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Improving the Business
Climate in Morocco

Regulatory Reform and Investment Promotion

BEYOND DOING BUSINESS

FINAL REPORT

SEPTEMBER 2009

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 Development Alternatives, Inc (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.

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LIST OF ACRONYMS

| | |
|--------|---|
| ANAPEC | <i>Agence Nationale de Promotion de l'Emploi et des Compétences</i> (a Moroccan national agency dedicated to matching job seekers and employers in Morocco) |
| ANCFCC | National Agency of Land Conservation, Registry, and Mapping (<i>Agence Nationale de la Conservation Foncière, du Cadastre et de la Cartographie</i>) |
| AFN | National Land Agency (<i>Agence Foncière Nationale</i>) |
| BAM | <i>Bank Al Maghrib</i> |
| CDD | Fixed Term Contract (<i>Contrat à Durée Déterminée</i>) |
| CGEM | General Confederation of Enterprises of Morocco (<i>Confédération Générale des Entreprises du Maroc</i>) |
| CNCA | National Committee on the Business Climate (<i>Comité National Chargé du Climat des Affaires</i>) |
| CNSS | National Social Security Agency (<i>Caisse Nationale de Sécurité Sociale</i>) |
| CNPI | National Committee of Investment-related Procedures (<i>Comité National de Simplification des Procédures liées à l'Investissement</i>) |
| CRI | Regional Investment Center (<i>Centre Régional d'Investissement</i>) |
| DAI | Development Alternatives, Inc. |
| DB | Doing Business |
| IFC | International Finance Corporation (<i>Société Financière Internationale</i>) |
| IPPA | Taxes Payable in Advance (<i>Impôts à Payer Par Anticipation</i>) |
| OFPPT | Vocational Training Agency (<i>Office de Formation Professionnelle et de la Promotion du Travail</i>) |
| OHADA | Organization for the Harmonization of Business Law in Africa (<i>Organisation pour l'Harmonisation en Afrique du Droit des Affaires</i>) |
| PNB | Gross National Product (<i>Produit National Brut</i>) |
| SARL | Limited Liability Company (<i>Société à Responsabilité Limitée</i>) |
| SIG | Geographical Information System (<i>Système d'information Géographique</i>) |
| TGR | General Treasury of the Kingdom (<i>Trésorerie Générale du Royaume</i>) |
| USAID | United States Agency for International Development (<i>Agence Américaine pour le Développement International</i>) |

INTRODUCTION

Improving the business climate is an ongoing activity that requires the coordination and commitment of multiple partners, despite political changes, personnel transitions in the administration and a context of perpetual transformation.

The Program “Improving the Business Climate in Morocco” (IBCM) built on past work by USAID, which, over several years and decades, has asserted that the framework for economic development, which can also influence social development, must be as favorable as possible to the entrepreneur and investor.

In administrative procedures “the devil is in the details.” Determination and all the best intentions are put to the test against a number of excuses: “it’s been this way forever...we can’t do it...it’s written in the rules...etc.” There are always more reasons for inaction than for action. But today, does Morocco have a choice? No. By choosing to open itself to the world, to increase its agreements favoring international commerce, and in opening entire sectors of its economy to the market, Morocco and its administration chose modernity. It is no longer a question of whether to modernize this or that procedure; it is a question of when, how, and under what authority. Issues related to transparency and accountability have been a constant challenge for the Program, even if these terms are not directly used in the statement of Program objectives or description of deliverables.

Beyond the tangible results that are presented in this document, the work conducted, by its very nature, favored public-private cooperation and inter-ministerial action at the national level as well as the local and regional levels. Thus, this report is the fruit of this kind of collaboration, begun by the *Walīs*, the leaders of inter-ministerial cooperative actions at the regional level. Regional Investment Centers (CRIs), as intermediaries for the regional economic development process, were also guarantors for the sustainability of these endeavors, and we regret that we were unable to work with all of the CRIs that we interacted with during the life of the Program. Nonetheless, the desire to share the products of our work with these and other actors constantly motivated us. With this same goal, we have published this report.

Finally, this report is first and foremost the result of the political will demonstrated by ministries, and our other partners, which, by the example of their collaboration, made these results possible. Though progress has been modest, these actors united to help create an environment favorable to an economically dynamic, modern Morocco.

The results of this work are the fruits of the direct coordination of government action (notably the Governmental Pact) and Moroccan administration, relying in part on previous work (like that of the CNPI¹) and on an analysis that grew out of the Doing Business ranking. These results are grouped into two volumes:

- *The first volume includes: (1) an introduction, an outline of the context for action, and a presentation of the program; (2) a discussion of the analysis, and short- and mid-term recommendations, organized by indicator; (3) a summary of cross-cutting problems and lessons learned.*
- *The second volume, pertaining to the annexes, contains supplementary material and reports produced during the Program period, contributing analytical depth to each activity.*

Jean Michel Mas, Coordinator, Regulatory Reform and Investment Promotion

¹ National Committee on Investment Procedures (CNPI). See Annex 1 Summary Report of CNPI Activities (CNPI) Mars–April 2008, “Improving the Business Climate in Morocco” Program, February 2009

CHAPTER I: CONTEXT AND METHODOLOGY

SECTION I: CONTEXT

Over the last three decades, Morocco has modernized its economy and made progress towards the development of a business-friendly regulatory environment. The reform process began with two waves of structural reform in the 1980s and was followed by the privatization of several sectors, investment in infrastructure (roads and ports) and the modernization of the financial sector. Between 1996 and 2006, Morocco signed several Free Trade Agreements² with a number of partners, including the United States, the European Union, and neighboring states. This new privileged status among powerful commercial partners accompanied Morocco’s efforts to improve the business environment, notably through the institution of regulatory reforms aimed at increasing transparency and offering favorable investment conditions³. The efforts undertaken by the Moroccan government to simplify administrative procedures linked to investment applications were meant to benefit Moroccan businesses first and foremost, with the understanding that greater clarity and efficiency would also benefit foreign investors.

Nevertheless, efforts to facilitate investment are not reflected in the Doing Business rankings⁴ published each year by the World Bank. The limitations of the Doing Business methodology are widely recognized. Regardless, the methodology developed by the World Bank allows for the identification of opportunities for reform⁵, for improvement of the ease of doing business, and offers, in the form of a ranking, a summary of international best practices.

Table 1 below tries to move beyond the accusations typically made by governments displeased by their rankings⁶, and assess the real strengths and weaknesses of the Doing Business methodology.

² http://www.mce.gov.ma/AccordConv/Accord_Lib.asp

“Investment Trends in Morocco 2003-2007 : Morocco is in the Race,” “Improving the Business Climate in Morocco Program,” December 2007

⁴ Since 2004, the World Bank’s « Doing Business » ranking (www.doingbusiness.org) examines the ease of doing business in 181 countries, including Morocco.

⁵ See Annex 3 : Doing Business : Catalyst for administrative reform, “Improving the Business Climate in Morocco” Program, March 2009

⁶ See Annex 4: “*Doing Business : une polémique pour rien ?*” Saloua Mansouri, *Challenge Hebdo*, December 1-7, 2007

Table I. The Good and Bad Sides of Doing Business

| THE BAD - | THE GOOD + |
|--|---|
| <ul style="list-style-type: none"> - The indicators put forth by the World Bank do not allow for an understanding of the global business climate, and do not emphasize the problems most frequently encountered by the investor. In a recent review, the World Bank's Independent Evaluation group concluded that Doing Business indicators measure only selected aspects of the business climate, and should not be used alone (1). - The rankings do not reflect some indicators, while others matter more to investors. - Certain indicators, like "transferring a property title," address important issues, particularly financial ones, but fail to evaluate other key aspects. - The Doing Business analysis is based on certain (hypothetical) cases, which are frequently not relevant or applicable to reality. - Data was collected from a distance by questionnaires returned by "expert" respondents who do not constitute a representative sample. - A country's position in the rankings is volatile. A small reform could produce a large jump in the ratings, and vice-versa; a major structural reform may only lead to very slight improvement in the ranking. The rankings depend, in part on reforms undertaken by other countries. - Arbitrary units of measurement: according to the Doing Business methodology, one procedure is counted as taking at least one day. - The Anglo-Saxon Bias: one criticism frequently leveled at Doing Business is the underestimation of the "flexibility" and "non-regulation" by the World Bank rankings (2). - Obsession with reducing delays contributes to rushing: the Doing Business methodology, particularly the treatment of signs of delay (like the number of days required for a procedure), stipulates that governments must impose minimal regulations on businesses offering a favorable environment for investments. - Finally, the Doing Business Methodology could penalize countries undergoing transitions towards more ambitious reforms. Decentralization of certain administrative formalities at the communal level, for example, aims to bring services closer to citizens and make local bodies more responsible. All decentralization requires time for the necessary adjustments to be made, and to increase the involvement of local actors. This transitional phase, if it generates temporary delays can damage a country's Doing Business ranking. | <ul style="list-style-type: none"> - The procedures and delays are analyzed from the perspective of the investor. - The Doing Business approach points out real dysfunctional systems. - One of the merits of Doing Business, despite frustration among political decision makers who don't see business reforms reflected in their rankings, is that it makes the debate about administrative practices more accessible. - Doing Business is a welcome tool among administrations that are ready to self-evaluate and reflect on their practices, providing them with a common and quantifiable objective. |
| <p>Sources:</p> <p>(1) "Doing Business: an independent evaluation taking the measure of the World Bank - IFC Doing Business Indicators", Independent Evaluation Group, the World Bank, 2008</p> <p>(2) Bertrand Du Marais, « <i>Entre la Jamaïque et le Kiribati : quelques réflexions sur l'attractivité du droit français dans la compétition économique internationale</i> » rapport du Conseil d'Etat, Paris 2006.</p> <p>The group OHADA (Organization for the Harmonization of Business Law in Africa) has also formulated criticisms of the Doing Business approach.</p> | |

USAID’s Program “Improving the Business Climate in Morocco” is part of the ongoing efforts to respond to questions from Moroccan leadership, and has oriented its strategy around two elements:

- The reform of regulatory frameworks
- Regulatory transparency.

Box 1: “Smart regulation”

Reform does not mean de-regulation!

On the contrary, the goal of “smart regulation” is to develop and reinforce mechanisms that regulate the market by supporting rather than hindering competition in the private sector.

Studies have demonstrated that reducing administrative formalities and favoring efficient regulations benefits economic growth.

A Program report, « Competitiveness and regulatory quality » (2007) relates this evidence, offers a discussion of selected economic indicators and reviews Morocco’s performance in the global business climate indexes.

Box 2: Transparency and predictability are indispensable to attracting investment

Transparency of regulations and public access to the regulatory process are mandated by several Free Trade Agreements. These agreements attempt to provide clarity for business partners (outside of a country) and predictability for economic actors (within a country).

Regulatory transparency is defined as an understanding on the part of citizens, particularly representatives of the private sector, of existing regulations, required procedures, delays, and costs associated with administrative formalities. Clarity and the availability of information about procedures fosters confidence among investors and limits corruption.

Without this regulatory upgrading, international investors would have trouble establishing themselves in Morocco to create sustainable employment. Thus, transparency at the regulatory level generally has a positive impact on the confidence of investors.⁷

Principles of efficiency and accountability favor the attractiveness of Morocco, and the development of a coherent strategy for investment promotion allows for: (1) improvement of Morocco’s image; (2) targeting, attracting, and receiving investment, all by offering follow-up assistance (after care), to support the investors throughout their economic activity.

Beginning by taking the perspective of the investor, the Program identified a set of opportunities for regulatory reform, with the goal of making regulation in Morocco more efficient, effective, and responsive to the needs of business. Work on reforms was carried out within the framework of an ongoing public-private dialogue. The Program began by analyzing disparities in performance at the regional level, in order to identify constraints and opportunities for improvement to the

Box 3 : Program Partners

The Program worked in close collaboration with a number of partners:

- The Ministry of General and Economic Affairs (MAEG)
- The Investment Directorate of The Ministry of Industry and New Technology (MICNT)
- The Ministry of Interior (DCAE)
- The Ministry of Modernization and the Public Sector
- The Ministry of Environment and Urban Planning
- The Moroccan Standards Agency (SNIMA)
- Moroccan Industrial Property Office (OMPIC)
- Bank Al-Maghrib
- The National Committee for Investment Procedures (CNPI)
- The General Confederation of Moroccan Enterprises (CGEM)
- Regional Investment Centers (CRIs)
- Urban Agencies
- Urban Communities

⁷ Annex 5 : Regulatory Quality and Competitiveness in Morocco, “Improving the Business Climate in Morocco” Program, April 2008

business climate at the local and national levels. This approach stemmed from an understanding of the dynamic of positive competition between regions, which was introduced in 2002 with the creation of Regional Investment Centers (CRI). The CRIs were designated as intermediaries to facilitate national and international investment.

