



USAID | **MOROCCO**
FROM THE AMERICAN PEOPLE



Improving the Business
Climate in Morocco

Quarterly Report July 1st – September 30th, 2008

October 2008

This publication was developed for the United States Agency for International Development (USAID). It was prepared by the Improving the Business Climate in Morocco Program implemented by DAI.

Improving the Business Climate in Morocco

Amélioration du Climat des Affaires au Maroc

IBCM Report

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Acknowledgements

The publication of this report was made possible through support provided by the US Agency for International Development (USAID) under the terms of Contract No. GEG-I-00-04-00001, Order No. GEG-I-02-04-00001.

TABLE OF CONTENTS

List of Acronyms	i
Accomplishments during the last quarter (July 1st– September 30th, 2008)	I
Technical Performance: Overview	1
Component I Regulatory Reform and Investment Promotion	3
Core Technical Area 1 “Doing Business” and Associated Efforts	3
Activity 1.1. Providing support to National and Regional Doing Business Committees	3
Activity 1.2. Follow-up work with the National Committee on Investment Procedures (CNPI)	5
Core Technical Area 2: IT Streamlining	6
Activity 2.1 Deployment of E-invest at additional RICs	6
Activity 2.2 Development of the E-build Software	7
Activity 2.3 Finalizing E-regulations Portal.....	8
Activity 2.4 Supporting SNIMA in the conception and production of its upgraded website.....	8
Core Technical Area 3 Common Business Identifier	8
Activity 3.1 Implementing the Common Business Identifier (CBI).....	8
Core Technical Area 4 Sustainable Investment in Meknès-Tafilalet	9
Activity 4.1 CDM-finance for renewable energy self-production	9
Activity 4.2. The solar technology service sector	9
Activity 4.3. Energy efficiency	10
Activity 4.4. Policy and promotion	10
Component II Judicial Reform and Strengthening the Commercial Courts	11
Core Technical Area 1 Support to Bankruptcy Reform	11
Core Technical Area 2 Intellectual Property Law	11
Core Technical Area 3 Promoting ADR for Business Disputes in Morocco	12
Activity 3.1 Collaboration with the International Finance Corporation (IFC) on public awareness, support for a pilot mediation center, and training and certification for mediators	12
Activity 3.2 Assistance to CIMAR	13
Core Technical Area 4 Modernization the commercial registry	13
Administration and management	16
Planned activities for the next quarter (October 1st to December 31st, 2008)	17
Annex I: Budget Information	19
Annex II: Success Story	20

LIST OF ACRONYMS

ABHS	<i>Agence du Bassin Hydraulique du Sebou</i>
ADR	Alternative Dispute Resolution
CBI	Common Business Identifier
CDER	Center for the Development of Renewable Energies (<i>Centre de Développement des Energies Renouvelables</i>)
CDM	Clean Development Mechanism
CGEM	<i>Confédération Générale des Entreprises du Maroc</i>
CIMAR	International Center for Mediation and Arbitration in Rabat (<i>Centre International de Médiation et d'Arbitrage de Rabat</i>)
CLIN	Contract Line Item Number (refers to the budget of each Component)
CNPI	Committee for National Investment Procedures (<i>Comité National des Procédures liées à l'Investissement</i>)
CNSS	Social Security Agency (<i>Caisse Nationale de Sécurité Sociale</i>)
DAI	Development Alternatives Inc.
DCAE	<i>Direction de la Coopération des Affaires Economiques</i>
DGI	Tax Authorities (<i>Direction Générale des Impôts</i>)
DI	Investment Directorate (<i>Direction des Investissements</i>)
DSIC	<i>Direction du Système d'Information et de Communication</i>
EIS	Environmental Impact Studies
FEC	Municipal Investment Fund (<i>Fond d'Équipement Communal</i>)
GBPM	<i>Groupement Professionnel des Banques du Maroc</i>
GTZ	German Cooperating Agency
HCP	Department of Statistics (<i>Haut Commissariat au Plan</i>)
IBCM	Improving the Business Climate in Morocco
IFC	International Finance Corporation
INPI	<i>Institut National de Propriété Intellectuelle</i>
ISM	<i>Institut Supérieur de la Magistrature</i>
IT	Information Technology
MAEG	Ministry of Economic and General Affairs (<i>Ministère des Affaires Economiques et Générales</i>)
MOU	Memorandum of Understanding
ODC	Other Direct Costs
OMPIC	Moroccan industrial property office (<i>Office Marocain de la Propriété Industrielle et Commerciale</i>)
PMP	Performance Monitoring Plan
RADEM	<i>Régie Autonome d'Électricité de Meknès</i>
RC	<i>Registre de Commerce</i>
RIC	Regional Investment Center (<i>Centre Régional d'Investissement</i>)
SME	Small and Medium Enterprises
SNIMA	<i>Service de Normalisation Industrielle Marocaine</i>
UNDP	United Nations Development Program
USAID	United States Agency for International Development

ACCOMPLISHMENTS DURING THE LAST QUARTER (JULY 1ST – SEPTEMBER 30TH, 2008)

TECHNICAL PERFORMANCE: OVERVIEW

Despite the August break and Ramadan slowdown, work progressed steadily for USAID/Morocco's Improving the Business Climate Program. The main accomplishments under the **Regulatory Reform and Investment Promotion** component were as follows:

