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Improving the Business
Climate in Morocco

Annual Report

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Improving the Business Climate in Morocco

Amélioration du Climat des Affaires au Maroc

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

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LIST OF ACRONYMS

ADR	Alternative Dispute Resolution
CGEM	<i>Confédération Générale des Entreprises du Maroc</i>
CIMAR	<i>Centre International de Médiation et d'Arbitrage de Rabat</i> (Rabat International Center on Mediation and Arbitration)
CLIN	Contract Line Item Number (refers to the budget of each component)
CNPI	<i>Comité National des Procédures liées à l'Investissement</i> (National Committee on Investment Procedures)
CNSS	<i>Caisse Nationale de Sécurité Sociale</i>
COP	Chief of Party
CRI	Regional Investment Centers
CTO	Cognizant Technical Officer
DAI	Development Alternatives Inc.
DGI	<i>Direction Générale des Impôts</i>
DI	<i>Direction des Investissements</i>
FSVC	Financial Services Volunteer Corps
GOM	Government of Morocco
HCP	<i>Haut Commissariat au Plan</i>
IBCM	Improving the Business Climate in Morocco
IFC	International Finance Corporation
IMANOR	<i>Institut Marocain de Normalisation</i>
INPI	<i>Institut National de Propriété Industrielle</i> (French Intellectual Property Institute)
ISM	<i>Institut Supérieur de la Magistrature</i> (Judicial Training Institute)
IT	Information Technology
MOJ	Ministry of Justice
ODC	other direct costs
OMPIC	<i>Office Marocain de la Propriété Industrielle et Commerciale</i>
RC	<i>Registre de Commerce</i>
SNIMA	<i>Service de Normalisation Industrielle Marocaine</i>
SOW	Scope of Work
UBI / CBI	Unique Business identifier / Common Business Identifier
UNCTAD	United Nations Conference on Trade and Development
USAID	United States Agency for International Development
USPTO	United States Patent and Trademark Office

ACCOMPLISHMENTS DURING THE LAST YEAR (OCTOBER 1, 2006 TO SEPTEMBER 30, 2007)

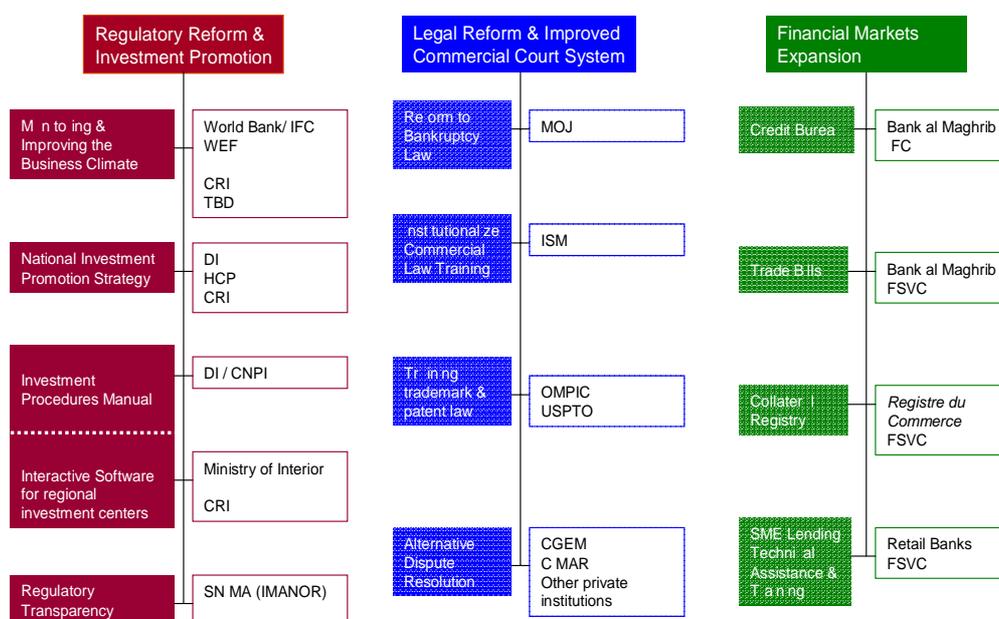
TECHNICAL PERFORMANCE: OVERVIEW

The beginning of 2007 ushered in a major transition period for USAID/Morocco's Improving the Business Climate Program. A new Chief of Party (COP) mobilized on January 5 and a new technical team was hired during January and February. Close communication between former Chief of Party Ulrich Ernst, former Acting Deputy Chief of Party Catherine Johnston, and the new team allowed for continuity and made it possible to build on the Program's earlier successes and lessons learned.

The theme for 2007 and going forward is *clear and frequent communication* with all stakeholders. Designed as a complex technical assistance program to benefit multiple partners, IBCM's greatest challenge is at the same time its greatest opportunity. If the Moroccan business climate is to show significant improvement, it is a *sine qua non* that the relevant ministries, administrative agencies, and private sector associations work in concert towards common goals.

To this end, perhaps one of the most important accomplishments was the consolidation of the Steering Committee, which by request has convened each quarter since March. IBCM considers that this first meeting and subsequent quarterly meetings have been successful, as members are lively and engaged, demonstrating their desire to participate actively in defining the Program's activities. IBCM wants to offer a neutral space for government officials, private sector representatives, and other stakeholders to access necessary technical and financial resources and work together on legal and regulatory reform, administrative simplification, and transparency.

Also related to the theme of simple and clear communication, a power point slide was developed which depicts all of the program's current activities at a glance:



Following the ramp-up in January-March, the April to June period was intensely busy. The work schedule for the Regulatory Reform and Investment component was full, allowing for a great deal of ground to be covered, which is highlighted in the list below. However, it was the Legal

Reform and Strengthening the Commercial Courts component which had the most packed agenda, with a series of back-to-back events planned throughout this quarter. Progress was made especially in the areas of Alternative Dispute Resolution (ADR) and intellectual property (see below).