To support this process, and to reconcile regional disparities in administrative practices, the Program chose to conduct a regional Doing Business Survey (this has been done in other parts of the world—for example in Mexico—and yielded positive results that stimulated regional competition).

The following four indicators were selected to measure the differences in regional practices, and to measure specific data about the country’s economic development: “Registering a Business,” “Construction Permits,” “Transferring a Property Title,” and “Enforcing Contracts.” The study of the last indicator revealed the complexity and magnitude involved with collecting payments through the court system in Morocco. Improving performance on this indicator would require a complete overhaul of the judicial system. Moreover, identifying reform champions at the government level proved difficult, and USAID’s current and past judicial reform activities were not directly linked to Morocco’s performance regarding the “Enforcing Contracts” indicator. Thus, rather than initiate a reform program without hope of reaching completion, the Program decided not to pursue work on this indicator.

Following a request from the Ministry of General and Economic Affairs (MAEG), the Program produced a report examining the potential impact of reform proposals made by stakeholders participating in the “Social Dialogue” on the Doing Business ranking (see “The Social Dialogue from the Doing Business Perspective”). In this case, work conducted by the Program was not linked to the regional Doing Business study, but rather consisted of analysis and recommendations regarding an ongoing national dialogue between trade unions and employers following the introduction of the new labor code.

The areas for improvement identified by the Program’s analysis of Morocco’s performance *vis-à-vis* the four indicators are broad and varied. Work done on the two first indicators benefited from a marked interest on the part of partner agencies, and thus regional pilot projects were initiated which have the potential for replication, as well as contributing important inputs to the national policy dialogue.

Preliminary studies were conducted and recommendations for consideration were drafted for the “Transferring a Property Title” and “Hiring Workers” indicators, which did not spark the same immediate desire for action on the part of the Program’s public sector counterparts (though some private sector stakeholders expressed a strong desire to see reform in these areas).

SECTION 2: THE METHODOLOGY

In the spring of 2007, the Program, in collaboration with the World Bank, conducted a regional Doing Business study in Morocco.⁸ The goal of the study was to use regional scores in this international ranking as a stimulus for positive competition among eight regions in Morocco.⁹ The study was also expected to identify and facilitate the

⁸ “*Doing Business au Maroc*” Report jointly authored with the World Bank, October 2007

⁹ Agadir, Marrakech, Kenitra, Oujda, Settat, Tangiers, Meknès.

dissemination of innovative local practices. The study examined administrative formalities, costs, and the timeframe associated with procedures linked to “Registering a Business,” “Transferring a Property Title,” “Dealing with Construction Permits,” and “Enforcing Contracts.”¹⁰

Box 4: Benefits of an inter-regional study

- ✓ Measure differences associated with regulation and application of one law across different regions
- ✓ Stimulate uniformity among regions
- ✓ Identify problem areas by demonstrating regional best practices that can be easily replicated
- ✓ Provide regions with the necessary tools to become competitive on a global scale
- ✓ Combine a communications strategy with active participation on the part of governments and regions
- ✓ Demonstrate, through reports and updates, regional progress towards improving the business climate

The comparison between regions allowed for the identification of variations in regional practices for the same regulations. Regions develop their own practices in accordance with their environment and specific needs. This diversity yielded some deviations, but also some innovative solutions developed by regional administrations, which allowed them to streamline the administrative process.

Table 2. Regional Comparison for the Four Indicators

| Indicator | Most Efficient Region in Morocco | Number of days for the most efficient region in Morocco | International rankings of most efficient regions in Morocco | Morocco's international Ranking (based on Casablanca) |
|-------------------------------|----------------------------------|---|---|---|
| Registering a Business | Agadir and Marrakech | 9 | 16 | 25 |
| Construction Permits | Marrakech | 90 | 17 | 61 |
| Transferring a Property Title | Kenitra | 14 | 23 | 82 |
| Enforcing Contracts | Agadir | 300 | 23 | 116 |

The study revealed significant differences between the performance of secondary cities and that of Casablanca, the most populous city and therefore the data collection point for the international Doing Business ranking. If, for each indicator, we used the score of the most efficient regions in Morocco, the Kingdom would improve its overall Doing Business ranking. For example, for the “Transferring a Property Title” indicator, Kenitra’s ranking would allow Morocco to rise 59 places in the international rankings.

This regional comparison demonstrates the flexibility the regional governments have in implementing regulations. Certain practices should be considered at a central level as possible areas for reform.

The sharing of best regional practices was a principal objective of the National Conference on Doing Business in Morocco organized in November 2007,¹¹ which brought together representatives of regional and central governments. Not only did the conference provide a space for the exchange of exemplary practices and examination of their application, it also served as a platform for considering alternatives, inspired by best international practices that could help improve the business climate in Morocco.

Recognition of the value of certain regional initiatives prompted the Program to support several regional pilot projects, including the deployment of the e-invest application in Settat and the promotion of sustainable investment in Meknès-Tafilalet. These initiatives were developed based on a study conducted by the Program in 2007 which developed seven “regional economic profiles,” putting the region’s “Doing Business” performance into perspective by relating the scores to each region’s history and economic development strategy.

Beyond the pilot projects, one of the main results of the national conference was the creation of regional business climate committees. Three regions (Tangiers, Agadir and Casablanca), decided to create regional committees comprised of public and private partners with the goal of improving their regional business climates. The formation of these committees was based not only on the narrow goal of improving the Doing Business rankings, but linked to a broader objective of making Morocco more attractive for investment by making regulations more intelligent, simple, and predictable for investors.

Box 5: Examples of best regional practices

- A processing strategy adapted to the context of the region (volume of applications) : in Casablanca and Kenitra, the CRIs have developed mechanisms allowing preferential treatment for priority investors, while the Settat CRI offers personal treatment for all investors.
- An integrated approach to urban planning in Meknes favors personalized support for investors, from the initial contact through the completion of the investment project.
- In Kenitra, close collaboration between the land agency and notaries allowed for a reduction in time required to register property
- In Agadir, a monitoring service (that ensures quick notification and limits the involvement of experts) allowed for the reduction of time associated with Commercial Court decisions.

Box 6: The CNCA

A Government Pact provided for the creation of a committee on the national business climate (CNCA) as a way to usher in true strategic reform in Morocco.

¹¹ See Annex 7 : Report on the National Conference on “Doing Business in Morocco: Regional Best Practices,” “Improving the Business Climate in Morocco” Program, May 2008

As part of this process, the committees asked the Program to monitor and/or support their reform efforts (for example, Tangiers’ work on “Transferring a Property Title”), analyze, and support pilot projects on certain indicators (“Registering a Business” in Casablanca, “Construction Permits” in Tangiers and Meknès). The following four sections present analytical and reform work carried out by the Program, for each indicator.

CHAPTER 2 : WORK BASED ON THE INDICATORS

SECTION I : REGISTERING A BUSINESS



What does this indicator measure?

What are the best international practices in this area?

What must be done to bring Morocco closer to international best practices?

What have we accomplished?

All over the world, people start businesses. Whether individually or as part of a group, the start-up process represents the putting into practice of an idea, a project, or the pursuit of a dream: to develop one's own business, to create jobs, to create wealth.

Since its first edition, the Doing Business ranking has included business registration as one of its indicators. This allows for the simple comparison of the registration process in various countries, illustrating best practices in the area. To start a business, it takes close to six months in Brazil and Congo, less than a week in Canada, Australia and Hungary; it can cost close to nothing or the equivalent of an average salary in China, Senegal and Poland.

What does this indicator measure?

The “Business Registration” indicator measures the number of procedures, costs and time involved in registering a limited liability company with Moroccan owners. The Doing Business survey measures all the steps taken from the time an entrepreneur declares his intention to create a new enterprise, until the government grants the entrepreneur the right to legally operate the business.

What are the best international practices in this area?

All over the world, business registration is the subject of a large number of reforms. Nearly 35% of all reforms in the countries surveyed by Doing Business are linked to this procedure. This can be explained by two factors: (i) business registration is a key moment for all new investments; the first point of contact with government for investors, and (ii) the formalities are relatively simple to re-engineer. Moreover, these reforms are politically beneficial. This explains Morocco's recent tumble in the ranking for this indicator: other countries have reformed faster.

Today, the countries with the highest ranking for this indicator are New Zealand, Canada and Australia. In New Zealand, online registration is mandatory and offices that once existed to support business registration have long been shut down. These three countries offer:

- Online business registration via Internet (with real-time confirmation).
- A cost that does not exceed 0.8% of the GNP per capita.

Box 7: Online Business Registration Around the World

In **New Zealand**, entrepreneurs can reserve the name of their business online (www.companies.govt.nz). The reserved name is valid for 20 days.

In **Canada**, the business name can be reserved online le nom www.nuans.com and is valid for 90 days.

In **Australia**, online registration also begins with reserving a business name on: www.incorporator.com.au/company-name-availability.asp

In **Morocco** it is also possible to reserve the name of a business online: www.ompic.ma/ompic.php?lang=2&id_rub=48

Box 8: Online Registration Around the World

In **New Zealand**, entrepreneurs can register their businesses online, complete forms and pay registration fees with their credit cards. The deposit slip is sent via email, along with the necessary forms that need to be signed and returned by fax (soon able to be signed online) over a period of 20 days.

Associates complete financial registration by obtaining an Inland Revenue Department (IRD) number and paying of a Good Service Tax (GST). Notice that in the aforementioned case associates are known by their IRD. Proof of payment is send via email at the end of the online registration process. www.businessdescription.co.nz

In **Canada**, entrepreneurs can also register their businesses online. They must, according to the rules of their province, complete registrations forms, (http://www.ic.gc.ca/cgi-bin/sc_mrksv/corpdire/corpFiling/register.cgi?lang=f), pay online fees (\$180), and then fill out forms to obtain their free Business Number (BN), sent by the Canada Revenue Agency (CRA). The CRA resends the BN by standard mail over the next five days.

In Australia, online registration is carried out through the tax authorities to obtain an Australian Company Number (ACN) and a proof of registration is sent via email and standard post. The registration fee is \$325. If the enterprise plans to conduct more than \$60,000 worth of business, they must also obtain an Australian Business Number (ABN) at www.abr.gov.au/ABR_BC.

What must be done to bring Morocco closer to international best practices?

Registering a business, in Morocco as in the rest of the world, is a relatively routine administrative formality. Investors are required to fill out and sign forms, provide supporting documents, and pay a fee. On the other side of the transaction, one or more government representatives enter the data from the application form, review the supporting documents, cash the fee, and issue a confirmation or receipt.

In Morocco, there are a few particularities. First of all, the confirmation includes five identifiers generated by four separate entities: the commercial registry number (by the commercial registry of the local court), the tax identifier and the business license number (by the tax authorities), the employer social security number (issued by the CNSS) and the common business identifier for the company (issued by the relevant entity). There is also the co-existence of two possible “routes” to register a business: using the one-stop shop services of the Regional Investment Center (CRI) or not. If opting not to use the CRI services, the user must go physically to the various agencies, and at each place he is asked to fill out a different form. Two prerequisites for moving towards online

registration are: standardizing the registration requirements, regardless of the place of submission; and the establishment of a centralized business registration database.

Even once these obstacles have been overcome, there are a number of problems that must be solved to make online registration possible. These are related both to the documentation required from the applicant, and to the processing functions carried out by government employees. These challenges are outlined in the table below, along with possible solutions that could be implemented in the short and medium term.

Moreover, certain independent issues beyond mere formality are at play. It is useful to conceive of problems and solutions from a double perspective – improving the efficiency of the business registration process, and initiating discussions about cross-cutting reforms that go beyond this procedure. Along these lines, one can name a few related topics in need of modernization or advancement, the most obvious being: the proposed legislation related to electronic signature, requirements for document certification, the collection of multiple administrative fees by the CRI, and the legitimacy of electronic supporting documents.

What have we accomplished?

This work, carried out jointly with the IFC, began with a broad consultative process in which public and private actors participated, under the leadership of the Director of the CRI of Casablanca. This phase allowed for (i) awareness raising among stakeholders about the modernization of the business registration process; (ii) consensus building and the drafting of short- and medium-term recommendations to allow Morocco to move towards online business registration. Table 3 below summarizes those recommendations.

NOTE: If all the recommended measures were implemented, and if other countries were not reforming, Morocco would jump from 62nd to 4th for this indicator.