- The Program has continued to use Morocco's international *Doing Business* ranking as a tool to create awareness of the need for reform. Following the spontaneous establishment of three regional 'Doing Business' committees last quarter, the Program served as a facilitator and helped the Committee members in prioritizing which indicators are worth working on and in identifying the corresponding reforms. Three indicators have been selected so far: 'Registering a Business', 'Dealing with Licenses' and 'Transferring a Property Title'. The reengineering of the business registration process also moved forward with the mapping of all procedures related to the process of registering a company in the Greater Casablanca and Souss-Massa-Drâa regions.
- Other *Doing Business* conference follow up activities include the finalization of Yousra El Hatib's follow up research, where she interviewed regional actors to look for signs of business climate improvement due to cross-regional exchanges that took place during or after the conference. Ms. El Hatib will be leading the Program's "mini-survey" in September, which will approximate an updated 'Doing Business' score for selected procedures in selected regions. Last, the Program finalized a report that prioritizes the most urgent procedures to be simplified, based on the March-April 2008 sessions of the Committee for National Investment Procedures (CNPI) and an assessment of which reforms might be feasible and which would have the greatest impact on investors.
- Following the last e-invest steering committee (June 11, 2008), the Program conducted training sessions with the members of the regional investment commission. A total of 14 customized training sessions were held this quarter. The Program also began a dialogue with the remaining regional investment centers about e-invest. Following the Settat pilot, the program will work also with the Casablanca center (where a training session has already been held) and probably one or two additional centers. Other centers will have the option to include their staff in trainings held at another RIC, selecting the nearest location possible.
- Advances were also made in relation to the *Meknes Vert* initiative. Honoring a request made by the Meknes municipality, the program held a meeting in July with a number of partners and stakeholders involved in the landfill CDM finance project. The objective was to help the municipality understand CDM feasibility and evaluate different landfill management options. Also in the Meknes region, the Program launched a value chain analysis of solar energy-related technologies and services in July. Last, the Program helped make possible a technical prefeasibility study for the Ifrane-based *Ecovillage*. The study was carried out by a specialized Italian research institute; a draft was submitted in September and will be presented in October.
- Following the approval of the *Service de Normalisation Industrielle Marocaine* (SNIMA)'s website specifications by the Ministry of Industry and Commerce last spring, the Program has selected a service provider to develop the website.

The main achievements in the **Legal Reform and Strengthening the Commercial Courts** component were as follows:

- The Program's legal reform expert Remy Kormos finalized a report providing a new way to approach the Moroccan bankruptcy law reform. A draft version has been shared with selected partners.
- The Program continued working on the development of a patent guide in close collaboration with the Moroccan Industrial Property Office (OMPIC) and the *Institut National de la Propriété Intellectuelle* (INPI), the French intellectual property agency.
- Following the common agreement from partners this quarter on the establishment of a national public-private commission to promote mediation in Morocco, the commission met for the first time on September 18th at the Ministry of Industry and Commerce. Also, as part of the IFC/USAID-IBCM collaboration, two mediation trainings were held this quarter.
- The Program provided support to CIMAR in updating its business plan and prioritizing its activities for 2008-2009. The Program also selected the service provider for the development and implementation of CIMAR's website, and work began the first week of September.
- The Program finalized a report incorporating all previous work on the modernization of the commercial registry: a pre diagnostic evaluating the impact that an IT solution would have in Morocco, an analysis of the legal framework governing secured lending in Morocco, and via two roundtables, a consultation with current users of collateral information.

COMPONENT I REGULATORY REFORM AND INVESTMENT PROMOTION

CORE TECHNICAL AREA I “DOING BUSINESS” AND ASSOCIATED EFFORTS

On November 29-30, 2007, the Program held a national conference entitled “*Doing Business: Best Regional Practices*” whose objective was to identify best practices among Morocco’s regions following the Program’s regional “Doing Business” study¹. With a slippage of fifteen places between 2004 and 2008², Morocco’s *Doing Business* ranking has sparked many debates and controversy in the country. The conference was specifically designed to highlight potential for improvement, and generate positive regional competition – by comparing regional practices and highlighting those regions within the country that outperform Casablanca³. Following the conference, the Program received multiple requests from partners to conduct analysis around specific indicators or proposed policy reforms and their potential impact on the ranking – i.e. the MAEG requested that USAID conduct additional in-depth studies of as many other *Doing Business* indicators as possible. Conference follow-up activities have now taken on a life of their own.

Activity I.1. Providing support to National and Regional Doing Business Committees

Following the national conference, three regional ‘Doing Business’ committees were established spontaneously and independently last quarter, led by the regional investment centers of Casablanca, Tangiers and Agadir. Although the no subcommittee meetings were held this summer, it is expected that the Casablanca committee will resume operations in October. A national ‘Doing Business’ committee has been announced by various partners and is expected to be organized this fall as well. While the regional committees look for opportunities within the current legal framework to implement immediate changes leading to improved performance, they will need to channel most reform proposals to the national level, for example in cases where changes to the law or to ministerial decrees are necessary.

This quarter, the Program worked with the Casablanca Committee members in prioritizing which indicators are worth working on and in identifying the corresponding reforms. Three indicators have been selected so far: ‘Registering a Business’ (work has already begun; see below), ‘Dealing with Licenses’ and ‘Transferring a Property Title’.

Re-engineering of the business start-up process. The Program is collaborating with the International Finance Corporation (IFC) with the aim of simplifying the business registration process in Morocco. The “re-engineering of business start-up process” pilot project focuses on the country’s economic center Casablanca with 90% of the country’s yearly business start-ups, while taking into account other regions’ specific characteristics. The goal is to develop a ‘model’ in Casablanca, which can be replicated in Morocco’s other 15 administrative regions. The project consists of three distinct phases: (i.1) Mapping and Review of Business start up procedures, and (i.2) Benchmark Survey; (ii) Process Evaluation and Re-Engineering; and (iii) the Implementation of New Administrative Processes.

This quarter, the Program made progress on Phase 1:

¹ The full report of this conference is available in French on the Program’s website, and lays out best practices and lessons learned from several regions of Morocco.

² The 2009 ranking has just been released, showing Morocco to have gained one place this year.

³ The data used for establishing Morocco’s national ranking comes from Casablanca

- (i.1) *Mapping and review of Business start up procedures* -- The Program hired a consulting firm to describe and analyze the regulatory process of registering companies, by mapping out all the steps for each procedure, including forms, time and cost requirements in both the Greater Casablanca and Souss-Massa-Drâa region. The mapping also provides a comprehensive overview of the sequencing and connection between all the various regulatory processes, providing a complete overview of all procedures and their steps (costs and duration) which investors and government authorities would have to go through. A preliminary presentation was made to RIC of Casablanca at the end of September.
- (i.2) *Benchmark study* – This study aims at comparing the mapping with entrepreneurs’ perspectives (and their lawyers and notaries) on the business registration process in both a quantitative and qualitative way. The idea is to confront the mapping’s conclusions with private actors who have already created their own enterprise. The methodology includes focus groups and the use of a questionnaire with a sample of private companies. The Program gave technical input to the IFC’s request for proposal which was published in September, and the study will begin in early October.