With regard to the last quarter, July-September was expected to be a relatively quiet period, due to the summer vacation season, the national elections and the beginning of Ramadan in September. However the team found itself quite busy with the completion of several activities and a great deal of design and planning work, culminating in an approved annual workplan for 2008.

The following points highlight the key achievements in the three components over the period October 2006 – September 2007.

COMPONENT 1: REGULATORY REFORM AND INVESTMENT PROMOTION

- The Program initiated a dialogue to transfer the management of the *Comité National des Procédures liées à l'Investissement* (CNPI) to the Ministry of Modernization. As a result, a commitment was negotiated with the Ministry to include CNPI as one of its official simplification committees.
- Progress has been made in the development of tools to disseminate investment procedures - the voice server is now functional and the investment procedures are available online in French, English and Arabic.
- The first procedure of the e-invest software, the one called “handling the first contact with an investor,” is now operational in the two pilot regions of Settat and Kenitra. CRI staff members at these sites have been trained in the use of the system.
- IBCM’s three studies (the regional Doing Business and Executive Opinion surveys and the Regional Economic Profiles) have been presented in all seven regions: Tangiers, Meknes, Kenitra, Agadir, Marrakech, Oujda and Settat.
- In close collaboration with the *Direction des Investissements* (DI), IBCM developed a high-profile report on investment trends in Morocco covering the period 2003-7.
- With the *Service de Normalisation Industrielle Marocaine* (SNIMA), IBCM oversaw work to facilitate the management of its current website and began development of a more advanced interactive platform. Specifications for the new website were developed and SNIMA is now ready to enter the production phase.
- In collaboration with local partners, three pilot programs have been designed - “Oujda fully connected,” “Agadir EZ business” and “Meknes Vert”.
- The Program finalized and disseminated a report entitled “Regulatory Quality and Competitiveness in Morocco.”

COMPONENT 2: LEGAL REFORM AND IMPROVED COMMERCIAL COURT SYSTEM

Activities in support of the new intellectual property laws were carried out in close collaboration with the *Office Marocain de la Propriété Industrielle et Commerciale* (OMPIC):

- IBCM worked with OMPIC to design and implement a set of integrated outreach activities related to the protection of trademarks in Morocco, including the publication of a guide on trademark law, training for judges and information sessions for lawyers, and a study tour. IBCM leveraged additional resources for this activity via the United States Patent and Trademark Office (USPTO).

- At the request of OMPIC, training for judges and information sessions for lawyers on trademark law were held in four cities (Fez, Ifrane, Marrakech and Casablanca). Following the trainings, a group of Ministry officials and judges were invited to participate in a customized study tour held at USPTO's office in Alexandria Virginia.
- The trademark guide was distributed during the trainings and is being reprinted by OMPIC. The guide is also available on-line (www.marquesaumaroc.com).

Activities to promote alternative dispute resolution in Morocco took off this year:

- In February, IBCM organized a roundtable to discuss the development of professional standards and an ethics code for mediators in Morocco. The event was well-attended by private sector professionals interested in advancing their knowledge of this topic.
- IBCM offered the first mediation training in Morocco focused on commercial disputes. Held on June 14-15-16, this event was organized in collaboration with the Rabat International Center on Mediation and Arbitration (CIMAR) and the local non-governmental organization Search for Common Ground.
- The new law on arbitration and mediation was passed in July. A major step towards the development of ADR in Morocco, the approved version incorporates comments offered by IBCM experts. An article on the new law citing other progress made in the field of commercial mediation was written by IBCM staff and published in a weekly magazine.
- In September, the Center on Arbitration and Mediation (CIMAR) benefited from a business planning exercise which will help the institution prioritize activities and implement a financially sustainable growth strategy.
- The partnership with IFC on developing ADR in Morocco is nearly finalized. If formalized, the partnership will consolidate the Program's position as a leader in developing the practice of commercial mediation in Morocco.

Activities related to proposed reforms to the commercial code and supporting the *Institut Supérieur de la Magistrature* (ISM) also moved forward:

- Completed IBCM's second report on handling enterprise insolvency, which contains proposed changes to Book V of the Commercial Code. Agreed with the Ministry of Justice to integrate IBCM's recommendations into their internal process via a joint workshop.
- Held a short training of trainers' session in April, and worked with the ISM to develop a sustainable approach to offering continuing legal education to judges on commercial law topics.

COMPONENT 3: FINANCIAL MARKETS EXPANSION

- Began an inquiry into the operation of the commercial registries (*Registres de Commerce*).
- A survey was conducted of six government institutions necessary to the Common Business Identifier (CBI) initiative and an inter-agency working group was formed.

TECHNICAL PERFORMANCE

COMPONENT I: REGULATORY REFORM AND INVESTMENT PROMOTION

ACTIVITY I: CONSOLIDATE AND STRENGTHEN SYSTEMS USED TO MONITOR AND IMPROVE THE BUSINESS CLIMATE AT THE NATIONAL AND REGIONAL LEVELS

TASK I.1 DESIGN AND CONDUCT REGIONAL STUDIES

During the 2006-2007 year IBCM completed field work and analysis for three regional studies on the business climate in Morocco: *Doing Business*, *Regional Economic Profiles* and *Executive Opinion Survey*.

i) *Doing Business*

Due to queries from the World Bank staff in Washington regarding the initial data submitted by the Program in late 2006, it became obvious that a second round of data collection would be necessary for the *Doing Business* survey. This second round, commenced in January, in fact presented the opportunity for a more participatory and rigorous approach by the Program, particularly with regard to working with the Regional Investment Centers (CRI), whose support would be vital if the planned follow-up pilot projects were to come to fruition.