Table 3. Summary of recommendations related to the “Registering a Business” indicator

| | Issue | Objective: Online Registration | Measures (short term) | Measures (long term) | Impact on Legislation |
|----|---|--|---|---|---|
| 1 | LLC (SARL) application | Fill out the online form | Reengineer the application form | Harmonize the procedure between the two routes | Amend Decree No. 2-02-350 of July 17, 2002 approving the single application form for business registration. |
| 2 | Electronic Signature | Sign the online form | Allow applicants to be entered by approved fiduciary agents | Electronic signature operational for the general public | Enact by decree the implementing legislation of Law No. 53-05, moving towards an electronic format as provided by Article 42 of the Act. |
| 3 | Minimum capital | Abolished | Reduce the capital requirement to zero | | Amend Article 46 of Law No. 21-05 amending the supplementing Law No. 5-96 on LLCs (SARL) of February 14, 2006 |
| 4 | Registration fees | Reduce the business registration fees to MAD 100 | | | Amend Articles 2 B 2, 6-8 8-1-D-8 and II of the decree on the code and fiscal stamp registration No. 2-58-1151 of December 24, 1958 as amended by the Finance Act for 2004 |
| 5 | Legalization of Documents | Abolished | Abolish the requirement for signature legalization when registering a LLC | | Amend the order of the Minister of Justice No. 106-97 of January 18, Articles 249 et 256 of the General Tax Code. |
| 6 | Registration of Statutes | Abolished or automated | Standardize the statutes' format for LLCs | Automate the registration of statutes | |
| 7 | Domiciliation of the company's headquarters | Allow domiciliation with approved service providers | | Regulate domiciliation | Amend Articles 5 and 7 of Law No. 47-06 on taxation of local communities |
| 8 | Online payment of a one-time fee | Allow online payment | Charge a flat rate for creating an LLC | | Prepare and sign a partnership agreement with the “interbank payment center.” |
| 9 | Public notification | Allow the public notification (via legal journals) to be free and published online | Reduce and charge a flat rate for the public notification | Accreditation of websites and abolishment of the notification required via the Official Gazette | Amend : - Article 96 of Law No. 21-05 amending and supplementing Law No. 5-96 on LLCs - Articles 13, 17, 30 et 33 of Law No. 20-05 amending and supplementing Law No. 17-95 on the <i>Société Anonyme</i> (Limited Company) on May 23, 2008 |
| 10 | Generating identifiers in real time | Generating identifiers in real time | Agreement at the regional level for Casablanca's prototype | Allow for simultaneous processing | Amend : - Article 45-5 and 76 of Law No. 15-95 of the Commercial Code - Article 148 of the General Taxation Code - The order of the Minister of Justice No. 106-97 of January 18 |
| 11 | Confirmation of registration | Issue a remote confirmation that has legal value | Change the format of the document Inform stakeholders of its legal value | Make this the only legal document proving the registration of the company | Prepare a regulatory text to establish the legal value of the confirmation document |

Each of these recommendations implies changes to legislation, and they have different impacts (not only for the user but also for the Doing Business rankings). Some of the recommended changes go beyond the business registration procedure, and therefore putting them into place would require an in-depth study of their impact on other formalities.

Bearing in mind the context, i.e., the difficulty of simultaneously enacting all the necessary reforms, the partners (CRI, IFC and the Program) worked with the supervising ministries to prioritize the proposed changes. After this exercise, three proposals were deemed priorities:

- the abolishment of the minimum capital requirement
- the abolishment of the requirement to publish in two legal journals
- harmonization of registration forms

Table 4. What is at stake in the reduction of the minimum capital requirement?

| OPPORTUNITES |
|---|
| <p>Make it easier to start a business</p> <p>A lower or nonexistent minimum capital requirement allows entrepreneurs who don't have sufficient funds to provide seed money to create a company (that is legally transparent and has independent ownership), instead of developing their business as a sole proprietorship. This is most relevant for activities – such as in the service sector – which have low capital needs.</p> |
| <p>A better protected entrepreneur</p> <p>Create a company to better protect the personal assets of the entrepreneur and those of his partners (in a company, the capital of the society and the capital of the individual are separate, and the creditors of the company are the only ones, in principle, who have access to the assets of the company; in a sole proprietorship, by contrast, the business assets and property of the proprietor are mixed, and the creditors of the enterprise have access to both the personal and professional assets of the entrepreneur).</p> |
| RISKS |
| <p>Social capital is no longer a guarantee for creditors</p> <p>The concept of social capital, which serves as collateral for creditors, does not give third parties an idea of the actual viability of their company. The temporary freezing of funds when founding a company does not stop social capital from disappearing as a result of losses and expenses. Consequently, the partners could be held liable for more than their original contributions, especially in cases of personal guarantees.</p> |
| <p>A banker who is harder to please</p> <p>The banker could require that the amount of capital required be based on a “business plan,” which could stipulate a higher minimum capital than was originally required.</p> |
| <p>The risk of mismanagement</p> <p>According to an existing clause in French and Moroccan law, there a risk that a business owner could be formally charged with “mismanagement”, if he does not allocate sufficient funds during the creation of the company. The risk of being charged with mismanagement would weigh on the manager.</p> <p>French Jurisprudence:</p> <p><u>Arrêt of the Appeals Court of Rouen October 20 1983</u> : « <i>la constitution d'une société avec un capital social conforme au minimum exigé par la loi mais dérisoire par rapport aux besoins d'exploitation témoigne une légèreté certaine ; l'audace à entreprendre, louable en soi, devient imprudente fautive si elle n'est pas servie par de rigoureuses qualités de gestion appliquées à un minimum de moyens</i> ».</p> <p><u>Arrêt du 19 mars 1996</u> of the Commercial Court maintained the fault management in cases of « <i>d'imprudences commises lors du choix de l'activité économique et du financement de l'investissement initial</i> ».</p> <p><u>Arrêt of November 23, 1999</u>, The Court stipulated that « <i>...commet une faute de gestion le gérant d'une SARL qui « crée » une société sans apporter de fonds propres suffisants pour assurer son fonctionnement dans des conditions normales et poursuit de l'activité de la société sans prendre aucune mesure pour remédier à cette insuffisance de fonds propres</i> ».</p> |

Box 9: Legal Announcements

Legal announcements inform the public (partners and future business partners) of the creation of an enterprise. Depending on the country, this announcement may be paid for and posted by either the entrepreneur or the government. It may be free of charge, or require payment of a fee, and it may or may not be posted online. In Morocco two kinds of announcements are required: in a private legal journal and in the Official Gazette. This is why the Program studied the issue and proposed the abolition of the requirement to publish an announcement in the legal journal.

What is done elsewhere?

Tunisia just abolished its requirement to publish an announcement in a legal journal, and created a website to publish announcements online. <http://www.iort.gov.tn>

Québec modified its law to make the commercial registry responsible for publishing announcements <https://ssl.req.gouv.qc.ca/slc0110.html>

In **Germany**, the commercial registry is in charge of publishing announcements in an official legal journal <https://www.ebundesanzeiger.de>

In **Belgium**, the entrepreneur must publish an excerpt of a memorandum in the Annexes of the Belgian “Monitor” in the 15 days following deposit. http://www.ejustice.just.fgov.be/tsv_pub/index_f.htm

In **Luxemburg**, the legal publishing requirement is more cumbersome because the announcements are published in full, but the commercial registry is responsible for the “Memorial” archives. <http://www.legilux.public.lu/entr/index.dph>

Meanwhile, the drafting process has begun in cooperation with stakeholders, and will lead to:

- a proposed amendment to the law abolishing the minimum capital requirement,
- a draft decree for the abolition of required announcements in legal journals,¹²
- a draft bill and decree for the harmonization of registration forms (bearing in mind that there are currently two routes for registering a business, and thus two types of forms).¹³

These legal projects could not be adopted during the spring 2009 session of parliament, but are scheduled to be presented this fall after the recess.

The key role of information systems

While the work presented above dealt strictly with simplifying administrative procedures, the creation of an information system that connects all relevant actors has also emerged as a priority. In fact, the Program’s work has resulted in the writing of specifications for a shared Internet application (users would include government employees, legal professionals, and entrepreneurs).

An operational template was also presented as “proof of concept” during a set of process reengineering workshops held in Casablanca. The government is preparing a request for proposals to select a provider who will ensure the deployment of the solution at the national level, and train staff to use it (this part will be a major challenge).

¹² See Annex 9: Legal project on the reduction of minimum capital and the abolition of legal announcements

¹³ See Annex 10: Project on harmonizing registration forms

Box 10: Computerization of administrative processing

Today, no modernization of procedures takes place without setting up an information system. In recent years, countries have moved passed the paper-and-ink method and have transferred administrative processing to the computer, setting up intake systems based on the computer’s increased capabilities for power, accessibility, and communication.

The methodology of setting up an information system is well known and is not the subject of this report. It does, however, provide the opportunity to stress, after over twenty years of experience and trial-and-error, that there are existing information solutions which have been put in place by the most modern countries. These systems can easily be used directly or adapted so that the many years of experience and hard work are captured rather than lost (i.e., the wheel should not be re-created). The main standards have emerged, and the tools can be shared.



SECTION 2: DEALING WITH CONSTRUCTION PERMITS

What does this indicator measure?

What are the international best practices?

Where does Morocco stand?

What have we accomplished together?

What are the next steps?

This formality is important because the stakes are high: safety. This is why construction, on the whole, is highly regulated. It begins with the design of a project, which cannot be trusted to anyone but professionals: architects must develop construction plans and conform to urban planning standards, respecting building rules, safety, etc. After the initial design, permission to build depends on authorization from a series of government agencies: planning, safety, access to water and electricity are all considerations linked to specific construction projects. This process is not speedy anywhere (around 60 days for the most efficient countries, like Denmark or New Zealand, and between 1-2 years for the least efficient, such as China and Russia).

In Morocco, the urban agencies were established by law a law in 1993 (at that time 26 were created, with more planned) with the goal of consolidating information related to urban planning (previously managed directly by the municipalities) and streamlining administrative processing of requests for construction permits.

In response to the Doing Business survey, representatives of the urban agencies declared that a request for a construction permit, once submitted, reaches the commission in 3-4 days. While this is true, the situation on the ground escapes measurement by the World Bank: a file goes through the commission an average of four times, usually because it is incomplete or incorrect. The result: cumbersome and non-transparent procedures invite circumvention of the law, corruption, and consequently, buildings that do not meet safety and urban planning standards. The deadly fire in the Rosamor mattress factory in Casablanca, the collapse of the Al Menal building that killed 14 and wounded 26 in Kenitra, and the arrest of the Secretary General of the Municipal Council of Kenitra for corruption in issuing a permit to operate a café all bear witness to this fact.

The next section takes a closer look at the procedures related to “Dealing with Construction Permits” while presenting a series of concrete measures which will help better regulate construction in Morocco, make life easier for architects and project developers, and ensure the safety of citizens.

What does this indicator measure?

The “Dealing with Construction Permits” indicator considers all procedures required to legally build and operate a warehouse¹⁴ (for Morocco, this falls in the “big projects” category), ranging from obtaining the cadastral map to registration with the land titling agency.

¹⁴ The construction, by a local company, of a two-storey warehouse with an area of approximately 1300 m², complying with all urban planning regulations, connected to the electricity, water and sewage grids, and having a telephone line.

The Doing Business ranking is based on 3 variables: the number of procedures required until reception of final documents, time needed to complete the procedures, and associated costs.

What are the international best practices?

Best international practices in this area are characterized by procedures that are rigorous, yet timely and transparent.

- In Singapore - ranked 2nd - construction authorities provide the information necessary to obtain a building permit on their website, including all required application forms (in a downloadable format). This allows users to scan and electronically send all documents. The urban planning review also takes place online.
- In Finland, which is ranked among the 10 fastest countries for granting building permits, responsibility is delegated to an architect or other qualified professional, thus minimizing the review necessary. Information about norms and standards is made available, and architects must submit proof of compliance with their construction application.