It is also important to note that Delphine Riou has replaced Hicham Bayali as IFC’s point of contact for this pilot project.

“Follow-up of Doing Business Regional Conference” report. In June 2008, Program intern Yousra El Hatib carried out a follow-up study to the regional *Doing Business* conference by visiting each of the seven participating regions. She interviewed regional actors to look for signs of business climate improvement due to cross-regional exchanges that took place during or after the conference. Ms. El Hatib drafted a preliminary report from her field work in June which discusses the exchange of best practices. The report starts by identifying three main types of channels from which regional actors exchange best practices (Part 1):

- *Explicit or direct exchanges* from administration to administration – i.e. between regional investment centers;
- *Implicit or indirect exchanges* from advertisement or word of mouth;
- *Exchanges through central administrations*, which generalize in certain cases regional best practices.

During the Regional Doing Business Conference, participants created four working groups -- on business registration, investment services, availability of land and recovering debt via the courts - - whose aim was to design reforms that could be in turn applied nationally. After discussing with regional stakeholders, Ms. El Hatib identifies in Part II of her draft report which of these propositions should be supported and implemented at the national level. The main conclusions are as follows:

- I. *Business registration* -- The concept of a “one stop shop” is relevant and this solution needs to be computerized (the “service counter” is more effective if it is not tied to a single geographical or administrative location).
- II. *Investment services* – The workshop analyzed the role of the regional investment commission during the conference’s workshop and agreed at the end on a standardized model for the commission. This model is composed of a technical phase, in which involved administrations assess the technical feasibility of the investment, and a political phase in which the regional investment commission accepts the investment or not. The report recommends that the regional investment

commission – and therefore its members - commit to certain maximum timeframes, and that all its actors should adopt this model.

The report discards recommendations that came out of the other two working groups. Part III lists the constraints that prevent the implementation of these reforms.

Regional ‘Doing Business’ mini-surveys. As part of the Program’s data gathering effort for the Performance Monitoring Plan (PMP), a “mini-survey” is being undertaken in order to measure changes in regional performance (this will be done by approximating an updated ‘Doing Business’ score for selected procedures in selected regions). Three indicators, one in three cities and two others in one of the three cities, will be assessed. The number of interviewees will be less than those consulted for the 2007 study, however the interviewees will be carefully selected in order to yield reliable responses. The result, for selected procedures in selected regions, will allow for a comparison with the previous year’s ranking.

Table 1. Regions and indicators chosen for the mini-survey

Regional sample	Indicators
<ul style="list-style-type: none"> ▪ Gharb-Chrarda-Bni Hssain region (represented by Kénitra) 	Business registration
<ul style="list-style-type: none"> ▪ Souss-Massa-Draâ region (represented by Agadir) 	Business registration
<ul style="list-style-type: none"> ▪ Tanger-Tétouan region (represented by Tangiers) 	Business registration Registering property Dealing with licenses (for construction)

Activity 1.2. Follow-up work with the National Committee on Investment Procedures (CNPI)

The National Committee on Investment Procedures (CNPI) and the national and regional ‘Doing Business’ committees are similar in that they both work towards the simplification (and harmonization across regions) of administrative procedures that affect business operations. The Program has made a recommendation this quarter to merge these two efforts into one, specifically by including follow-up work to the CNPI sessions held in April 2008 into the operations and reform proposals generated by the Casablanca regional ‘Doing Business’ committee in fall 2008 (Casablanca is the most active committee to date).

In order to build on the CNPI’s spring meetings (from March 5th to April 30th), consultant Zineb Gaouane finalized a report that prioritizes the most urgent procedures to be simplified by the CNPI according to their feasibility and the impact they would have on investment in Morocco. The identified procedures are as follows: (1) limit the documents required to prove the existence of a corporate entity; (2) collection of payments and fees by the RICs; (3) reduce (or remove if possible) the instances in which investors must legalize their signature; (4) reduce delays in handling requests to cede state land, and (5) empower the departments of health and education to cede state land in their possession.

CORE TECHNICAL AREA 2: IT STREAMLINING

Activity 2.1 Deployment of E-invest at additional RICs

Significant progress was made last quarter towards the implementation of the e-invest software in Settat. Monthly steering committee meetings were held at the regional investment center, which featured demonstrations of real cases from the region. Participants included the Wali, RIC staff, Ministry of the Interior representatives, as well as regional government involved in processing and approving investor applications, i.e. regional investment commission members.

Program consultant Kjartan Sorensen supervised a number of upgrades to the system, which were requested by users in Settat. The new version is much more user-friendly and can accommodate the needs of users with very basic computer skills. Although there were no steering committee meetings this summer, Kjartan Sorensen supervised the IT development firm in addressing all remaining technical issues. A new function – a statistical tool - was also added.

Training. Following the last e-invest steering committee (June 11, 2008), the Program organized training sessions with the regional investment commission members, as encouraged by the Wali. These trainings included 1) a review of e-invest principles, concept and objectives; 2) an explanation of how the system works; 3) distribution of the user guide; and 4) question and answer sessions in which problems were addressed. As of the end of September, 14 training sessions have been held; approximately 50 persons were trained across 30 service areas from regional public agencies and administrations. The training sessions followed two different models:

1. *Direct* -- Program staff and Ministry of Interior representatives traveled to the RIC of Settat to train members of the regional investment commission. Three sessions were held under this model in Settat.
2. *RIC-led* – In order to encourage sustainable use of the e-invest software throughout the region, the training effort should be shared and even led by the RIC of Settat itself. RIC representatives, with the support of the Program, the DCAE and DSIC, implemented the remaining 11 trainings at the Wilaya of Chaouia-Ouardigha.