PROSPECOM, a local survey firm, was brought back to conduct the second round of data collection, working under the direction of IBCM consultant Caroline Huwiler. This new survey team received training from the World Bank, who sent out two trainers to Morocco specifically for this task. In addition, bank staff Penelope Fidas participated in the initial three days of field work which was carried out in Kenitra. The methodology for the field work was to gather qualitative and contextual data from the following seven regions:

- Tanger-Tétouan (Tangiers)
- Meknès-Tafilalet (Meknes)
- Gharb-Chrada-Bni Hssen (Kenitra)
- Marrakech-Tansift-El Haouz (Marrakech)
- Souss-Massa-Drâa (Agadir)
- L'Oriental (Oujda)
- Chaouia-Ouardigha (Settat)

The data collected served a dual purpose: not only was it needed to complete the *Doing Business* project but also it was used by IBCM to develop the *Regional Economic Profiles*.

ii) *Regional Economic Profiles*

The purpose of the *Regional Economic Profiles* was to give additional background on the business climate in these seven regions, independent of their World Bank rankings. These profiles aimed to go beyond *Doing Business* and give a richer context for the analysis of the survey results. The key objective of the Program was to move into a more dynamic phase of achieving tangible improvements to the business climate.

Organizing this activity required regular meetings between USAID, IBCM, PROSPECOM and the CRI Director from each of the seven regions. The *Regional Economic Profiles* were developed from structured interviews with local entrepreneurs and government officials. The qualitative data which emerged from the study was used to complement the quantitative information (on the number of days, number of procedures, and cost necessary to complete certain administrative formalities) collected via the *Doing Business* questionnaires.

iii) *Executive Opinion Survey*

The final regional study, the *Executive Opinion Survey*, was carried out in collaboration with the World Economic Forum and these findings were incorporated into the regional studies when appropriate. Results of the three regional studies are to be presented at the national conference organized by IBCM, to be held November 29-30, 2007.

TASK 1.2 IDENTIFY AND ADDRESS MOST PRESSING REGULATORY REFORMS

In order to identify the most pressing regulatory reforms, the Program organized stakeholder meetings in the regions where the *Doing Business Survey*, *Executive Opinion Survey* and *Regional Economic Profiles* were carried out. The objective of these meetings was threefold: i) to present the results of the regional studies; ii) to receive stakeholder feedback and; iii) to provide a platform for debate on how to transform regional problems into opportunities.

These stakeholder meetings were set up in collaboration with the Regional Investment Centers (CRI) and prior to taking place, careful preparation was required. Such preparation included a series of half-day workshops, whereby respondents from the *Doing Business Survey* and key government and private sector representatives were invited to give their input. Throughout the stakeholder consultation process, IBCM invested in close communication between all partners. Whenever feasible, USAID CTO Nadia Amrani, IBCM COP Lara Goldmark and regulatory specialist Caroline Huwiler traveled to meet with representatives of the regional investment centers and other local partners in advance of the stakeholder event.

In six of the seven regions the format of the workshops was as follows: a presentation by PROSPECOM on the *Doing Business* rankings; a presentation by IBCM consultant Caroline Huwiler of key findings from the executive opinion survey and regional economic profiles, followed by open dialogue with partners. The afternoons were devoted to small workshops focusing on priority indicators or topics that had emerged from the studies (see Table 1 below). In Settat, CRI director Saïd Aqri requested a different format so that the results could be integrated into a larger event. Mr. Aqri incorporated the results of the studies into a presentation he gave at a conference entitled “Regional Economic Day” on July 10.

Participants in the stakeholder meetings expressed their surprise and appreciation at being presented with the results, remarking that all too often international donors neglect to share findings with the very people who make their research possible – especially at local level.

The table below summarizes the key regulatory topics addressed during the afternoon workshops held during the stakeholder meetings.

Table 1. Key regulatory topics addressed during stakeholder meetings

Region	Topic 1	Topic 2	Topic 3	Topic 4
Tangiers	Transferring property	Starting a business	Enforcing contracts	Taxes and informality
Meknes	Access to land for investors	Dealing with licenses	Taxes and transparency	Environment
Kenitra	Access to land for investors	Starting a business	Enforcing contracts	Environment
Marrakech	Access to land for investors	Dealing with licenses	Enforcing contracts	Environment
Agadir	Access to land for investors	Dealing with licenses	Access to finance	Environment
Settat	N/A	N/A	N/A	N/A
Oujda	Access to land for investors	Enforcing contracts	Environment	N/A

What came out of the stakeholder meetings?

The meetings were critical to identifying the most pressing regulatory reforms, at times unearthing unexpected issues and responses to the regional results. The exchange of ideas and the problems identified provided a basis for the design of IBCM pilot projects in the regions surrounding the cities of Meknes, Oujda and Agadir. These pilot initiatives have been designed to turn constraints identified by regional stakeholders into opportunities. Before presenting the proposed pilot efforts, it is worth noting two key issues which came up during the stakeholder discussions:

- **Registering a business**

The loudest cry at the stakeholder meetings was when the results to the *Doing Business* indicators for the time period to register a business were presented - they were unanimously deemed inaccurate. “How can the World Bank say it takes two weeks to register a business when I have people who walk out of here in a number of hours?” asked several CRI Directors. The Program agreed to follow up on these concerns and transmitted the objections to the World Bank. As a result, it came to light that the disparity was due to different definitions of what it meant to register a business. While the World Bank Doing Business team has made a few modifications to recognize this, not all of the requested changes can be made without violating a key feature of the Doing Business methodology, the comparability across countries of the procedure “registering a business.” This issue will be addressed at the national conference in November.