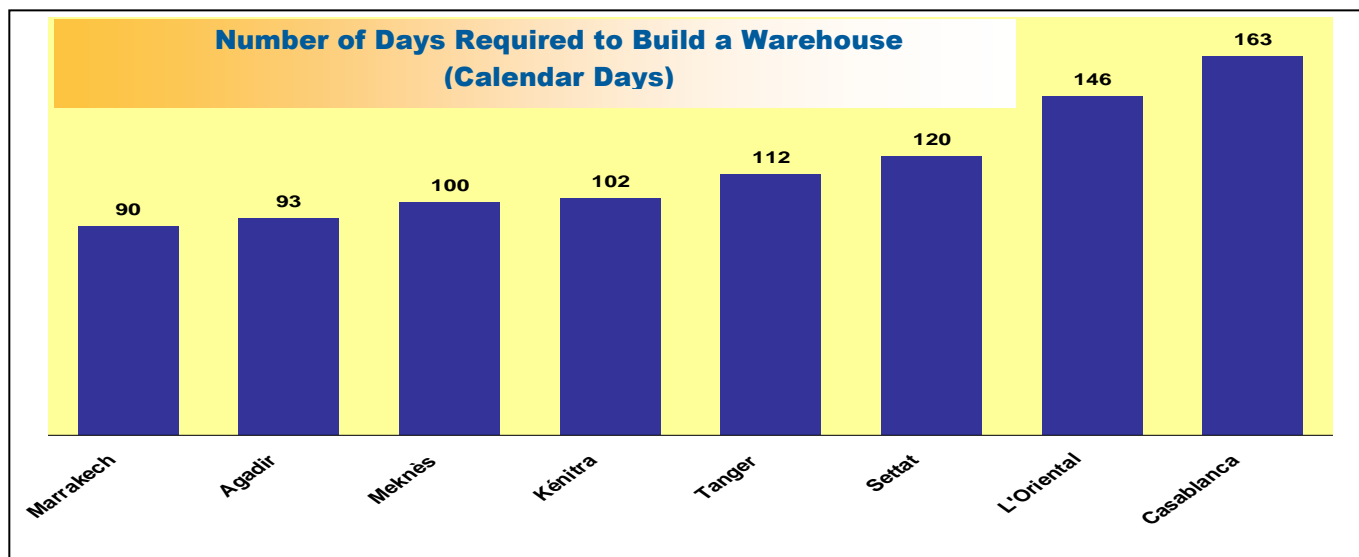
Where does Morocco stand?

In Morocco (ranked 90th), obtaining a building permit involves 19 procedures, takes an average of 163 days and requires a cost outlay equal to 292.5% of the average annual income per capita.

Morocco’s poor ranking is mostly attributable to the time delays investors face in carrying out the procedure. Before obtaining the certificate of conformity, the construction project must be approved by two committees, before and after work completion. The Planning Commission approves the technical planning and compliance plans. Once the construction permit is obtained and construction has started, the developer must once more present his case before the committee to obtain a Certificate of Compliance with approved construction plans. On average, time spent at both commissions totaled approximately 60% of the time required to carry out the procedure. The majority of applications are presented not once, but two, three, or four times, to the Planning Commission before receiving “preliminary approval”. Project developers having received preliminary approval are then forced to go door-to-door, asking for approval from certain government agencies (leading to bribes and other non-transparent practices).

Despite uniformity at the legislative level, the ease of obtaining a construction permit— influenced by delays and associated costs defined by the Doing Business methodology— varies greatly from one region to another.

Figure I. Results from the regional Doing Business Survey – number of days required to build a warehouse in Morocco



Source: DB in Morocco, 2007, available at http://francais.doingbusiness.org/documents/subnational/DB_au_Maroc.ppt

What have we accomplished?

The Program conducted a study of the “Construction Permit” procedure in response to a request from the Ministry of Habitat (MHUAE), anxious to understand why the efforts on the part of urban agencies to reduce delays did not reflect in the processing of requests, and in response to requests from the business climate committee in Tangiers and the Urban Agency of Meknes. The objective was to put the regional practices and existing regulations into perspective to identify problems and opportunities for reform, and translate these into recommendations for medium-term action.

After a chronological summary of the steps necessary to obtain a construction permit, the study focused on the part of the procedure (with the most potential for improvement) between filing the application and issuance of the construction permit. This study gives the first explanation for the delays associated with processing applications for construction permits.

The preparatory phase: no information about regulations or norms. Investors, when they first compile their files, do not know all of the norms and regulations to which their projects must conform. On the other hand, the orientation document (*note de renseignement*) issued by the urban agency does not reflect the situation on the ground; information about the location of easements, water networks, sanitation, and electricity, is inaccurate or lacking.

Instruction: lack of coordination. The Planning Commission, a body bringing together a number of administrations, has various functions and membership depending on the project at hand, and suffers from a marked lack of coordination and cooperation.

- Some representative of the commission claim to have no knowledge of the issues presented, while others say they never received the complete application file. Moreover, the majority of representatives of government agencies who attend the commission meetings lack decision-making power. Respect for hierarchy does not allow them to make on-the-spot decisions.

- The President of the Municipality does not approve the construction permit request until reservations have been aired and payments made. The trips back and forth between agencies to fulfill a number of instructions, including to the commission, can create a dishonest environment.

Controls: lack of rigor and efficiency. The auditing of projects is assigned jointly to the prefecture, the Urban Agency, and the municipality. In practice, inspections are rare and inefficient due to logistical limitations. Moreover, when government officials find an infraction, they cannot act immediately. The infraction must be reported to the President of the Municipality, who decides whether or not to refer it to the courts. The shutdown of construction sites is carried out only by a specially appointed envoy. Again, the number of actors leads to inefficiency.

The table below lists the key issues while offering a series of recommendations that could be implemented in the short and medium term. Recommendations to establish a more efficient, user-friendly system for processing of applications are related to:

- the dissemination of standards and regulations
- the harmonization of procedures;
- guidelines to orient the submission and review of applications;
- formalizing the procedure, and
- better communication with architects and developers.

Box 11: Accessibility to Urban Planning

Rules for urban areas define zones where construction is authorized in accordance with a proposed structure's purpose, height, and appearance. These rules are defined in planning documents, to which architects, other professionals, and the public at large should have easy access.

The most effective administrations put urban planning documents online, where they can be accessed for free like in Montreal:

(ville.montreal.qc.ca/portal/page?_pageid=2761,3096652&_dad=portal&_schema=PORTAL)

or Lyon (plu.grandlyon.com).

Sometimes this access to these documents must be paid for, as in Singapore

(spring.ura.gov.sg/dcd/eservices/buyplan08/buyPlans.cfm), assuring their constant updating.

Table 5. Summary of recommendations related to the “Dealing with Construction Permits” indicator

| Phase of the procedure | Issues | Goal | Recommendation | Short-term Action | Medium and long-term action |
|---|--|--|---|---|---|
| Presentation of the project and supporting documentation | Lack of access to planning documents and regulations. | Predictability of the procedure for the developer | Dissemination of standards and regulations | <ul style="list-style-type: none"> ▪ Standardize and disseminate information on safety standards. ▪ Institute an early review by technical and urban planning experts ▪ Update the cadastral map | <ul style="list-style-type: none"> ▪ Make urban planning documents available online ▪ Scanning, online publishing and regular updating of the cadastral map |
| | Lack of information (and variations in practice) related to procedures, timeframes, and required supporting documentation. | | Standardization and dissemination of information about procedures | <ul style="list-style-type: none"> ▪ Online publishing of the procedure ▪ Verification of documents when submitting the application | <ul style="list-style-type: none"> ▪ The architects accept full responsibility for compliance with regulations. |
| Application filing, distribution, and Committee structure | Lack of effectiveness in the committee’s organizational management. | Setting limits on the review process ¹⁵ | Validation of the application | <ul style="list-style-type: none"> ▪ Coordinate the holding of various committees to deliberate on the same project | |
| | | | Formalizing the procedure | <ul style="list-style-type: none"> ▪ Reassess the powers and responsibilities of committee members as to: <ul style="list-style-type: none"> - Consulting specific agencies before deciding on an application - Forwarding the application file and the supporting documents to the concerned department - Convening of relevant agencies | <ul style="list-style-type: none"> ▪ Scanning documents and making them accessible to all committee members. |

¹⁵ See section in the conclusion on setting limits on the review process

| Phase of the procedure | Issues | Goal | Recommendation | Short-term Action | Medium and long-term action |
|--|---|---|---|---|---|
| Review of the application by the Committee | Failure in the Committee's functioning (insufficient review time; disorganized document distribution) | Transparency and efficiency of the technical review | Enable the Committee to actually make decisions | <ul style="list-style-type: none"> ▪ Committee gives a final opinion after all members have reviewed an application ▪ Establish a reasonable timeframe for the review of applications ▪ Pay all fees directly to the municipality | <ul style="list-style-type: none"> ▪ Authorize a single agency to review and approve applications ▪ Review applications online |
| Issuance of the construction permit | Lack of transparency post-commission (i.e. going door to door to get from "preliminary" to final approval status) | Transparency and predictability for the developer | Rapid notification of the person concerned by the committee's decision | <ul style="list-style-type: none"> ▪ Publishing the Committee's decisions during the session via a website. | <ul style="list-style-type: none"> ▪ Ability to follow online the progress of the reviewing and any remarks made |
| | | Systematic and transparent inspections for compliance | Followed by the abolishment of the reservations expressed by the Committee and inspection of the project. | <ul style="list-style-type: none"> ▪ An entity is responsible for monitoring the lifting of reservations prior to issuing building licenses. ▪ An entity is responsible for consulting with all departments involved. | <ul style="list-style-type: none"> ▪ Give the inspection role to an independent entity, with powers to initiate sanctions |

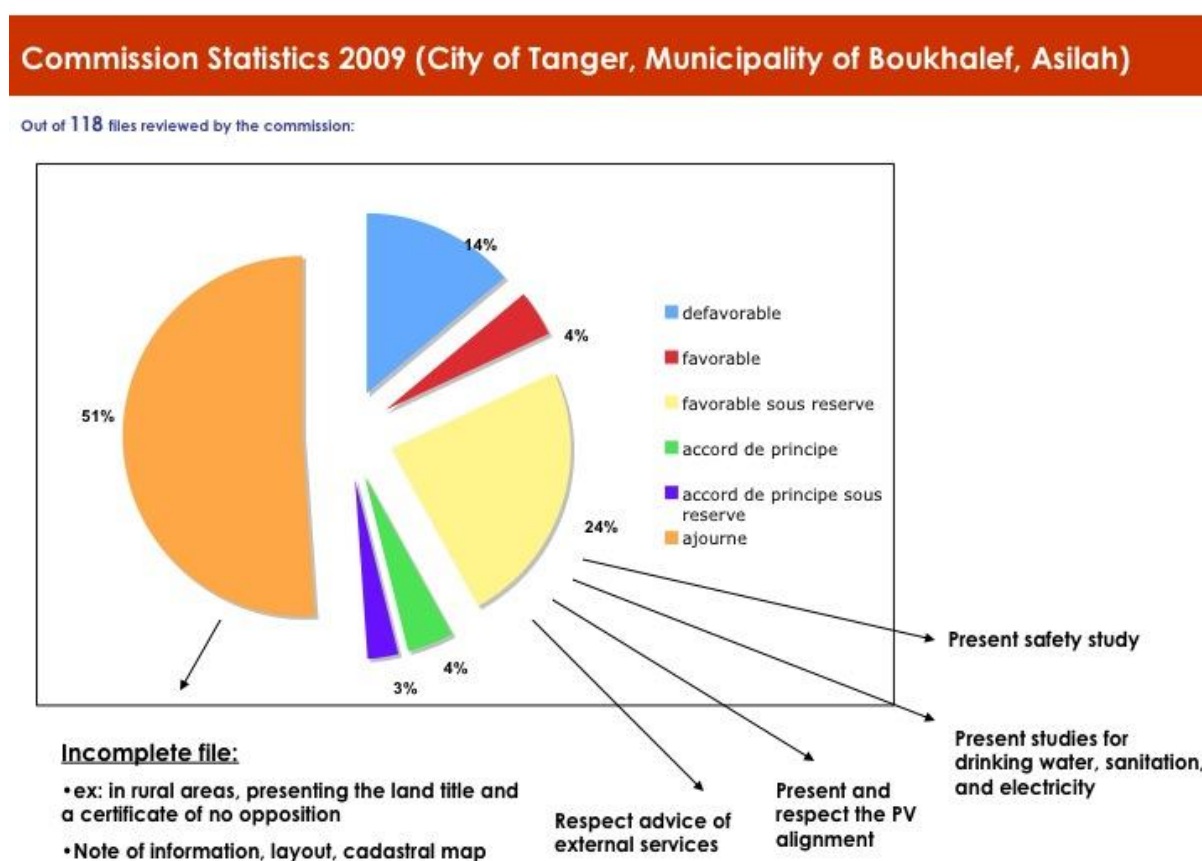
Towards a pre-screening of applications for construction permits

After reviewing the study of administrative procedures and practices connected with construction permits, Tangier’s committee on business climate asked the Program to assist with the pilot implementation of a tool that would pre-screen construction permit requests in the city.

A solid pre-screening of requests, based on collectively accepted criteria, is a fundamental step: creating and filing a request is the step in which the most problems have been identified and can be anticipated.

A study of a cross-section of requests handled by the commission during the first quarter of 2009 allowed the IBCM team to: (1) estimate the number of times applications are reviewed by the commission, (2) identify the reasons for delays, (3) create an exhaustive list of the government agencies involved with processing construction permit requests, (4) understand the criteria that should be used in the pre-screening of construction projects.

Figure 2. Figures for the commission, 2009 (City of Tangiers, Municipality Boukhalef, Asilah)



Source: Developed by authors based on statistics from the Tangiers Urban Agency, April 2009.