Communication Campaign. The director of the DCAE, M. Smahi, invited the Program in early July to initiate a national communication campaign. This campaign was marked by the main following events:

- *Communication around trainings* -- The investment process involved many actors within the regional investment committee that vary depending on the investment purpose (up to 50 different persons). All actors are not aware of the existence of the e-invest software, and these trainings were an opportunity to deepen the e-invest project's outreach and advertise the software to all future and potential users. The selection of participants was done by two means: through contacts with Directors of regional and provincial delegations related to investment procedures, who could in turn recruit directly relevant participants. Indeed, reaching out to regional and provincial agents is key in order to generalize the use of the software.
- *Public events* -- The RIC of Settat organized a press conference on the modernization of public and private enterprises in the Chaouia-Ouardigha region on July 17th, 2008. Mr Aqri, the RIC Director, presented the e-invest project as “a key initiative to improve communication between the public and private sectors”.

- *Official launching of e-invest in Settat* – On September 1, 2008, e-invest was officially put to use in the RIC of Settat. This means that all investment projects received at the Settat RIC are digitally uploaded into the system by the RIC agents, that the regional investment committee meeting is convened with the help of the planning module and that regional state authorities are invited to view projects in the system instead of receiving a paper portfolio. The period between September and December will be dedicated to providing technical support to new users and monitoring the system and its use.

The Communication effort on e-invest will intensify next quarter. In October, the Program will organize a press conference in order to officially launch e-invest nationally. This conference will be held at the RIC in Settat, gathering all interested RIC directors.

Spreading the use of E-Invest to other RICs. In July, in consultation with the Ministry of the Interior and in response to repeated requests, the Program went ahead and initiated support to the RIC of Casablanca in adopting e-invest. On August 7, the first training session on e-invest was offered to the Casablanca center's investment promotion staff. Participants identified as the main obstacle the generalization of the use of e-invest to the other regional authorities. To tackle this issue, the program decided to create a core group of users that will encourage, bit by bit, its use in other organizations. Training sessions continued in September and have been extended to regional authorities involved in authorizing investment projects.

The goal is to continue disseminating the system throughout Morocco. In order to expand the use of e-invest to remaining regional investment centers in a transparent manner, the program wrote to the 15 remaining RICs in mid-September. Kjartan Sorensen is now working in coordination with the Ministry of Interior to finalize a selection process whereby the Program will work intensively with at least one other RIC, plus include staff from other centers in training sessions. To be selected, a key requirement is to agree to host at least one regional investment committee per month (as was done in Settat throughout last quarter). The selection process is being managed on a "first come, first served" basis. Up to two or three RICs in total may be selected over the next six months. As of the end of September, the program has received initial responses from ten RICs.

Sustainability of E-Invest. Following up on efforts begun last quarter to address the issue of e-invest sustainability, the Program met with Mr. Maelainin, Director of the Education and Social Responsibility for North Africa at Microsoft Corporation. Mr. Maelainin expressed his enthusiasm about the initiative, recognizing its potential to benefit both the administration and investors. Mr. Maelainin presented three components that make up Microsoft's corporate social responsibility program in North Africa: (i) education – promoting novel ways to increase IT knowledge in all cycles of education; (ii) innovation – encouraging innovative businesses in IT, and (iii) employment – use of IT in microenterprises and to spur entrepreneurship. Opportunities for collaboration between Microsoft, USAID, and the Moroccan government are under discussion.

Activity 2.2 Development of the E-build Software

Other Moroccan government institutions have shown an interest in applying the e-invest technology to their respective work areas. The Program received a request from the Ministry of Housing to adapt the E-invest software to Urban Agencies. The idea is that E-invest could be adapted to include a more detailed treatment of the procedure for delivering a construction license. Like its fellow software, E-build will enhance transparency and reduce delays in procedures. This activity is still in the definition stage, however. An early set of meetings with the Ministry of Habitat and Urbanism and the Urban Agency of Meknes had defined narrowly

the procedure to be treated and envisioned software development as the first step. A more recent meeting, held after a change in leadership at the Meknes urban agency, clarified the Ministry's request. The Ministry would like to deal with the entire flow of procedures necessary to obtaining construction licenses – those that are linked, in fact, to the 'Doing Business' indicator "dealing with licenses." In order to do so, it was determined mutually that it makes sense to start first with a mapping exercise and generate recommendations to simplify the procedures in question, before codifying them and investing in an electronic tool to manage the procedures.

Activity 2.3 Finalizing E-regulations Portal

No activity scheduled for this quarter.

Activity 2.4 Supporting SNIMA in the conception and production of its upgraded website

The SNIMA website will allow both Moroccan and international businesses to access current standards and norms, promote SNIMA's role as the Moroccan standard agency, and facilitate its communication with the private sector. This quarter the Program selected a service provider, signed a contract, and began working on the website's development. The SNIMA website should be fully operational by mid-February.

CORE TECHNICAL AREA 3 COMMON BUSINESS IDENTIFIER

Activity 3.1 Implementing the Common Business Identifier (CBI)

There is a consensus among Moroccan government agencies that interact with enterprises on the need for a common business identifier (CBI). The CBI will allow government agencies to exchange, process, and analyze reliable information about Moroccan enterprises. Over time (though not immediately) the existence of the CBI should make it simpler for Moroccan businesses to interact with the government. The CBI will be associated with an enterprise's name and correct address.

Last quarter, the Program provided support to an inter-ministerial commission presided by Minister Baraka of the Ministry of General and Economic Affairs (MAEG). The commission's mandate is to develop and propose a CBI implementation scenario. The commission, which met twice last quarter, is composed of the tax authorities (DGI), the social security agency (CNSS), the commercial registry (RC), the Moroccan industrial property office (OMPIC) and the department of statistics (HCP). Following each plenary meeting of the inter-ministerial commission, the Program several subcommittee meetings: a technical sub-committee is in charge of the IT questions while a legal subcommittee is dedicated to legal issues related to the CBI.