- **Access to land & transferring property titles**

Over and over again the issue of access to land came up, identifying it as a key area for reform. More to the point, it became clear from the meetings that the Doing Business indicator ‘transferring property titles’ did not adequately capture the access to land issue as one of the most problematic aspects of the business climate in Morocco. Rather than having trouble with the transfer of the title at the time of sale, investors simply could not find out what land was available to buy. In other words, the major issue facing businesses in Morocco is not the transfer of title from land which has an owner; it is identifying who is the owner of a parcel of land and obtaining permission to purchase the land in the first place. There is much land which is untitled in Morocco. Of the titled land, there is some which belongs to private owners, but there is a great deal of land which belongs to the state, or to various local community structures. For each type of land, there are different procedures involved in obtaining permission to purchase and conditions may be attached to the sale of the land. The laws governing this maze of restrictions are widely acknowledged as archaic and needlessly complex. This issue was identified unanimously across the regions as problematic and may become the basis for an IBCM pilot intervention to address the access to land issue, in particular the question of how investors can get quick access to information about the legal status of land.

Pilot projects

During and following the stakeholder presentations, three regional investment centers showed the strongest interest in cooperating with the Program to implement pilot projects: those in Oujda, Agadir and Meknes. The aim of the pilots is to showcase innovative solutions to problems identified as the most pressing, with the overall objective of developing regional best practices which can be ‘scaled up’ throughout Morocco.

The following is a brief overview of the proposed regional pilot projects:

1. 'Oujda fully connected'

The 'Oriental region' is one of the remotest and most isolated regions in Morocco. Oujda, the capital of this region, is situated near the Algerian border and due to its location, was historically a trading center. However, today the border is closed and the region's vast expanse means that its own cities and towns are remote from each other and from the country's major decision centers. The area today is in desperate need of economic development and innovative ways of attracting trade. Large infrastructure projects promised by the government will help, up to a decade will be needed for the proposed new highways, airports, and ports to be built and - more importantly - begin contributing to the region's economy.

The idea behind this pilot project is to make the least-connected region the best-connected. The Oriental region could become in a short time, for a relatively low cost, the best-connected region in Morocco. The goal is to use information technology to cut red tape for investors and speed up administrative procedures. Investments in upgrading the region's information technology (IT) capacity can be used to eliminate the distance between towns in the region...between the Orientale and the Rabat-Casablanca axis...and between the Oriental region and its large population of Moroccans living abroad.

This pilot project is a three-way collaboration between the Program, the United Nations Conference on Trade and Development (UNCTAD) and the regional development agency, *l'Agence de l'Oriental*. The first step involves customizing UNCTAD's user-friendly **e-regulations** investor gateway, which will make information needed by investors easily accessible, even at a distance.

2. Agadir EZ Business

Souss-Massa-Drâa is the largest region in the Kingdom, stretching from the Atlantic coast to the edge of the desert. It was in Agadir that the Kingdom's first one-stop-shop for business registry was created, just as the regional investment center began operating in 2002. The dynamic leadership of the regional government (the Wali, regional investment center, regional council) reflects the hardworking ethic of a population that, historically, has always been oriented toward commerce and business. Despite its smaller population base, the Agadir port can claim higher volumes (and shorter processing times) than that of Casablanca.

According to the regional Doing Business survey, Agadir has the best performing commercial courts in Morocco. The idea behind this pilot project is to capitalize on the region's natural tendency towards commerce by maximizing its efficiency. In collaboration with the commercial courts of Agadir, IBCM plans to design an on-line solution to the services offered by the *Registre de Commerce*, or commercial registry. If successful, this demonstration would serve as the base for the implementation of a centralized national database. The existence of such a database would solve multiple business climate problems in one fell swoop: banks would be able to trust the collateral registry process and have access to real-time information about existing liens on moveable collateral; multiple government - and private - agencies (such as the credit bureau) would benefit from the existence of a common business identifier, and more rapid options could be made available for a number of functions including registering a new business.

3. Meknes Vert

This pilot project grew out of concerns for environmental degradation, voiced by private enterprises and local government actors during the interviews conducted for the Regional Economic Profiles. The regional investment center in Meknes, informed about the availability of various "green" investment funds, suggested a strategy to turn this problem into an opportunity: a regional investment promotion "label" identifying Meknes-Tafilalet as a home for sustainable investment.

IBCM will support the Meknes CRI as it works to implementing this strategy: conducting a "matching" exercise between potential investment opportunities in the region and international investment fund priorities; bringing environmentally conscious investors to the region to explore

these opportunities, and accompanying the early phases of one or two demonstration projects which can serve to ground the strategy in real experience. Sectors which have been identified to date as holding promise for sustainable investment include: eco-tourism, sustainable agribusiness, waste management, natural resource management, energy-efficient technology, recycling and renewable energy.

Preliminary research on internationally available “green” investment funds was carried out in-house by IBCM over the summer, and the matching exercise described above is underway. At the end of October 2007a regional conference on green investment will be held in Meknes to highlight ‘green’ investment opportunities in the region and to provide a forum where regional actors can debate the next steps forward in implementing a sustainable investment promotion strategy for the Meknès-Tafilalet region.

ACTIVITY 2: RECOMMEND IMPROVEMENTS AND SUPPORT IMPLEMENTATION OF A NATIONAL INVESTMENT PROMOTION STRATEGY

TASK 2.1 ASSESSMENT OF CURRENT GOM INVESTMENT PROMOTION STRATEGIES

In mid-May consultant Charles Michalet submitted a report on investment incentives in Morocco, which was then revised and integrated by IBCM staff into the ‘Report on Investment Trends in Morocco 2003-7’. The investment trends report will be presented at the *Intégrales de l’Investissement* in early December; in addition an edited version of Michalet’s contribution will be available on the Program’s website.

TASK 2.2 STRENGTHEN THE NATIONAL INVESTMENT PROMOTION STRATEGY

At the request of the *Direction des Investissements* (DI), IBCM developed a high-profile report on investment trends in Morocco. ‘Investment Trends in Morocco 2003-7’ highlighted the increase in foreign direct investment in Morocco, particularly from Arab countries and also the sharp rise in private investment projects. Prime Minister Driss Jettou gave a presentation of this report to the Moroccan parliament in July, and Hassan Bernoussi (Director of the DI), presented the report at an international conference on investment held on June 29 in la Baule, France. In addition IBCM COP Lara Goldmark will offer an overview of the report’s findings to selected government representatives, economists and journalists at the annual launch of UNCTAD’s World Investment Report in October 2007.