Accompanying the pilot project in Tangiers: the project evaluation grid

The qualifying criteria for the pre-screening of a project were put into a matrix, composed of over twenty questions regarding the nature, location, and goal of a project. Government employees can consult this grid and any supplemental information accompanying the application, depending on the project.

Figure 3. Evaluation grid for construction projects

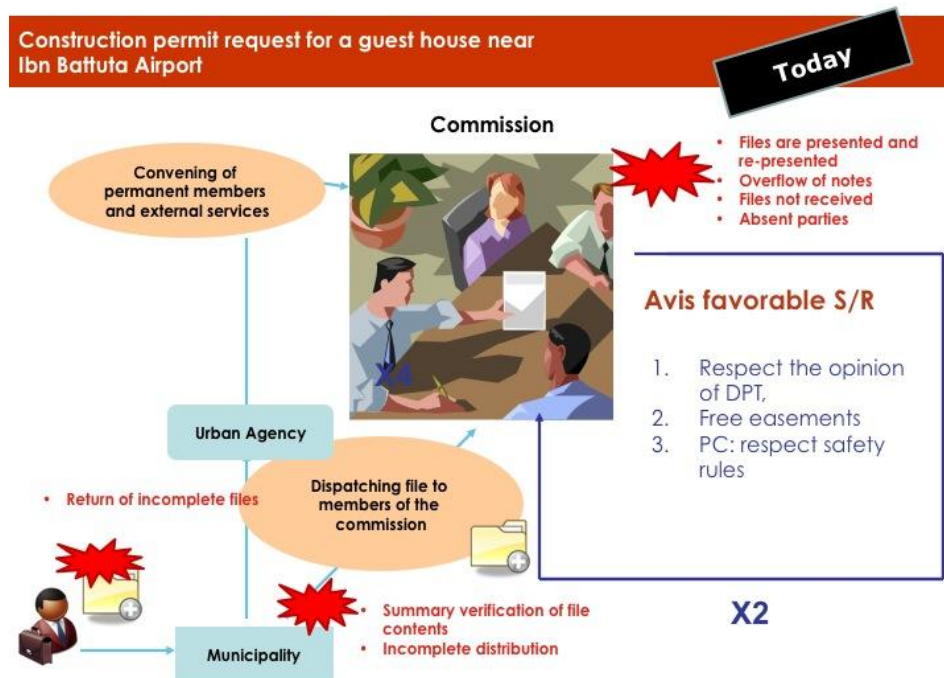

| Request Qualification Grid: Exhaustive Identification of Agencies to consult and supplementary materials to include in the file | | |
|--|-------------------------|--|
| Legal Status of the Land | | |
| Is it located on untitled land? <input checked="" type="checkbox"/> | | Notice of local authorities <input checked="" type="checkbox"/> |
| Is it endowed land? | | Expropriation certificate issued by the Delegation of Endowments |
| Topography of the Land | | |
| Is the land very rugged, slippery, unstable (Ex: located near wetlands, rivers)? <input checked="" type="checkbox"/> | | Geotechnical study of soil <input checked="" type="checkbox"/> |
| Location of Land | | |
| Is it near public roads or coasts (road, track, coast)? | DRE | Certificate of ownership, CIN, cadastral map, block map, location map, Lambert coordinates map..... |
| Is it close to the Ibn Battouta Airport? <input checked="" type="checkbox"/> | DBA (Through the AU) | Main map, side map, cadastral map, Intelligence note <input checked="" type="checkbox"/> |
| Type of Project | | |
| Tourism Establishment Health Establishment Educational Establishment Mosque | DPT | Description of project, architectural plans Owner's Identification..... <input checked="" type="checkbox"/> |

The matrix was put at the disposal of architects putting together applications and municipal employees in charge of reviewing the applications. It allowed for a marked reduction in the number of times an application was reviewed by the committee, and increased the transparency of the process.¹⁶ Projects relating to tourism, for example, must be presented to the regional tourism bureau. Applications of this kind must include a descriptive summary of the project, a business plan, and the owner's identification information.

The figure below diagrams the current method for processing of applications for construction permits, based on the relevant actors (specifically, the municipality, the Urban Agency, the members of the committee, and outside services, depending on the project). The Urban Agency's (here listed as number 4) repeated consideration of a file is directly linked to: (1) incomplete applications that do not allow for consideration by the relevant parties; (2) incomplete content verification and distribution of files to the necessary parties (who determine technical feasibility); (3) delayed identification of which actors to consult (during investigation rather than at the moment of submission). Bear in mind that in this example, as with general practice, the investor must overcome the reservations of the committee in order to gain its good favor and begin construction.

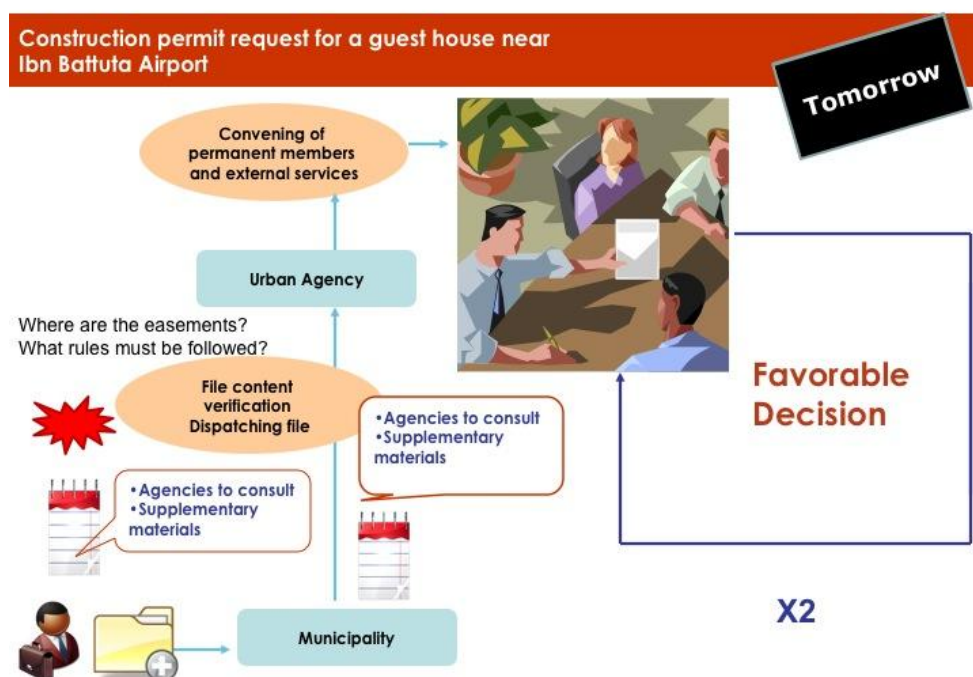
¹⁶ See Annex 12: *Matériel de qualification des demandes d'autorisation de construire : Grille d'évaluation des projets et Formulaire de demande de permis de construire.*

Figure 4. Current method of processing requests for construction permits



The next figure illustrates the ideal processing of construction permit applications, based on use of the pre-screening matrix. Here, the number of times an application is reviewed by the committee is halved. The qualification of a project helps to identify all of the actors to consult, and the information required for their consideration.

Figure 5. Processing an application for a construction permit after the qualification of the request



What are the next steps?

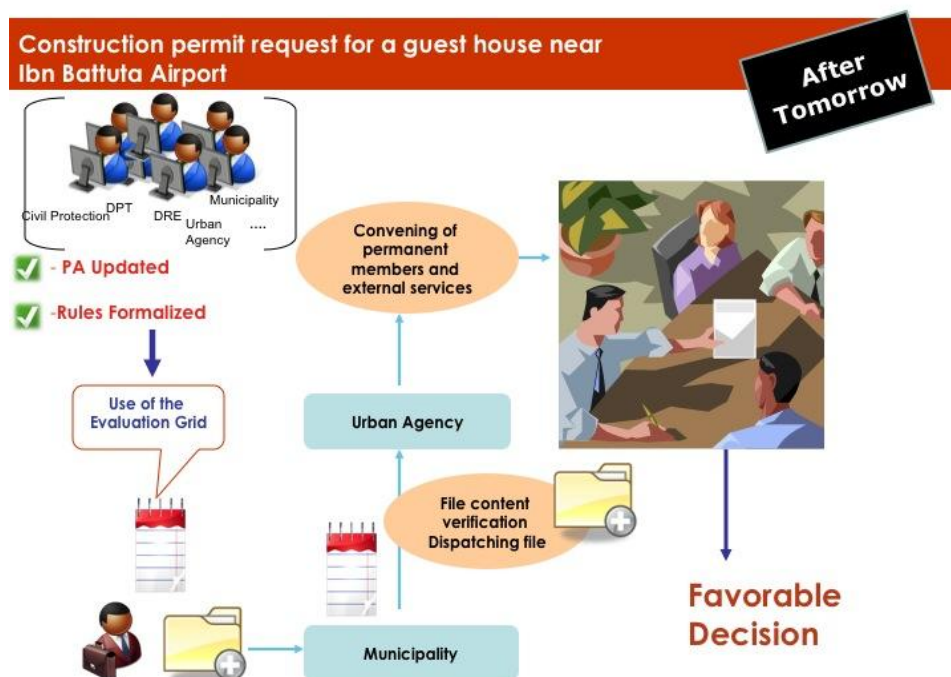
The pre-screening of projects is a key step towards improving how construction permit requests are processed. It guarantees visibility and transparency during this process. Nonetheless, complementary steps must be pursued to optimize the treatment of construction permit requests.

- Dissemination of construction rules and regulations

Architects cannot put together a complete application unless they have access to the necessary rules and plans. This requires an effort to disseminate the current regulations, network maps, and updated development plans that reflect the situation on the ground.

A perfect understanding of construction rules considerably improves the chances that an application will be approved (see Figure 6 below). A single approval in the commission would constitute a favorable ruling. Moreover, the wide availability of rules would allow municipalities to defer to other actors who can carry out technical analyses for them. The following figure illustrates the desired process for dealing with construction permit requests, after rules and regulations are made available.

Figure 6. Processing construction permit requests after project qualification and dissemination of construction rules and regulations.



- *Outreach and national dissemination of the pre-screening matrix*

The pre-screening matrix was tested in Tangiers as a pilot, and the Ministry of Housing and Urban Development has a vision for its national deployment. While the chosen medium for the pilot project was paper, the Kingdom’s national deployment of the matrix must eventually include a paperless, electronic form.

Putting together an application is financially and logistically burdensome. Applicants must produce several copies of documents required for their projects. Making all documents digital would relieve both the applicant and reviewing bodies of the responsibility to produce and distribute multiple copies of each document in the application. If put on a central server, all of the forms and necessary information for applications would be accessible to relevant actors who, with a login and password, would be able to deal with applications online.

The success of this system depends on the appointment of a single point of contact for each applicant. It seems obvious, at first, that the municipal presidents would be responsible for granting construction permits, in keeping with the law and spirit of decentralization as expressed by the King to: “bring the government closer to the citizen.” However, bearing in mind the limited capacity of certain municipalities, particularly rural ones, it would seem appropriate to delegate the task of equipping and training 1600 municipalities to the 26 urban agencies, which are responsible for urban development at the national level. This debate is at the heart of considerations of how to proceed with restructuring.

Towards a restructuring of the current process

The current procedure is characterized by a number of interventions that dilute responsibilities, while unclear regulations allow practices to change. As architects are under time pressure from developers, and government agents may be tempted to take bribes, it is important to redefine the responsibilities of each actor.

In order to streamline the review process for construction permit applications, the Program proposed three scenarios that could encourage ongoing dialogue between the MHUAE and the Ministry of the Interior: (a) the Municipality at the center of the process; (b) the Urban Agency as the coordinator; (c) delegated management of the process. These proposals are based on the following findings:

- The Urban Code grants the municipal president the ability to approve construction permits (see Art. 41). In addition, Circular No. 1400-2000 of the Prime Minister states that the President of the municipal council shall issue construction permits, after the necessary consultation (opinions and advice from other regional government agencies as appropriate).
 - « *La consultation des administrations compétentes est une formalité substantielle qui s'impose à l'administration. Il ne peut être, en aucun cas, dérogé à ce principe* ».
- Similarly, circular no. 1500-2000 of the Ministry of Housing, Urbanism and Environment establishes techniques and procedures that were intended to increase transparency and efficiency. This circular gives the urban agency a prominent position by making it the head of the urban planning commission (see 2.2 special provisions for large project procedures).
- In practice, the plethora of actors and the lack of coordination foster duplication of tasks and **dilution of responsibilities**, which paralyzes the processing of requests and creates opportunities for abuse. The building collapses and fires reported by the press have contributed to the controversy and forced the government to redefine responsibilities regarding the granting of construction permits.