Thanks to subcommittee work undertaken this quarter, the Program made progress on three fronts:

- Developing a technical platform from which a demonstration of the CBI can be generated;
- Preparing a draft law that will give a legal basis to the CBI;
- Testing the management of past data, in other words, the CBI attribution to existing enterprises in the pilot region Souss-Massa-Drâa.

A third inter-ministerial meeting will be held in October. During this session, IT consultants will present the full operational plan for the CBI. A website has been developed to store meeting minutes and PowerPoint presentations <http://www.identifiantcommun.com/>.

CORE TECHNICAL AREA 4 SUSTAINABLE INVESTMENT IN MEKNÈS-TAFILALET

The main objective of this initiative is to attract private investment for the sustainable development of the Meknès-Tafilalet region.

Activity 4.1 CDM-finance for renewable energy self-production

Morocco, having ratified the Kyoto Protocol, is eligible to attract Clean Development Mechanism (CDM) funding for projects that reduce greenhouse gas emissions. The Program has identified three self-production related projects that can benefit CDM financing:

- **Meknes public landfill.** The Program sponsored a feasibility study that shows that the project is viable and eligible for CDM financing. At the request of Mr. Belkoura, the Mayor of Meknes, the program held a meeting in July with all relevant partners – representatives from the Municipal Investment Fund (FEC - *Fond d'Équipement Communal*), the Ministry of the Interior, and the Development Agency for the Sebou (ABHS - *Agence du Bassin Hydraulique du Sebou*) - in order to help the municipality understand the CDM feasibility results and evaluate different landfill management options (including rehabilitation and CDM certification). The municipality is now prepared to hand over the project to private investors (CDM developers).
- **Wastewater treatment plant.** The Program sponsored a similar feasibility study for this project. Based on the CDM feasibility study results, the Agency is now ready to call for proposals and outsource the CDM development to a private firm. As far as electricity generation is concerned, RADEM may collaborate with the Meknes municipality.
- **Energy self-production by wind farms.** Wind is proving to be one of Morocco's most viable sources of energy. While measurements are currently underway to certify the Meknes region as a national provider of wind energy, the Program is identifying candidates (large industries) to produce for their own energy needs, by linking them to wind park developers and carbon credit buyers (provided that the substitution of fossil fuel allows for emissions reduction and carbon credit generation).

Activity 4.2. The solar technology service sector

International manufacturers (and their outreach partner companies) look for solid partners on the ground who can help them market new technology and generate increasing demand for it. In exchange, several have said to be willing to invest in their local partners' (distributors, installers and maintainers) professional capacity, marketing skills and improved quality of services provided to end markets.

Recent assessments of the local solar energy markets have, however, shown that local demand for RE technology has been dampened by insufficient service supply and lacking maintenance, thus reducing trust in new technologies. IBCM is collaborating with the founders of the *Energy Houses* program (a UNDP/CDER sponsored program providing assistance to distributors, installers and maintainers of solar energy generating technology) to conduct a value chain analysis of the solar energy sector. The study aims to identify upgrading needs and opportunities

for building international linkages, and the Program will support local organizations to develop these partnerships in Meknès.

Intern Hélène Kirémidjian has been leading the Moroccan side of the study. This includes assessing the current and potential markets for solar technologies in the Meknès-Tafilalet region as well as the nature of the services provided. A draft report is underway. The Program also will be working with a group of students from Columbia University's Business School on a voluntary basis during the fall semester. The students will help identify potential foreign investors and opportunities for partnerships.

Activity 4.3. Energy efficiency

In order to sustain Morocco's relatively high economic growth rate, companies have to cope with rising energy prices. Also, the productivity of Morocco's key sectors depends on the availability of natural resources. While alternative energy sources may be a solution for some, others gain in productivity and competitiveness by simply reducing the amount of energy consumed. IBCM has identified two key sectors with great potential to reduce energy consumption and attract green technology and know-how: construction and industry.

- **Construction.** At the initiative of the Ifrane governor and in collaboration with the Meknes Regional Agency for Urban Planning and the CDER, the Program is supporting the design and development of an *ecovillage*, attached to Ifrane's National Park. Along with the CDER, the Program helped recruit an Italian institute to conduct a technical prefeasibility study which was finalized over the summer.
- **Industry.** IBCM coordinates with a GTZ-led training initiative to improve industry competitiveness by promoting approaches to energy efficiency and clean production. The idea is to have Meknes-based firms participate in the GTZ-sponsored six-month training seminar on profitable environmental management. A representative of a local firm began the training in July, which will continue for six months.

Activity 4.4. Policy and promotion

Environmental impact studies (EIS), required for many investment projects, are currently evaluated at a central level in Rabat, where an overloaded national committee cannot deal with the steadily increasing amount of submitted reports. As a result, many investment projects are blocked for several months, while others get away without or with low quality studies. Recently, a law was passed to decentralize the evaluation of EIS. In an effort to help the regions implement the new law, GTZ has taken the initiative to build regional capacity. Following the Volubilis Conference in February 2008, GTZ invited Meknès-Tafilalet to be one of four pilot regions. IBCM's role is to facilitate the process on a regional level (i.e. help mobilize all relevant players to be included in the training, make sure the project can be successfully implemented in Meknès-Tafilalet). This quarter, the Program made progress on the following:

- The regional government council is currently reviewing the implementation decree which will decentralizing the review and approval of environmental impact studies, via the establishment of a body representing the Ministry of the Environment at the regional level.
- In July, the terms of reference of the GTZ-led EIS decentralization project were finalized and shared with relevant local partners (including the RIC).

COMPONENT II JUDICIAL REFORM AND STRENGTHENING THE COMMERCIAL COURTS

The Program's experience developing and implementing training programs with partners such as the ISM and the Commercial Courts suggests that pairing technical assistance in specific areas of business law with associated training programs can be both efficient and effective. For example, in the area of intellectual property, we found that the work on developing a guide on trademark law was directly applicable to the development of judicial training materials and case studies. In addition to this economy of scale we have found that where the Program demonstrates technical expertise, requests for training support follow naturally and formal approval processes are shortened or waived. Accordingly, for the final year of the Program, training activities have been integrated into each of the three core technical areas, rather than being grouped in a separate judicial training subcomponent as had been done in the past.