This report is currently being expanded to include three additional chapters: one on tax and other incentives to investment; another one on Arab investment in Morocco; and finally one on investment by Moroccans residing abroad. The updated version will be presented at the annual conference *les Intégrales de l’investissement* in December. Executive summaries of the first version are available on line in French and English at www.climatdesaffaires.ma.

TASK 2.3 STRENGTHEN AND DISSEMINATE INVESTMENT PROCEDURES

Building on past USAID achievements in this area, IBCM has developed and published a comprehensive Investment Procedures Manual (www.manueldesprocedures.com). As requested by Moroccan counterparts, IBCM produced both English and Arabic versions during the first quarter of 2007, to complement the French version. Without any promotional efforts whatsoever, the manual’s website sees over 500 visitors per month. After Morocco, the United States has the largest number of visitors, followed by France and other European countries.

In consideration of Moroccans without internet access or who have a low level of literacy, a voice server was developed so that the information on investment procedures could easily be accessed. Information in both French and Arabic is available by dialing + (0) 22-85-97-00 or + (0) 22-85-97-01. However, additional outreach and communication efforts still need to be made if the voice server is to enjoy wide usage.

In June of 2007, Jean-Michel Mas successfully negotiated commitment from the Ministry of Modernization to include the National Committee on Investment Procedures (CNPI) as one of its official simplification committee. The simplification committee has access to official channels which allow for changes in the law, where deemed necessary, in the interest of facilitating doing business.

TASK 2.4 PILOT INSTALLATION OF INVESTMENT INFORMATION MANAGEMENT SYSTEM IN A REGIONAL INVESTMENT CENTER

The Ministry of the Interior requested that IBCM pilot interactive customer management software, developed under a previous USAID program, in two regional investment centers (Kenitra and Settat.) A local IT firm installed the e-invest software and carried out staff training, allowing investment centers to manage investor applications on line. The potential for this pilot installation, is that investors will eventually be able to submit applications for approval directly via the internet. The e-invest software makes it possible for multiple government agencies to grant approvals on-line. If the government agencies are all using the system, an investment application should no longer have to wait for one approval before proceeding to the next step – all of the necessary approvals can be given as soon as the required information is received. The nature of the required information is clearly established in the procedures manual (see above).

The full e-invest implementation cycle consists of 28 procedures. Initially, the plan was to implement the full 28 procedures in Kenitra and Settat, before extending the use of the software to other regional investment centers. However, due to the promising early results, the Ministry of the Interior has decided to use its own resources to fast-track the implementation of the software to sixteen other regional investment centers.

ACTIVITY 3 IMPROVE REGULATORY QUALITY AND TRANSPARENCY

TASK 3.1 INSTALL MANAGEMENT SYSTEM FOR DEVELOPMENT AND DISSEMINATION OF TECHNICAL NORMS

Throughout 2007, IBCM has been supporting the *Service de Normalisation Industrielle Marocaine* (SNIMA) in its transition to becoming an independent agency, when it will be then renamed the *Institut Marocain de Normalisation* (IMANOR.) This will help bring Morocco closer to full compliance with the US-Morocco Free Trade Agreement and the Technical Barriers Agreement of the WTO. Specifically, IBCM has engaged with SNIMA to streamline two important functions of regulatory transparency: a public consultation process and the dissemination of information. The first step in the process was transferring SNIMA's existing website from the Ministry of Industry and Commerce so that SNIMA staff could keep the site updated.

The existing site was transferred quickly; since then, IBCM has been assisting SNIMA to develop specifications for an upgraded website. As SNIMA is the standards agency of Morocco, clearly the new website has to comply with international standards! IBCM web specialist, Charles Parent, will oversee the production phase which when completed, will allow for a more advanced interactive platform.

In addition, during 2007 IBCM responded to an ad-hoc request from SNIMA to assist them in sourcing several sets of American standards from private associations. SNIMA's request was honored for two reasons: first based on the principle that it is worthwhile to encourage SNIMA to use and disseminate American standards in general; and second, with the goal of better informing SNIMA about how they can continuously access standards from a variety of American sources.

TASK 3.2 INCREASE AWARENESS AND COMMITMENT TO REGULATORY TRANSPARENCY

See Tasks 1.2, 2.3 and 2.4 for activities that address this objective.

COMPONENT 2: LEGAL REFORM AND IMPROVED COMMERCIAL COURT SYSTEM

ACTIVITY 4 MAKE ADJUDICATION OF COMMERCIAL DISPUTES MORE EFFICIENT AND EFFECTIVE

TASK 4.1 RECOMMEND REFORMS TO EXISTING BANKRUPTCY LAW

Beginning in the first quarter (October 2006) a five-member committee led by consultant Professor El Hajjami and including representatives from the Ministry of Justice and the Supreme Court convened, reviewed the tasks at hand, and established a working methodology and timeline for finalizing a set of proposed amendments to Book V of Morocco's commercial code. By March 2007 a final report was produced by Professor Hajjami entitled: "Handling Enterprise Insolvency: Proposed Amendments to Book V of the Commercial Code."

Following the publication of the report, USAID CTO Nadia Amrani and IBCM COP Lara Goldmark held two meetings with Mr. Leisser, Director of Civil Affairs at the Ministry of Justice. Mr. Leisser and colleagues have reviewed Professor Hajjami's report and drawn up a matrix comparing the internal proposals discussed between the MOJ and practicing judges, and the IBCM proposals.

USAID/IBCM and Mr. Leisser agreed on a plan of action for the fall: the Ministry will bring together commercial court judges from around the country to discuss the proposed amendments. The objective is to reach agreement on a unified set of proposed amendments which will then be submitted to the *circuit d'adoption*.

The Ministry of Industry and Commerce has also expressed an interest in moving the proposed amendments forward and IBCM is eager to involve this Ministry.