The relationship between the urban agency and the municipality, and other actors participating in the “Dealing with Construction Permits” procedure is analyzed below. Three proposals are presented which show how the functions and responsibilities of each main player could be clarified, and in some cases redefined. The role of the *Wilaya* is also reviewed: until recently it was, like the Urban Agency and the municipality, responsible for urban and architectural training. The Program proposes that the *Wilaya* assume the role of “guarantor of the procedure,” a regulating body that offers recourse to project sponsors.

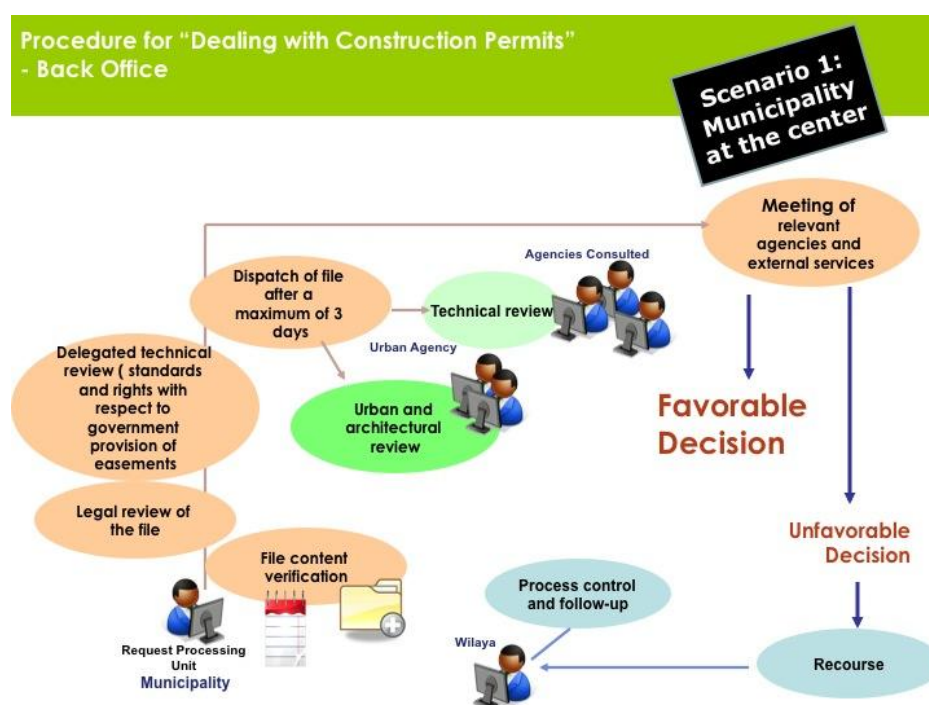
Three scenarios

Scenario I: The municipality at the center of the process

- The municipality is responsible for providing guidance to applicants, checking the legal status of requests, and may, at the request of involved agencies, make decisions on certain technical aspects.
- The Urban Agency is responsible for architectural and planning aspects of applications.
- Simple meetings organized by the municipality replace the planning committee meetings chaired by the urban agency. In these meetings, applications are presented to the relevant agencies, which determine the compliance of these applications.

In this scenario, the municipality has full responsibility for the procedure.

Figure 7. Scenario I: The Municipality at the Center of the Process

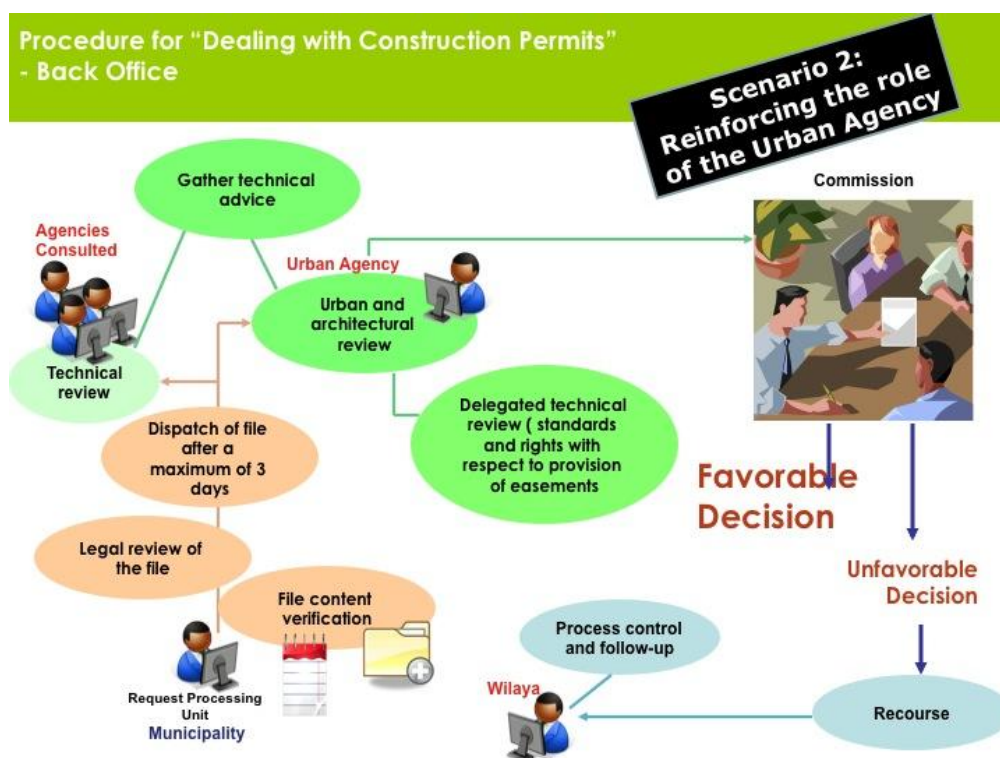


Scenario II: The urban agency at the center of the process

- This scenario transfers responsibility for the technical review to the urban agency, which is in charge of determining the compliance of a proposed project, and gathering the comments from other agencies.
- The urban agency is also responsible for distributing the applications to other agencies for review, reducing the role of the municipality (see figure 2).

- The municipality receives applications, provides guidance to applicants, and verifies the legal status of the applications.

Figure 8. Scenario II: Reinforcing the role of the Urban Agency



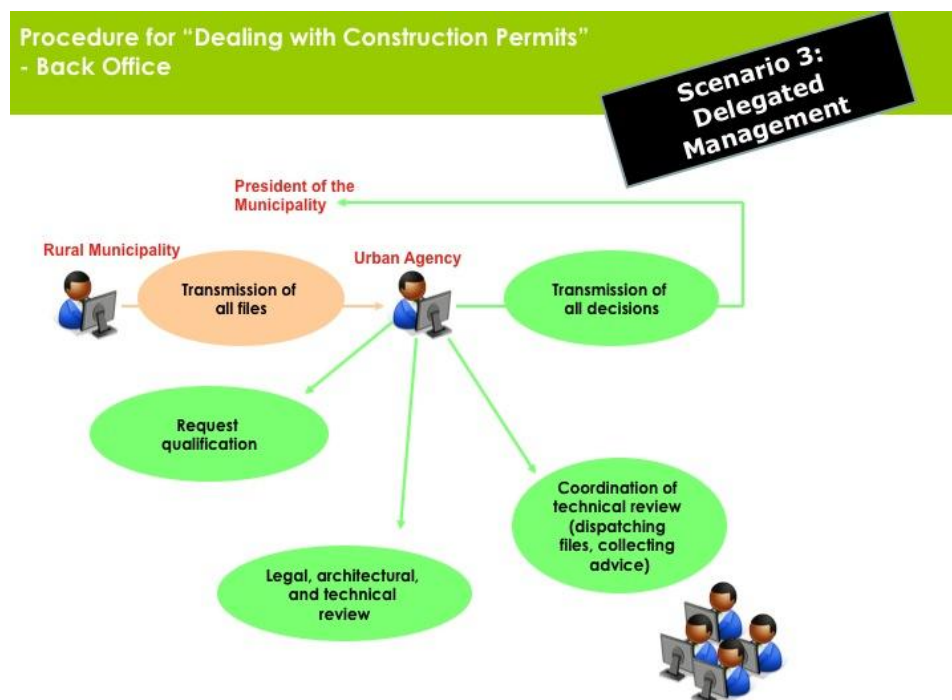
Scenario III: Delegated Management

The last scenario is mixed: one in which the municipality delegates authority to urban agencies.

- Legal, urban, and architectural assessment are taken over by the Urban Agency, which is in charge of coordinating technical reviews.

Note: it is possible to imagine the combination of this scenario with one of the other two at the national level, particularly for rural communities incapable of processing construction permits.

Figure 9. Scenario III: Delegated Management of the process for “Dealing with Construction Permits”



These three scenarios attempt to define clearly the responsibilities of agencies involved in the “Dealing with Construction Permits” process. The government’s choice of which option to adopt, if it is to work, must be based on the consensus of the Ministry of Interior and the Ministry of Housing. The scenarios can also be used complementarily; however, the importance of planning for a transitional period cannot be overstressed. A transitional phase is necessary for strengthening municipal capacities. Functional decentralization can be achieved by calling on the technical expertise of urban agencies, and by clarifying the tasks to be performed by local authorities.

The Program’s work has demonstrated the necessity of clarifying and facilitating the process related to “Dealing with Construction Permits.” The dissemination and online implementation of pre-screening materials to help applicants, as well as the updating and increased accessibility of maps and construction regulations, are prerequisites to ensuring the compliance and legality of construction work, limiting corruption, and guaranteeing safety.

SECTION 3: REGISTERING PROPERTY



What does this indicator measure?

What are the best international practices?

Where does Morocco stand?

How can we reduce delays associated with transferring a property title?

Below is an analysis of the process of “Registering Property.” After an examination of the different steps for buyers and sellers of property, the first section considers major problems, specifically those connected with the payment of taxes at the time of sale, and offers suggestions for reform. The last section emphasizes a problem that is neglected by the Doing Business indicators but crucial for the investor in Morocco: the lack of access to land.

What does this indicator measure?

The “Registering Property” indicator refers to the entire sequence of procedures necessary to transfer a property title between two Moroccan citizens. It measures the number of procedures, time, and cost associated with the process, from the stage of obtaining the first documents, up until the buyer can use the property as collateral for a bank loan.

Doing Business considers all procedures required by law or necessary in practice, whether they are the responsibility of the seller or the buyer.

What are the best international practices for this indicator?

Countries with good rankings for this indicator have simple procedures, low registration taxes and a flat registration fee.

- In 2007, the procedure’s automation and the abolition of fees allowed Saudi Arabia to take the lead for this indicator, reducing the formality to a single procedure, completed in two steps and two days.
- In Georgia, a single entity, the “National Agency for Property Registration,” manages all the formalities. The control of eventual tax arrears takes place outside the registration process.
- New Zealand, which ranks third, allows for the registration of property online.

Box 12: Tax audits, 2 examples:

Among top-ranking countries for this indicator, we highlight:

Countries that, like Morocco, require a tax clearance but have developed solutions so that tax clearances do not obstruct the process of registering a property. In Canada, registering property requires the seller to declare the taxes that they have paid, and those affecting the property. While law does not require the tax clearance, the state encourages the notary managing the sale to get one. Obtaining the document is quick and simple: it takes about an average of 5 days after contacting Toronto’s Bureau of Revenue Services in writing and paying a fee. The document is automatically generated from electronic tax records, and information can be given over the phone.

Countries that don’t require tax clearances to register property. Georgia, placed 2nd in the 2009 Doing Business rankings, the audit of outside tax arrears is a separate process from registering property.

Where does Morocco stand?

According to the 2009 Doing Business study, the seller of a property and the buyer must undertake an average of 8 procedures – taking up to 47 days - to complete the transfer of a property title, placing Morocco in the 117th rank for this indicator.

Half of these procedures and 80% of the total time recorded are involved in obtaining a single document, called the “tax clearance” (*quitus fiscal*), a certificate acting as proof that all taxes levied on the property in transaction were cleared before paying the seller the amount of the sale. Today, the tax clearance document is issued by the tax authorities, who are responsible for verifying the tax status of a property.