CORE TECHNICAL AREA I SUPPORT TO BANKRUPTCY REFORM

The Program and earlier USAID commercial law reform programs have worked on bankruptcy law for a number of years. Although many activities have been undertaken, such as national workshop on bankruptcy law reform (2005) and detailed proposed amendments (2007), the reform process did not start in earnest until mid-2008. In order to boost the process and at the request of partners, the Program undertook consultations in April-May 2008 with a number of private sector representatives, including individual bank executives, the GPBM (national association of banks), judges and ministry officials. Building on past work -- mainly two previous Consultants' contributions, the 2004 Kelly and 2007 Hajjami reports, Program's legal reform expert Remy Kormos finalized a report this quarter providing a new way to approach the Moroccan bankruptcy law reform. The report is available in both English and French.

Previous approaches focused on trying to change the law by proposing amendments. However, laws are always very complex and politically charged. Kormos recommends, therefore, adopting a more incremental and participatory approach by "support(ing) the institutions and individuals tasked to prepare the amendments" rather than "going straight to proposed legislative amendments." The new approach also advises to provide resources and expertise to private and public sector participants in the reform process. Kormos takes a holistic perspective in that it looks at the reform process as a *whole*, by identifying needed regulatory (e.g. implementing decrees) and institutional reforms (e.g. strengthening judicial capacity to handle bankruptcy cases) as well legislative amendments. Based on a comparative analysis (English and French legal system), the report prioritizes key issues, provides bibliographical references for each issue analyzed, and formulate solutions and next steps.

- In June 2008 the Program distributed binders with up-to- date international and comparative law resources to key participants in the reform.
- In early September 2008 a draft report with recommendations on the bankruptcy reform process has been shared with selected partners.

CORE TECHNICAL AREA 2 INTELLECTUAL PROPERTY LAW

Last quarter, the Program designed and implemented a new approach to judicial training activities, providing a senior expert who worked closely with a group of four judges to develop a practical training program on trademark law. These same four judges and the senior expert then served as trainers in the training programs for judges held in two cities – Rabat and Agadir. Training outreach was much larger, however, with magistrates attending from Fez, Meknes,

Oujda, Tangier, Marrakech and Agadir. In addition to using the Trademark Guide produced by the Program, the two-day intensive training workshops included a sophisticated case study and role play. The training materials have also been adapted to the needs of student-judges undergoing initial training at the ISM and included in the 2008 training program at the ISM. The Program also decided to replicate this experience in the area of patent law using the “four judges” model.

In parallel, the Program continued working on the development of a patent guide in close collaboration with the Director of OMPIC Adil El Maliki, Judge Zaoug, Professor Tijani Bounahmidi, and Alain Souchard of INPI, the French intellectual property agency. This work is meant to serve as a reference not only for judges and lawyers – as was the case of the trademark guide - but also for university researchers. The guide can also serve as a “textbook,” the basis for developing a training curriculum. The guide is scheduled to be completed by the end of next quarter.

CORE TECHNICAL AREA 3 PROMOTING ADR FOR BUSINESS DISPUTES IN MOROCCO

Activity 3.1 Collaboration with the International Finance Corporation (IFC) on public awareness, support for a pilot mediation center, and training and certification for mediators

USAID/IBCM entered into a Memorandum of Understanding (MOU) with the IFC on October 30, 2007. This MOU involves a commitment for parallel financing of specific tasks as part of an integrated strategy to promote commercial mediation in Morocco with mainly three components: public awareness, support of a pilot mediation center, and training and certification for mediators.

After a number of meetings, the Program and the IFC were happy to obtain a common agreement from partners on having a **national public-private commission** to promote mediation. The commission, which met for the first time on September 18th is made up of the Ministry of Industry and Commerce, the national Moroccan business association (CGEM) and the national Moroccan banking association (GPBM). Both IFC and USAID are members with observer status. During the meeting the commission agreed on the workplan that IFC-USAID had shared earlier with Mrs. Boucetta of the Ministry of Industry and Commerce.

The public-private commission oversees four main activities: (i) providing an overall framework for mediation in Morocco, (ii) offering institutional support to mediation centers, including incentives and mechanisms for quality control, (iii) offering mediation training (both continuing education for professionals and introducing mediation into the curriculum of law and business universities); and (iv) an association to promote mediation which will sponsor and organize awareness raising events.

Institutional support to mediation centers. At the request of Mrs. Boucetta, the IFC has identified a top law firm interested in doing *pro bono* work to support ADR centers in Morocco. Two lawyers will visit in October (international arbitration and mediation specialists) to conduct a needs assessment of several Moroccan mediation centers (all those that appear to actually be operating at this time). This needs assessment will be the first step towards the provision of focused institutional support to selected centers.

Training and certification for mediators. As part of the IFC/USAID collaboration, the following mediation events were held this quarter:

- **Roundtable on July 8th.** This event gathered about 75 mediators, lawyers, accountants and other professionals and government officials interested in ADR, to listen to presentations on best practices and practical experience from three countries: Colombia, Pakistan and Italy. The presentations were particularly useful in that they focused on the real-world challenges faced by mediation centers and provided a comparative perspective. The sophistication of the questions coming from the Moroccan participants demonstrated the progress that the local ADR community has made over the last couple of years. Very senior business lawyers and arbitrators also participated.
- **Advanced training in mediation, July 9-11.** A three-day advanced-level training in mediation skills and practice was held in Rabat. The trainees had all received prior training, with the majority having attended USAID/IBCM-sponsored trainings organized in collaboration with the International Center for Mediation and Arbitration in Rabat (CIMAR) and Search for Common Ground in 2007-2008. The training was delivered by consultants affiliated with the ADR Center in Rome, Italy and, for participants who pass the final evaluation, offers an international certification as a mediator.
- **Basic and intermediate training in mediation, July 14-18.** A five-day training was held in Casablanca. Participants were drawn from the Casablanca bar, the accounting and notary professions, and included a number of new faces.