TASK 4.2 INSTITUTIONALIZE COMMERCIAL LAW TRAINING FOR COMMERCIAL JUDGES, COMMERCIAL COURT CLERKS, AND OTHER LEGAL PROFESSIONALS AT ISM

In 2007 the Program has engaged with a new partner, the Higher Judicial Institute of Morocco (ISM), to institutionalize past training efforts by incorporating select commercial law topics into the ISM's continuing legal education program. The first activity was a two-day *training of trainers* course offered on May 11-12 by Anthony Fisser, an expert in education and training of judges and court managers as well as a practicing lawyer and magistrate in the United States. The intensive program focused on improving the training skills of a specially selected group of experienced judges and clerks from the Commercial Courts in Casablanca and Rabat. Subjects included: the role, importance and honor of being selected as a trainer of peers; the special challenges of educating adults; how to write good training objectives; how to design a training strategy; how to select an appropriate methodology; key aspects of making presentations and facilitating group processes; and the use of training aids to enhance learning. This training program was particularly significant, as it represented the first in a series of activities aimed at strengthening ISM's training capacity on topics related to commercial law. It must be noted that this activity built on earlier USAID programs and in the future ISM is expected to play an increased role in offering training to practicing judges.

In addition to developing and delivering the training course, Mr. Fisser conducted a brief review of the ISM's training needs, operations, and activities. He also commented on the current institutional relationship between the ISM and the Ministry of Justice (MOJ). Mr. Fisser managed in a short time to develop an excellent rapport with ISM management, especially Mr. Ayoubi,

Director of Training, which leaves IBCM optimistic about continued collaboration. One of Mr. Fisser's recommendations included developing better links between IBCM's other activities in the area of legal reform and strengthening the commercial courts; especially those related to training. IBCM plans to follow this recommendation, for example by merging future training activities organized with OMPIC (especially those targeting judges and clerks) into IBCM support for ISM.

The proposal for follow-up training developed jointly by Anthony Fisser and Mr. Ayoubi of the ISM involves the creation of small (3-4 member) working groups made up of judges. The groups will focus on narrowly defined commercial topics, developing their own expertise and preparing to offer short one-day or half-day seminars to ISM students or to practicing judges (or both if appropriate), using real case studies.

Mr. Ali Amar, a commercial law specialist recruited as a consultant by the Program, worked with ISM staff in September to detail the organization of the judge training modules. The core group of commercial court judges selected to participate in the working groups will over the next two years devote considerable time and effort to improving their own technical knowledge in commercial law topics, upgrading their skills as trainers and offering training to other practicing judges through ISM continuing legal education programs. It has been agreed that the modules will consist of groups of judges and clerks who will each be specialized in a specific topic: one on intellectual property (in collaboration with OMPIC); another one on business insolvency, and a third topic to be determined. There will be a fourth group made up of court clerks, the topic for this group is also to be determined, but it may focus on skills relevant to the Agadir EZ business pilot (see description under Task 1.2), which aims to put the commercial registry on line.

TASK 4.3 RECOMMEND DESIGN FOR ALTERNATIVE COMMERCIAL DISPUTE RESOLUTION

Tremendous strides were made by IBCM this year in promoting alternative dispute resolution (ADR) in Morocco, and this area has become an important activity of the legal reform and improved commercial court system component.

Activity began in October 2006, when Remy Kormos conducted a short-term consultancy to formulate a revised Program scope of work and annual workplan, building on the ADR assessment report submitted to USAID in September 2006. This report, "Alternative Dispute Resolution in Morocco (ADR): Assessment and options for technical assistance," was prepared in collaboration with USAID/Morocco, the Ministry of Justice (MOJ) and other potential stakeholders. After approval in December, the report, which presents specific programming recommendations, was made available for counterparts and stakeholders in Morocco.

Following the assessment, IBCM began building partnerships with interested groups and individuals to develop a competent core of ADR professionals who will serve as mediators and arbitrators. On February 22, the Program organized a roundtable in Casablanca to discuss the development of an ethics code and professional standards for the field. The event was well-attended by a variety of private sector legal professionals. In early March, IBCM sent letters of commitment to support the work of two institutional partners: the *Centre International de Médiation et d'Arbitrage de Rabat* (CIMAR), and the *Confédération Générale des Entreprises du Maroc* (CGEM). Both CIMAR and CGEM plan to develop mediation centers.

CIMAR responded proactively to the signing of the commitment letter, and activities in support of the center began almost immediately. Organized in 2001 as an independent entity within the Rabat Chamber of Commerce and Industry, CIMAR already exists as an ADR institution with basic staff and physical resources, and has hosted a small number of mediations over the past six years. IBCM has committed to support CIMAR's development, as part of a sustainable strategy to stimulate the growth of ADR in Morocco.

On June 14-15-16, IBCM offered the first training in Morocco to focus on solving commercial disputes. The event was organized in collaboration with CIMAR and the local non-governmental organization Search for Common Ground. The opening plenary session included a presentation by Mr. Rhomija of the Ministry of Justice on the proposed ADR law and presentations by co-trainers Ron Kelly and Oussama Safa on principles of arbitration and mediation. A sixteen-hour introductory training course followed, including theory and practice of mediation, using a video and role play exercises. Building on the success and in response to continued demand, a second round of training in commercial mediation is scheduled for early December. Two 30-hour training modules will be offered by the same trainers.

Mr. Kormos, along with other IBCM experts, also provided input to the new law on arbitration and mediation that was passed by Parliament in July. This new legislation was not as far-reaching as IBCM had hoped with regard to the critical issue of confidentiality, but nonetheless was a step in the right direction. The new law, along with a successfully concluded mediation case between the Rabat Bar Association and its insurance company, presented an opportunity to highlight the progress of USAID and its partners in the field of commercial mediation in Morocco. A one-page article was published in the weekly magazine, *La Vie Economique* (September 14.)