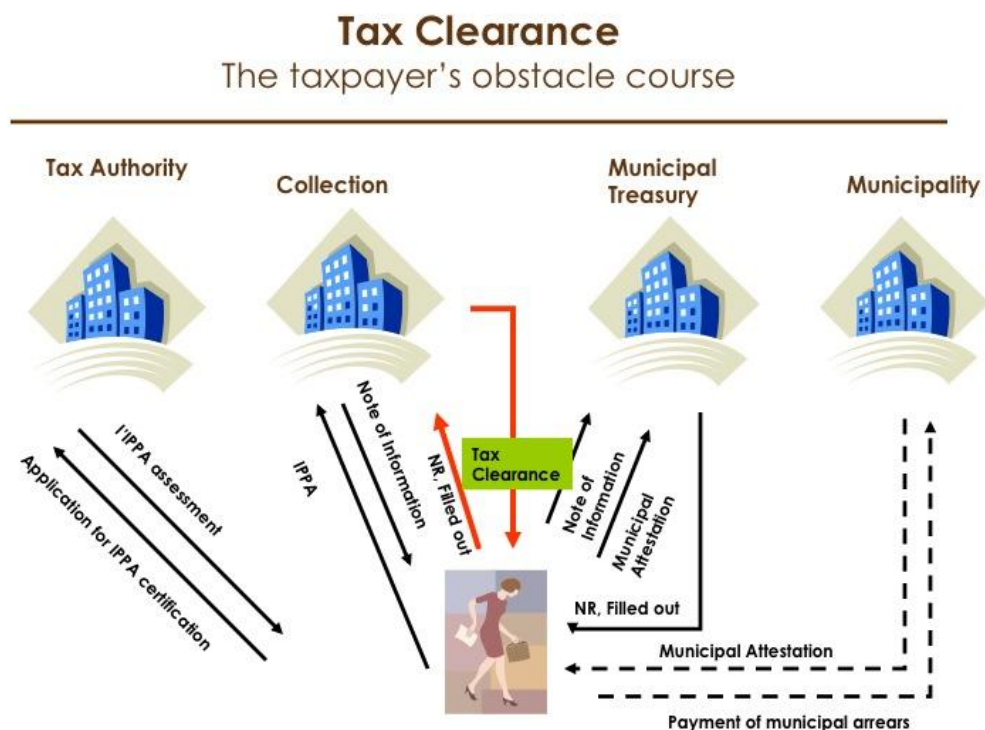
Because they lack information about the local taxes levied on the property, the tax authorities ask the taxpayer to provide evidence of payment of taxes managed by other agencies (in this case, the municipal government). Concretely, to obtain the tax clearance, the taxpayer must approach the following authorities:

- The **local tax authorities**, to obtain the IPPA document (*Impôts à Payer Par Anticipation* - a pro-rated calculation of annual taxes due), for housing and community taxes.
- The regional **tax treasury**, to pay the amount indicated on the IPPA document, and any arrears on the taxes mentioned above.
- The **municipal treasury** to pay any arrears on local taxes (tax on unbuilt lots, or *taxe sur les terrains non bâtis* (TNB in French)).¹⁷
- In some cases, the municipal treasury may require a separate payment certificate from the **municipal administrator**.
- Submit evidence of payment to the regional **tax treasury** to obtain the tax clearance.

¹⁷ The amounts due can be checked at the municipal level under the assumption made by the *Doing Business* survey that it is the tax on unbuilt land, "TNB."

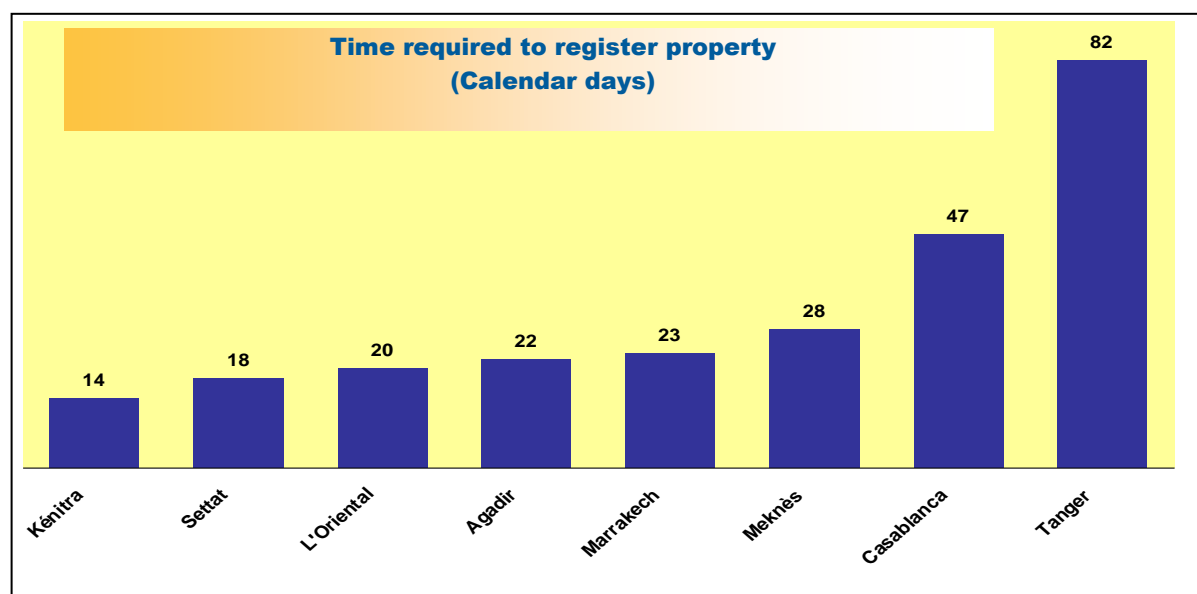
Doing Business counts each trip as a separate procedure. The taxpayer then is forced to play the role of a government messenger (see figure below).

Figure 10. Obtaining a tax clearance: the struggle of the taxpayer



Obtaining a tax clearance to register property is required throughout Morocco. At the regional level, differences in the length and efficiency of this process are related to the volume of real estate transactions, and the capacity of the local institutions involved in the process.

Figure 11. Results of the regional Doing Business survey: number of days to register property in Morocco



Source: DB in Morocco, available at http://francais.doingbusiness.org/documents/subnational/DB_au_Maroc.ppt

For example, an easy-to-use, computerized system like Kenitra's earns top rankings for this indicator. By contrast, the maximum period required to register a property (82 days in Tangiers) is explained by excessive delays in registration (51 days) at the land agency, and also by the increased activity in the housing market.

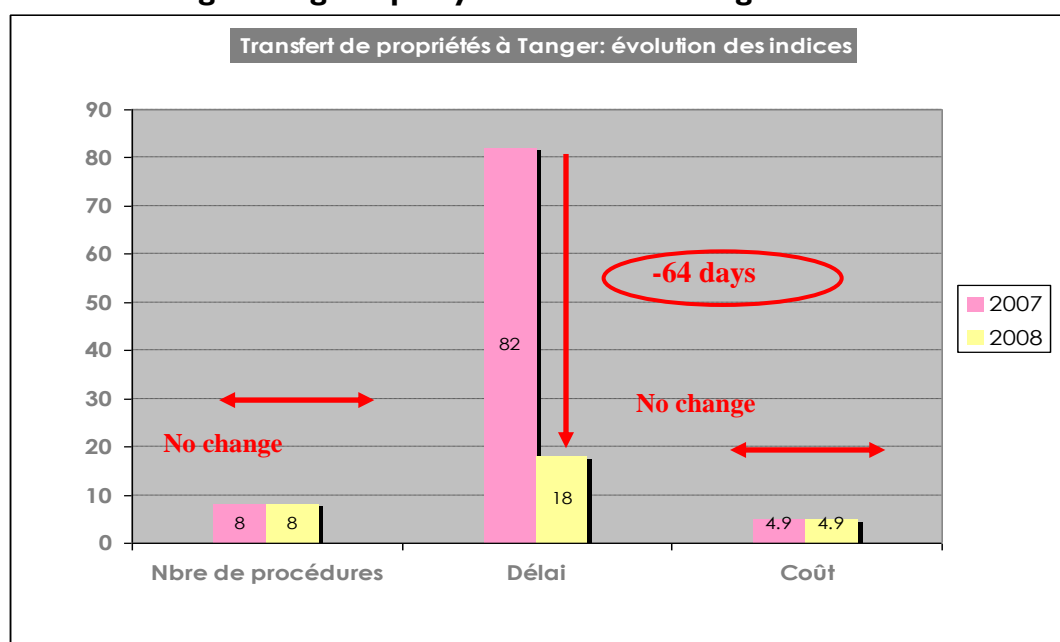
Aware of their poor performance, the regional actors in Tangiers undertook reforms that allowed them to reduce the time needed for this set of procedures by more than ten days. This improvement makes Tangiers one of the best performing regions in Morocco for the ease of registering property. Tangiers' improvement in performance is linked to the following initiatives: streamlining the processing of records at the land agency, and the reduction of time required to obtain a tax clearance from the tax authorities.

Streamlining the processing of files at the Land Agency in Tangiers

As indicated by the figure below, a fundamental restructuring at the Land Agency allowed for a 48-day reduction in the time required to register a property (including the reduction in time needed for the tax clearance, the total delay was reduced by 64 days). This is due to:

- A change of leadership at the Land Agency; the new management team delegates and shares responsibility.
- The Land Agency's creation of a database where professionals can check information about their files online.
- A restructuring of services by the Land Agency's creation of a service made up of professionals (notaries, etc.).
- The adoption of a procedures manual, developed by the Land Agency.

Figure 12. Evolution of statistics between 2007 and 2008 measuring the "Registering Property" indicator in Tangiers



Shortening time required to obtain tax clearance

Tax clearances are handled by a service dedicated to the managing deeds of sale. The service was created by tax authorities, and is comprised of professionals. Supporting human resources has also had a considerable impact on the speed with which documents are handled internally. Thanks to the experience gained, the time required to obtain tax clearance has been reduced by 16 days.

Tangiers’ case is a useful example of how regional players have found solutions to directly reduce delays. The ultimate solution to the tax clearance problem, however, directly concerns decision makers at the national level (see discussion below).

How can delays for registering property be reduced?

The working group on “Registering Property,” a sub-group of the Doing Business committee in Casablanca, asked the Program to perform a preliminary mapping of procedures, accompanied by a description of each step. The objective was to explain the excessive number of procedures and the delays for this indicator that damage Morocco’s ranking. The study was presented to the “Registering Property” working group, and the members approved the mapping. The Program identified three key problems confronting the investor (in this case, the seller of the property):

When selling a property, taxpayers must face two major issues:

- A lack of standardization: practices related to obtaining the tax clearance vary by region.
- The involvement of multiple agencies in the management of local taxes, with little or no communication between the departments responsible for local taxation. The taxpayer compensates for this lack of communication by taking the responsibility (through a notary) of compliance with the procedures.
- The taxpayer fills the communication gap by taking over (through a notary) all of the necessary procedures. The necessity of providing the same documents multiple times to the same agency increases the number of times an individual must interface with the agency.
- The multitude of actors involved with processing local taxes and granting tax clearances. The passage of a new law has further complicated the taxpayer’s duties. Now, the taxpayer must go to the municipality for an audit of arrears on local taxes, and to obtain a tax clearance.

Recommendations for reform:

To help Morocco face these challenges, the Program proposes the following reforms:

- **Harmonization of practices and dissemination of information about the procedure to the public**

One logical solution involves removing the requirement for tax clearance certification at the time of sale. The government can do without this control over the investor (as is the case with many countries who do not require tax clearances at the time of sale—see box

11). This option cannot be considered in Morocco’s current situation, given the absence of a culture of spontaneous tax payment and the lack of effective enforcement.

Optimizing communication between the Ministry of Finance and its regional representatives would streamline the procedure. This would imply consolidating all of the financial information available and making it accessible to all actors involved with managing local taxes. Setting up a shared database would be a “soft” solution that would take the place of multiple interactions between the investor and the tax authorities. This would not, however, avoid additional trips to the municipality!

- **Decentralization of management of local taxes (to municipal governments).**

The multitude of actors involved in managing local taxes (local taxes have the largest number of disputes according to tax authorities) contributes to the dilution of tasks and responsibilities. The taxpayer, meanwhile, faces many trips between many agencies to obtain a tax certificate.

A second reform option is a fundamental overhaul of the process. Procedures would be centralized in one entity, calling for a redefinition of the roles of each actor. The law on municipal taxes increased the local tax quota without delegating the responsibility for managing the taxes in question. A large part of these are managed and collected by the tax authority. However, decentralizing the management of property taxes would benefit local tax authorities and help simplify the procedure, by allowing the taxpayer to appeal directly to the municipality regarding the payment and discharge of all local taxes.

This kind of decentralization can only work as part of a more comprehensive decentralization. It would not only involve a review of the local tax regime, but would also require training and upgrading of management systems. Regional tax authorities could temporarily support the transfer of know-how.¹⁸

The table below presents the Program’s proposals to increase transparency to the process of obtaining tax clearance, improve communication between actors, and reduce the number of times a taxpayer must go back and forth between agencies. They are organized into “short term” actions (that can be immediately carried out), and “medium/long term” actions (requiring a structural reform of the system).