Activity 3.2 Assistance to CIMAR

This quarter, the Program has continued to provide institutional capacity building support to CIMAR. Over the last two years, the Program has helped CIMAR develop its capacity to offer mediation services to the business community, gain visibility and increase its volume of activities.

The Program made progress mainly on two fronts this quarter:

- **Updated business plan.** A local consultant was hired to work with CIMAR to update its business plan, prioritize upcoming activities, and outline a detailed financial sustainability and investment strategy. In addition, the Program met one-on-one with Rafael Bernal, a Colombian presenter from the ADR workshop (see Activity 1 above). Mr. Bernal has worked tirelessly for 25 years to build the largest and most respected ADR center in Colombia. He shared a model of its business plan to help orient CIMAR in the preparation of its document.
- **Website.** A website for CIMAR is also under development, which will provide information on services offered, the mediator and arbitrator lists, outreach activities and other resources such as an ADR library. This quarter the Program selected the service provider for the development and implementation of CIMAR's website, and work has begun.

CORE TECHNICAL AREA 4 MODERNIZATION THE COMMERCIAL REGISTRY

The original goal of this activity had been to increase access to credit, via the modernization of the Moroccan collateral registry system (as applicable to moveable collateral only). Indeed, SMEs constitute 90% of the private sector in Morocco, and are often excluded from the banking sector because they lack the guarantees that Moroccan banks require in order to provide access to credit. Under Moroccan law, the *Registres de Commerce* (commercial registries), part of the court system, are responsible for documenting all information related to the life cycle of an enterprise,

including tracking movable property used as collaterals. In other words, reforming the collateral attribution process means reforming the commercial registry system.

Today, most collateral reporting is done by hand, in the physical bound books that legally constitute the commercial registry. This information is not consolidated at the central level or in electronic form, which means that, *de facto*, an enterprise could obtain multiple liens on the same equipment in different regions. In order to obtain the true collateral status of an enterprise, one would need to visit all clerks in their respective courts.

Last quarter, the Program completed a pre-feasibility study analyzing the current functioning of the commercial registry and identifying four scenarios under which it would be possible to build a centralized national database with real-time information. The pre-feasibility research also included a legal assessment, which indicated that without major reforms to the legal framework for secured transactions, modernizing the commercial registry would **not** make it easier for Moroccan businesses to get credit. Such an effort, according to partners, is not on the high priority list right now.

Despite this change in focus, the Program has not given up altogether working to modernize the *Registre de Commerce*. Indeed, the diagnostic work conducted regarding collateral registry and for the common business identifier initiative has shown that, now more than ever, it will be critical to address the weaknesses posed by the commercial registry if Morocco is to improve its business environment. The RC, in many ways, has become **the weak link** in communication and service between the Moroccan government and private business.

The Program finalized a report that summarizes the analytical work mentioned above as well as stakeholders consultations which took place in Casablanca and in Agadir during February. Below are the main findings:

- *A pre-feasibility study* evaluated the impact that an IT solution designed according to international best practices and allowing real-time access to collateral information would have in Morocco. The main conclusion is that the collateral issue needs to be linked to the following efforts: (i) the Common Business Identifier (CBI), (ii) the modernization of all local commercial registries, and (iii) training for clerks dealing with not only collateral issues, but also civil, penal and commercial affairs.
- *Consultation with current collateral information users* took place through two round tables, one with private partners in Casablanca, essentially the banking sector, on February 13th 2008 and the other with banks and representatives of the public sector (i.e. the Ministry of Justice and the tax authorities) in Agadir on February 14th 2008. These round tables concluded that even the best technological solution, such as real-time information available electronically on a 24-hour basis, would increase only marginally access to credit. Bankers were clear that the current law (and the reality of the court system) does not provide sufficient incentives to lend or mechanisms to recover debt.
- *An in-depth analysis* by the international expert Daniel Benay of the legal framework governing secured lending in Morocco specifically, taking both an Anglo-Saxon and French perspective. The report concludes that significant reform to the secured lending framework is necessary to accompany the modernization of the commercial registry, that this reform can be incremental, and that examples of successful reforms exist.

The summary report covering all three areas cited above will be distributed in early October to all participants of the round tables. Their feedback was extremely useful in helping the Program shape an appropriate solution to the modernization of commercial registry.

One decision that has been taken as a result of this legal assessment was, not to proceed forward with the development of a software or other information technology system focused on collateral registry until (1) Morocco has developed a system for allocating a national business identifier that is common – meaning known - to all government actors; (2) additional work has been conducted on the harmonization of operating procedures for the commercial register, and (3) a champion has come forward to lead the efforts to reform the country's secured lending framework. As work progresses on these and other fronts, the USAID Improving the Business Climate Program will welcome the opportunity to support Morocco in moving toward the implementation of a modernized collateral registry system.

ADMINISTRATION AND MANAGEMENT

From July 1st to July 8th 2008, the Program hosted an internal DAI audit, led by Emad Sayegh from the company's Palestine office.

Hélène Kirémidjian continued working as an intern under the Regulatory Reform and Investment Promotion component this quarter. The Program hosted Nicolas Toitot as an intern under this component from August 11th to September 10th 2008. The Program also welcomed Yousra El Hatib again in September as a Regulatory Reform and Investment Promotion intern.

Communication and outreach activities were limited this summer due to the holiday period. However, the team developed a success story based on the “four judges” training model (see Annex II).

