, but sanction poor performance by reassigning inspectors to less desirable positions. Performance contracts in Madagascar resulted in improved tax collection and fraud recording, as well as reduced customs clearance times and physical inspections. More importantly, they highlighted (and helped sanction) poor practices at customs, including collusion between brokers and inspectors, manipulation of the IT system, underestimation of the transactional value and poor control of risky declarations. Niger could similarly review the HR management in the customs department to address misaligned incentives and curb corruption. Since data for monitoring inspectors are taken from ASYCUDA World, the reform is relatively easy to implement. Incidentally, performance contracts would also help make recruitments more transparent and address the high rate of turnover in the customs department.

Securing the participation of stakeholders

38. A successful anti-corruption framework hinges on strong political commitment and involves various stakeholders. Timely access to information, such as court decisions and reports by anti-corruption institutions empowers the civil society, including the media, to keep track of public-sector activities and expose corrupt practices. While enhanced integrity in the public sector bodes well for the operations of private actors, the latter should also be sensitized and deterred from facilitating corruption by offering bribes to government officials. Regional entities should also be on board. Finally, donors play a key role in accompanying Niger's anti-corruption efforts through the provision of capacity building and financial assistance.

Annex I. Effect of Bribery on Firm Performance

Annex Table 1. Effect of Bribery on Firm Performance: Regression Results			
	Sales growth (1)	Employment growth (2)	Productivity growth (3)
Bribery	-0.086** (0.036)	0.006 (0.038)	-0.120** (0.050)
Young	0.239** (0.077)	0.613*** (0.042)	0.225* (0.111)
Mature	0.008 (0.067)	0.024 (0.026)	-0.016 (0.064)
Micro & Small	-0.019 (0.135)	-0.010 (0.065)	-0.007 (0.112)
Medium	-0.019 (0.129)	-0.058 (0.067)	-0.027 (0.116)
Foreign-owned	0.071 (0.070)	-0.075** (0.033)	0.190* (0.089)
Exporter status	-0.064 (0.058)	-0.032 (0.037)	-0.042 (0.126)
Constant	-0.011 (0.144)	0.318*** (0.044)	-0.578*** (0.116)
Observations	161	192	127
R-squared	0.242	0.574	0.190
Sector-Year Fixed Effects	Yes	Yes	Yes
Notes: Standard errors clustered by sector; *** p<0.01, ** p<0.05, * p<0.1. Bribery is a dummy variable taking one if the firm reported at least one bribe payment request across public transactions dealing with utilities access, permits, licenses, taxes and trade.			

Annex Table 2. Effect of Bribery on Firm Performance: Results from Regression Discontinuity Design

	Sales growth		Employment growth		Productivity growth	
	(1)	(2)	(3)	(4)	(5)	(6)
Panel A: Parametric						
Frontier dummy	-0.154* (0.081)	-0.160** (0.067)	-0.036 (0.097)	-0.082 (0.066)	-0.169*** (0.050)	-0.190*** (0.039)
Observations	148	133	174	157	118	104
R-squared	0.069	0.151	0.012	0.489	0.080	0.238
Controls	No	Yes	No	Yes	No	Yes
Panel B: Non-Parametric						
Bias-corrected	-0.093** (0.047)	-0.088* (0.046)	-0.085*** (0.030)	-0.083*** (0.030)	-0.077† (0.049)	-0.074† (0.047)
Robust	-0.093** (0.051)	-0.088* (0.049)	-0.085*** (0.030)	-0.083*** (0.030)	-0.077† (0.049)	-0.074† (0.048)
Main/bias bandwidth	4.450 / 5.578	3.804 / 5.578	4.441 / 7.170	3.805 / 7.170	2.464 / 4.246	2.111 / 4.246
ρ	0.798	0.682	0.619	0.531	0.580	0.497
# clusters left/right of cutoff	10 / 11	10 / 11	10 / 11	10 / 11	9 / 11	9 / 11
# obs. left/right of cutoff	97 / 51	97 / 51	113 / 61	113 / 61	76 / 42	76 / 42
# effective obs. left/right of cutoff	59 / 26	59 / 25	75 / 37	75 / 36	46 / 19	46 / 17
Observations	148	148	174	174	118	118
Notes: Standard errors clustered by sector; *** p<0.01, ** p<0.05, * p<0.10, † p<0.13. Average bribe payment measured at the sector-year level. Frontier dummy takes one if firm's share of total annual sales paid as informal payment is above the sector-year average. Parametric: all regressions include first and second order terms of distance to average bribe payment and its interaction with the frontier dummy. Non-parametric: odd columns present results with the MSE optimal bandwidth, even columns those with the readjusted MSE-optimal bandwidth (CER-optimal bandwidth).						

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