Towards summer's end, as IBCM was developing its annual workplan for the 2007-2008 year, CIMAR continued to approach the Program with requests for support on a case-by-case basis. IBCM decided that the time had come for CIMAR to develop its own vision and strategy, establish firm relationships with other partners in addition to IBCM, and to contribute its own resources to the activities carried out with IBCM. In September, IBCM hired Washington-based ADR specialist Ali Amar to work with CIMAR's director, Chemseddine Abdati, to develop a business plan. On September Mr. Abdati presented the business plan to an audience made up of the President of the Rabat Chamber of Commerce, a selected CIMAR board members and advisors, IBCM staff and USAID CTO Nadia Amrani.

Finally, IBCM advanced its discussions with IFC about a possible collaboration to support mediation in Morocco. A preliminary "in principle" agreement was arrived at which would involve the commitment of US\$200,000 over two years from IBCM's budget, to match a commitment of \$500,000 over the same period from IFC. This partnership, if formalized, will be strategic for IBCM; allowing the Program to shape the IFC's intervention and consolidating USAID/Morocco's position as a first-mover and key player in developing the practice of commercial mediation in Morocco.

TASK 4.4 PROVIDE TRAINING TO PRIVATE STAKEHOLDERS AND COMMERCIAL COURT BENCH REGARDING NEW TRADEMARK AND PATENT LAW

Based on discussions held with the *Office Marocain de la Propriété Industrielle et Commerciale* (OMPIC) in 2006, the Program agreed to provide training to two groups:

1. Business lawyers and private trademark registration companies who represent trademark registrants and trademark challengers in the OMPIC opposition process.
2. Casablanca Commercial Court appellate judges who hear appeals from OMPIC decisions.

In addition to training on trademark registration and opposition, OMPIC is responsible for granting patents; this too was another area where IBCM support was requested. Many commercial court judges require training in understanding and adjudicating patent disputes and the Program agreed to work closely with OMPIC staff to deliver this. Emphasis was put on ensuring that the assistance was sustainable by using mechanisms such as training of trainers, coordinating with the ISM for judicial training and also with bar associations for attorneys.

To this effect, training events were held in four cities (Fez, Ifrane, Marrakech and Casablanca) in three languages and for two different audiences - judges and lawyers. These events brought together experts from the United States Patent and Trademark Office (USPTO), the French Intellectual Property Institute (INPI), OMPIC, and the Moroccan Supreme Court. Attendees were showered with information about the application of trademark law around the world, beginning with concepts and definitions but proceeding quickly into case studies and anecdotes about real-life situations faced by the experts in their careers. Participants entered into lively debates with the presenters. To add to this training, a study tour to the United States Patent and Trademark Office (USPTO) was organized for fourteen commercial court judges and Ministry of Justice officials, in which the participants had the opportunity to attend a real hearing.

As per an agreement negotiated in the first quarter of 2007, the training and study tour activities were organized with financial and technical support from USPTO. An unexpected, but welcome discovery during the event was the wealth of expertise and knowledge that the representatives of INPI (the French IP agency) brought to the table, and their apparent interest in a Moroccan-American-European collaboration moving forward. The fundamental importance of the participation of international experts became clear over the course of the training. Judges and lawyers who learn about how other countries' IP agencies handle certain issues are more likely to understand which are the key principles adopted by OMPIC, and therefore better prepared either to build a strong case to defend their client, or to render decisions that are consistent with these principles (and with the law).

Finally, a key part of the training process was making the trademark guide easily accessible. This was aimed primarily at judges but also served as a useful resource for lawyers. Given the considerable demand this encountered, the trademark guide was reprinted and an electronic version (www.marquesaumaroc.com) was made available on-line. Building on this achievement, IBCM is supporting OMPIC in the development and publication of a similar guide on patents, slated for release in March 2008.

TASK 4.5 UPGRADE CASE MANAGEMENT SYSTEM IN COMMERCIAL COURTS

No activity was scheduled.

TASK 4.6 RECOMMEND REFORMS IN ENFORCING COMMERCIAL JUDGEMENTS

No activity was scheduled.

COMPONENT 3: FINANCIAL MARKETS EXPANSION

ACTIVITY 5 BUILD FINANCIAL SECTOR INFRASTRUCTURE TO FACILITATE LOCAL AND FOREIGN INVESTMENT

TASK 5.1 PROMOTE CREATION OF A PRIVATE SECTOR CREDIT BUREAU

An assessment was conducted during the 2005-6 project year to advise Bank Al Maghreb on the development of a credit bureau in Morocco. In October 2006, the assessment report completed by Miguel Llenas was approved by USAID and distributed to the Bank Al Maghreb. Given the Bank Al Maghreb's decision to continue this work with the support of the IFC rather than the IBCM project, no additional activities were carried out for this task.

TASK 5.2 REDESIGN AND UPGRADE A NATIONAL MOVEABLE PROPERTY COLLATERAL REGISTRY

IBCM has made progress on two related fronts:

A survey was conducted of six government institutions necessary to the Common Business Identifier (CBI) initiative: *Haut Commissariat au Plan* (HCP), Bank Al-Maghreb, *Direction Générale des Impôts* (DGI), the *Caisse Nationale de Sécurité Sociale* (CNSS), Ministry of Justice, and OMPIC in its role as the central *Registre de Commerce* (RC). A preliminary working group was formed and meetings are being scheduled.

An in-house diagnostic was conducted, resulting in the decision to pursue a pilot project to restructure the workstation of the *Registre de Commerce*, beginning with one or two commercial courts. Over the next year, a feasibility study will be carried out that will determine the needs of future users such as OMPIC and private banks (a roundtable to be organized in collaboration with FSVC presents a good opportunity to gather this information) as well as identify potential obstacles related to the legal framework and organizational and human resource issues internal to the court system. The scope of work for this study has been drafted.