PLANNED ACTIVITIES FOR THE NEXT QUARTER (OCTOBER 1ST TO DECEMBER 31ST, 2008)

The following activities are planned for the next quarter as part of the **Regulatory Reform & Investment Promotion** component:

- The Casablanca Regional ‘Doing Business’ committee will meet in October. Work has already begun on the indicator ‘Registering a Business’. The October meeting will focus on the indicator ‘Registering Property.’ Committee meetings will be held on a monthly basis.
- At the end of October, a press conference will be held at the RIC of Settat in order to officially launch the E-invest software nationally.
- Also related to e-invest, a meeting will be organized in collaboration with the Ministry of the Interior. The purpose will be to present the tool to managers of the investment service (“guichet II”), sharing lessons learned in Settat and challenges for the future.
- A meeting of the CBI inter-ministerial commission will be held at the end of October. During this meeting, an operational scenario will be presented for approval.
- The Program will meet with the Wali of Meknes during October to discuss progress related to *Meknes Vert*. Program consultants will make a presentation related to the feasibility of the city’s two potential CDM projects (landfill and water treatment plant).
- Also related to *Meknes Vert*, the Program will meet with GTZ, UNDP and the Meknes RIC, to come to an agreement on the establishment of, and support for, the new regional committee charged with evaluating environmental impact studies.

As part of the **Judicial Reform & Improving the Commercial Court System** component:

- A roundtable will be organized to discuss bankruptcy reform. The best case scenario is that this event includes all stakeholders and be led by the Ministry of Justice. If this is not possible, a private-sector only event may be organized.
- This quarter will see the launch of a number of activities sponsored by the public-private commission on mediation:
 - In October, IFC and USAID/IBCM will host a visit by two lawyers from a top international law firm, who will perform a needs assessment of several local mediation centers.
 - In November, a government-wide pact that will serve as a framework for the commission will be signed.
 - In early December, a conference will be organized as an official launch for the commission’s work. The goal is to promote a broad awareness at the national level about mediation, including the availability of mediation services via a number of centers.
- The patent guide will be completed and in either December or January a training module on patents will be organized in collaboration with OMPIC. The training will be a collaborative effort between local and international trainers, and will also serve as a

‘training of trainers’ so that the material can be disseminated more widely throughout the country afterwards.

- The Program will begin working on guide on the procedures to be followed by clerks (*greffiers*) of the commercial registry, as well as on the development of a training program for clerks. The guide will follow the same model used by IBCM for production of the guide on trademarks and the guide on patents, with one important difference. The training activities must be organized in such a way as to gather input from clerks about their own functions, and use this input for the guide that is developed.

Program Management

- The Steering Committee will meet in November.

ANNEX I: BUDGET INFORMATION

CLIN/Expense category	Amount expended	Estimated accruals	Total estimated expenditures
	August 31, 2008	September 30, 2008	September 30, 2008
<i>CLIN 1: Regulatory reform</i>			
Labor	\$1,138,977	\$38,000	\$1,176,977
ODCs	\$562,115	\$12,000	\$574,115
G&A	\$51,023	\$1,092	\$52,115
Sub Total CLIN 1	\$1,752,114	\$51,092	\$1,803,206
<i>CLIN 2: Judicial reform</i>			
Labor	\$983,093	\$27,500	\$1,010,593
ODCs	\$444,497	\$19,000	\$463,497
G&A	\$40,454	\$1,729	\$42,183
Sub Total CLIN 2	\$1,468,044	\$48,229	\$1,516,273
<i>CLIN 3: Financial sector expansion</i>			
Labor	\$330,414	\$-	\$330,414
ODCs	\$39,719	\$-	\$39,719
G&A	\$2,189	\$-	\$2,189
Sub Total CLIN 3	\$372,322	\$-	\$372,322
<i>CLIN 4: Fiscal strengthening</i>			
Labor	\$66,599	\$-	\$66,599
ODCs	\$10,337	\$-	\$10,337
G&A	\$941	\$-	\$941
Sub Total CLIN 4	\$77,877	\$-	\$77,877
<i>CLIN 5: Management</i>			
Labor	\$902,348	\$11,000	\$913,348
ODCs	\$1,317,769	\$70,000	\$1,387,769
G&A	\$120,148	\$1,330	\$121,478
Sub-Total CLIN 5	\$2,340,265	\$82,330	\$2,422,595
GRAND TOTAL	\$6,010,622	\$181,651	\$6,192,273

ANNEX II: SUCCESS STORY

The “Four Judges” Model: More Autonomy for Magistrates

Moroccan commercial court judges are increasingly hearing cases involving trademark disputes, but until recently they had received little training in this area of the law. As a result, judges have often had to rely on the assistance of court-appointed experts in rendering decisions on trademark disputes.

In response to requests from Moroccan partners, including the Industrial Property Office, USAID’s “Improving the Business Climate in Morocco” program developed and implemented an innovative trademark law judicial training program. Donor-funded initiatives typically bring foreign and/or local trainers from outside the court system to train judges. Too often the impact of such one-off trainings is limited since the expertise and training techniques do not remain within the courts. In contrast, a more sustainable approach was taken by the Program.

First a retired judge and judicial trainer with expertise in trademark law prepared and published a 100 page “Guide to Trademark Law” with assistance from international experts. This senior trainer then worked closely with a team of four young judges interested in developing expertise in trademark law and learning training techniques.



Working with the Commercial Courts and other partners, the Program then organized intensive two-day trainings throughout the

Kingdom, reaching judges from all eight commercial jurisdictions over the course of 2008. The four judges assisted the senior trainer in all of these trainings sessions, gradually taking on a larger share of the presentations and leading the role plays and discussions. At the last training, held in Agadir in June 2008, the four judges demonstrated markedly improved training skills.

As a result, commercial court judges have improved their understanding of trademark law and are able to render judgments more promptly. *“Before these trainings, I always needed the help of an expert to address certain technical aspects of trademark law-related cases, but thanks to these trainings I consider myself much more independent today and do not need to contact any expert anymore”*, a judge who recently participated in the training.



Just as importantly, the four judges have continued to disseminate their trademark law expertise in their respective courts through small seminars with the support of court presidents. The training materials are being used to train new judges at the Judicial Training Institute in Rabat and the four judges should be giving follow on trainings for commercial court judges in the future. Given the proven track record of this “Four Judges” approach, the Program is discussing the possibility of implementing similar judicial training in other areas of commercial law.