TASK 5.3 CREATE OVERSIGHT SYSTEM FOR TRADE BILLS

The Program initiated research into international best practice on the regulation, enforcement and reporting of negotiable instruments (*effets de commerce*). However, in agreement with Bank Al Maghreb, it was decided that no further intervention was necessary.

TASK 5.4 CREATE AND INSTITUTIONALIZE TRAINING RESOURCES FOR SME LENDING

No activity was scheduled.

COMPONENT 4: MORE GROWTH-ORIENTED TAX POLICIES, LAWS, AND REGULATIONS

Activities in this area are suspended due to the budget reallocation.

ADMINISTRATION AND MANAGEMENT

October 2006 - January 2007 saw a successful transition of the Program management and staffing structure. A new Chief of Party, Lara Goldmark, was identified, approved, and mobilized by early January. During the last quarter of 2006, the former COP was demobilized and interim Deputy Chief of Party Catherine Johnston provided managerial support. The new office administrator, Nawal Birdaha, assumed her role in early December and project accountant Adil Saibari was promoted to the position of finance manager. Job descriptions were developed for three technical coordinator positions, to be filled by mid-level Moroccan professionals who would lead the three newly re-defined program components. The positions were advertised and interviews were held with shortlisted candidates.

The revised scope of work (negotiated in the previous quarter) was incorporated into the 2006-2007 annual workplan, which was submitted to USAID and approved. The workplan reflected the lessons learned and results of activities conducted in year one, as well as the reduced budget and revised scope of work.

The process of building up the project team turned out to be a bit slower than anticipated...perhaps because quality took precedence over speed. Two consultants, Caroline Huwiler and Jean Michel Mas, were initially hired through temporary contracts to advance tasks under the regulatory component. The work of these consultants was outstanding and they are now permanent members of the project team. A qualified coordinator for the legal component has proved harder to find. Saïd Makdouhi played this role for six months, from January to June 2007. More recently, the Program's public counterpart institutions have recommended a Ministry of Justice official, and IBCM is working to secure a secondment. In September, IBCM was pleased to welcome Mrs. Khadija Bouhlal, who has moved back to Morocco from Canada to work with IBCM. She now provides both administrative and technical support to the legal reform component. This has lessened the administrative burden on IBCM's office manager, Nawal Birdaha, thereby allowing her to play a more technical role in support of the regulatory reform component.

Towards the end of the year, COP Lara Goldmark led IBCM's continued efforts to communicate and collaborate closely with Moroccan counterparts and to consolidate emerging partnerships with international donors and US government agencies. Amongst the many accomplishments over the last year in the communications category are:

- Finalization and launch of the program's online archive (please visit an expanding list of resources at www.climatdesaffaires.ma/ressources.php3 and log-in to access the private section of the resource center).
- Three presentations by the Program have been made to the US Ambassador to Morocco. The first was in November 2006, when the team, along with DAI Vice President Robert Dressen, made a presentation of the Program's objectives. The Ambassador showed great interest in the Program's goals, particularly with regard to understanding the basis for the regional survey indicators and their interpretation. A second presentation was made to the Ambassador on February 28, 2007 as the ramping up period was just getting started, and a third was made on July 23, 2007. On this occasion Chief of Party Lara Goldmark and Jean Michel Mas offered the Ambassador a preview of results from the regional *Doing Business* study, the Executive Opinion Survey and the Regional Economic Profiles.
- Progress was made on two interagency partnerships: a parallel financing agreement to support the development of ADR in Morocco with the International Finance

Corporation (IFC) and a collaboration agreement to set up an investor gateway for the RIC in Oujda with two partners: the *Agence de L'Oriental* and the United Nations Conference on Trade and Development (UNCTAD).

- The fruit of extended discussions with multiple partners, the Program's 2007-2008 annual workplan was submitted to USAID and approved.

ANNEX 2: SUCCESS STORY

MEDIATION PROVEN EFFECTIVE IN MOROCCO: AN EMERGING CADRE OF COMMERCIAL MEDIATORS APPLY THEIR SKILLS

It's true what they say: conversation during the coffee break is as important as an event's official program. Between role-plays at a recent mediation training in Morocco, Omar El Farissi and Tarik Mossadek chatted about how the workshop's techniques might be applied to a well-known dispute between the Rabat Bar Association and its insurance provider regarding which was responsible for collecting the premiums for lawyers' families. Because of the conflict, all of Rabat's lawyers and their families were left uninsured for 18 months! With the healthcare of approximately 4,000 people and US\$625,000.00 on the line, the two men decided that alternative dispute resolution was worth a try.



In Morocco, where resolution of a case in the overburdened commercial courts can take up to 700 days, mediation is an attractive out-of-court option. USAID's Improving the Business Climate in Morocco program is working with local partners, Search for Common Ground and the Rabat Center for International Mediation and Arbitration, to develop a cadre of certified mediators and to increase awareness of alternative forms of dispute resolution. Though Mr. Farissi and Mr. Mossadek were also lawyers, their mediation strategy was far from a traditional legal line of attack. Rather than serving the unique interests of each side, the two colleagues cooperated towards the goal of resolution and preservation of the contractual relationship.

In June, USAID organized Morocco's first training program aimed specifically at commercial mediators. Mr. Farissi and Mr. Mossadek participated, and on the last day of the training, they shared some exciting news with the budding ADR community: a resolution had been reached! The mediated compromise addresses the concerns of both sides: the Bar Association will pay the lawyers' premiums and set up a working group to collect the additional premiums from lawyers' families on the insurance company's behalf. In exchange, reinstated coverage will be retroactive. Most significantly, the contractual relationship will be renewed in 2008.

On July 2, 2007, the agreement entered into force, and is considered to be Morocco's first commercial mediation of note. This experience taught Mr. Farissi that a solution always exists. He has learned to bring people together and foster an environment of trust, which gives people the confidence to think calmly and logically. Mr. Farissi jokes that without a climate of trust, there's no use trying to improve the business climate!