Among the actions that can be implemented in the short-term, improving communication between agencies is a priority to facilitate the flow of tax information. Obtaining tax clearances must no longer be a constraint for the taxpayer.

In the long term, if we consider decentralization to be a goal in Morocco, two arguments can be made for the decentralization of local tax management in favor of a single local entity:

- (1) The management of local taxes represents a heavy burden to the central tax agency compared to the revenues (only about 10% of the taxes remain after management costs are covered).

¹⁸ Proposal made by the regional tax authorities in Tangiers and Casablanca.

- (2) Local governments, as the beneficiaries of local taxes, must take responsibility for their management, which requires upgrading the management capacity of the municipalities.

To facilitate the transfer of know-how, staff from the central tax agency would be temporarily posted in the municipalities, or work closely with them, to provide training and support tax collection at the local level. The success of this technical assistance would be based on a shared commitment on the part of the government and all relevant actors.

Table 6. Summary of recommendations related to the "Registering Property" indicator.

| Issues | Goal | Short-Term Action | Medium and long-term action |
|---|--|--|--|
| Lack of information about the procedures and required documentation | Harmonization and publication of information about procedures | <ul style="list-style-type: none"> ▪ Harmonization of procedures to obtain the tax clearance ▪ Preparation of a procedures manual (defining maximum time limits and required documentation) | Tax auditing outside the "Registering Property" route instead of requiring the tax clearance at the time of transaction |
| <p>Involvement of multiple agencies in the management of local taxes, with the results of:</p> <ul style="list-style-type: none"> - Multiple trips for the taxpayer to obtain a tax clearance - Requesting the same documents several times (sometimes within the offices of the same agency) - Lengthy and unpredictable delays | Decentralizing the management of local tax offices (reduce to one single representative) | <p>Support for municipal governments taking over the role of tax collection: transitional period of 5 years minimum</p> <p>Training municipal staff in the management of local taxes:</p> <ul style="list-style-type: none"> ▪ Assign the staff who currently manage these taxes to the municipal government <p>Before decentralization is complete: allow the exchange of tax information between the tax authorities and the municipality:</p> <ul style="list-style-type: none"> ▪ Improve the use of means of communication (telephone, fax, Internet ...) <p>Allow the tax collection agency to recover taxes for the municipal government through adjustments</p> | <ul style="list-style-type: none"> ▪ Make the technical and human resources required for the decentralization of fiscal management available to the municipalities. ▪ Redefine the elected members' responsibilities in managing local taxation (recovery, management and redistribution of tax revenue). ▪ Provide a legal and institutional arsenal enabling the recovery and management of taxes at the municipal level. |

The necessity of improving access to land

Beyond the challenges associated with tax payment, an extensive part registering property in Morocco, there is a problem neglected by the Doing Business study: the lack of access to land or, more precisely, the lack to visibility of available land (including state-managed land). The lack of visibility of land that is potentially available for investment and mobilization is a big deterrent to investment in Morocco.

In Morocco, land tenure is characterized by a number of legal statutes. Essentially, the management of land involves many different ministries (ANCFCC, the Ministry of Finance, the Ministry of the Interior, etc.). Each agency has its own system, sometimes digital, for monitoring available land. There is no updated central database. Moreover, the total rate of land registration is relatively low. In 2007, only 10% of the land in the Kingdom was registered (based on ANCFCC statistics).

Thus, the difficulties in accessing land are related to:

- The identification of owners: some land is not included in statistics because their status is not clearly established.
- The scarcity of private land available for speculation, and their lack of registry.
- The complexity of procedures required to mobilize government lands, particularly those belonging to Ministries (of Education, Health, Endowments, etc.).

In response to these constraints, the Program proposes solutions that will increase the visibility of available land:

- Make the ANCFCC’s database available to interested parties. Although this only covers a small portion of land, registered lands are the easiest to mobilize.
- Publicize government lands that are likely to be opened to investment. This would promote transparency around access to rental and sale properties in the private sector, while self-regulating the little speculation that these lands invite.
- Expand registration. This would clarify ownership and increase the visibility of land. This initiative is now a priority for the ANCFCC.
- Make all land (public and private) that is potentially open to investment visible (through SIG, for example). The drafting of planning documents must take into account the potential site for investment.

Box 13 : Online Land Registry

Today, modern land registries are available online, like that of Quebec (www.registrefoncier.gouv.qc.ca), or the township of Friburg in Switzerland (<http://www.rf.fr.ch/rfpublic>), can at least be used for registration and payment from a distance (like that of the UK http://www.landreg.gov.uk/register_dev).

The government of Queensland in Australia provides for online calculation of fees <http://www.nrw.qld.gov.au/property/titles/feecalculator.html>, and tracking recent transactions <http://www.nrw.qld.gov.au/property/index.html>.

Ireland also allows for the online payment of fees. http://www.landregistry.ie/eng/landdirect_ie/

In summary, substantial interventions on the problem of tax clearances (which have a direct impact on the "Registering Property" process) in addition to a reform of land registries (urged by promoters of investment in Morocco) require the involvement of relevant ministries and agencies. Two fundamental questions must be posed:

- (1) Does the decentralization of tax management affect prioritized reforms in Morocco? Are the involved ministries (of Finance and the Interior) ready to support such an endeavor? What are the real benefits for the citizen, the entrepreneur, and the government?
- (2) The sharing of information (deemed necessary) relating to land: what are the benefits? Does anyone have anything to lose? How can we achieve the necessary support (at the regional and central levels) for such an endeavor?

SECTION 4: HIRING WORKERS



*How do proposals made during “social dialogue” affect Morocco’s ranking for this indicator?
Identifying legal and regulatory frameworks that promote flexibility.
Developing “flexicurity.”*

In 2004 Morocco passed a new Labor Code that was intended to guarantee greater flexibility to employers. Much to the disappointment of leaders, however, the new code had no positive affect on Morocco’s Doing Business ranking.

Neither the reforms introduced by Law 65-99 of the new Labor Code, nor the proposed “Social Dialogue” reforms had any significant impact on Morocco’s ranking.

Businesses, meanwhile, face new legislation that brings with it a variety of changes whose implementation may be difficult technically speaking, or due to different interpretations of the law. For this reason, the CGEM (General Confederation of Moroccan Enterprises) wants to see clarifications regarding severance pay, which is frequently granted in courts even in cases of justified dismissal. Occupational medicine poses an impossible problem—even unions agree—having a doctor on staff at every business with more than 50 employees would require more than the current number of specialists (currently around 700). Employers are also opposed to two measures: the requirement to replace all retirements, and the requirement to reset the clock on disciplinary measures taken against an employee after one year. Their other concerns include business hours and the right to strike.

Box 14 : Morocco’s Ranking

Morocco, often accused of having strict regulations for hiring workers, is 169th out of 181 countries for this indicator.

Since the passage of the law, debates between unions and CGEM have intensified. The government finds itself at an impasse, forced to act as an arbiter between management that criticizes the strictness and additional cost associated with current legal compliance, and with unions that threaten to increase their salary requirements to the highest possible. The government then, must come up with concrete solutions to demands made in the “Social Dialogue” context.

How do Proposals made during “Social Dialogue” impact Morocco’s Ranking for this indicator?

In response to a request from the Minister of Economic and General Affairs (MAEG), the Program conducted a report¹⁹ examining the potential impact of suggestions made during “Social Dialogue” on Doing Business rankings (see “Social Dialogue” from a Doing Business Perspective). The demands put forth by the CGEM consisted of additional amendments to the new Labor Code, which are far from gaining consensus among unions. These proposals pertain to the Doing Business rankings without actually affecting them. The union’s recommendations center on policy reform, and those have a negative affect on rankings. Why?

¹⁹ See Annex 13 : The “Social Dialogue” from the Doing Business Perspective, “Improving the Business Climate in Morocco” Program, April 2008.

This can be explained by (1) the fact that most aspects affected by the Labor Code are not measured by Doing Business rankings. The flexible framework advocated by the World Bank corresponds with the economic crisis. The recommendations made by social partners are taken into account, immediately. Additionally, the legislation intentionally fails to provide: (2) implementing decrees to clarify terms in the law (like the definition of “mass layoff”). This encourages negotiation between employers and employees.

This flexibility favors the development of “current practices” that can have a negative impact on Morocco’s attractiveness to foreign investment.

This chapter considers the scope of reform necessary to create legal and regulatory frameworks for hiring workers that are attractive to investors. Moving beyond the goal of improving Morocco’s ranking, the Program considers conditions that would allow the government to enact reforms that create maximum hiring flexibility by proposing measures that promote job security.

Identifying legal and regulatory frameworks that favor flexibility.

The Legal Code provides for a level of flexibility that is remarkable, but it’s hard not to wonder what the negotiating power of employees would be like in a context where their rights are recognized.

On the other hand, the vagueness of the law may work to the advantage of Moroccan investors, or any other investors familiar with Moroccan or French law. On the contrary, this flexibility allowed by the law is useless to the point of being discouraging for foreign investors who can’t measure the risks associated with investments in a context that allows for shifting “current practices,” and one in which the laws are considered too rigid.

The table below features a series of specific cases in which the law could be clarified by creating a simple implementing decree (for example the definition of “mass layoff” as a percentage that reflects real people), or a bill or amendment (that favors seniority rather than annual leave, the introduction of unemployment insurance, etc.).

Some legislative and regulatory provisions should be clarified to formalize practices, and allow investors to evaluate the risks associated with their project and to ensure the competitiveness of their salaries. Currently, the Labor Code stipulates that employers should favor seniority in cases of mass layoff. In strictly economic terms, how do we justify the employers’ need to distinguish the most efficient members of their teams? The different suggestions listed in the table below contribute to the goal of increased flexibility for the investor.

Box 15: Criticism of the Indicator

The Hiring Workers is the most criticized indicator for Doing Business rankings. The international controversy surrounding this indicator led the World Bank to replace it with a new indicator that includes protection of workers, with the aim of encouraging companies to create legislation that provides stable employment and adequate protection of salaries.

Table 7. Necessary Steps to Increase Legal and Regulatory Flexibility

| Issue | Goal | Measure (short term) | Measure (long term) | Impact on legislation |
|---|---|---|--|--|
| Hiring flexibility | | | | |
| A fixed term contract (CDD) is only renewable once (restricting temporary and seasonal employment) 20 | Allow CDDs to last beyond 60 months Recognize the seasonal nature of some jobs | Allow the renewal of fixed term contracts for a period exceeding 60 months | | Implementing decree relative to article 16 of Law No 65-99 ° |
| Firing flexibility | | | | |
| Lack of regulatory clarity as to what constitutes a mass layoff 21 | Remove ambiguity linked to the mass layoff concept | Definition of "mass layoff" compared to the total workforce: a threshold higher than 12.43% 22 | | Implementing decree relative to article 66 of Law No 65-99 ° |
| Rigid criteria applied to the terminations and rehiring | Make flexible criteria for order of firing during mass layoffs | Give the employer the freedom to choose the order of priority for firing during mass layoffs 23 | | Implementing decree relative to article 71 of Law No 65-99 ° |
| Flexibility of rehiring | | | | |
| Obligation to rehire based on fixed criteria | Flexible criteria for rehiring after a mass layoff | | Abolish the priority rules applicable for reemployment | Repeal of Section 508 of the Labor Code concerning the reemployment of collectively laid-off employees |
| Work hours flexibility | | | | |
| Seniority remuneration by increasing the amount of annual leave | Seniority remuneration by bonus | | Transforming additional paid leave related to seniority into bonus | Reengineering Articles 232 and 242 of Law 65-99 relating to paid annual leave |
| Weekly days of rest established by law 24 | Make flexible the choice of days off per week | | Allow the employer to choose the days of weekly | Reengineering sections 206 and 207 of Law 65-99 |

²⁰ In practice, renewals of Fixed Term Contracts (CDD) are carried out illegally.

²¹ In the absence of a threshold defining "mass layoff", judges usually apply a 10% rate. The latter is taken as reference by the *Doing Business* survey.

²² Threshold implicitly taken into account by *Doing Business*.

²³ This measure will have an impact on the ranking only if coupled with the recommendation of lifting the "priority rules applying to reemployment".

| Issue | Goal | Measure (short term) | Measure (long term) | Impact on legislation |
|--|--|---|--|--------------------------------|
| Social security of terminated employees or those at risk of redundancy | | | | |
| High costs associated with layoffs | Offering more income security to the unemployed while reducing the cost of layoffs | | Creation of unemployment insurance | Bill on insurance for job loss |
| Lack of appropriate workforce skills – not in tune with market demand | Promoting vocational retraining; bringing supply and demand closer together | Counseling and job placement (see ANAPEC initiatives and the OFPPT) | Reforming the education and vocational training systems, making them more responsive to the level and specific skills required by the market | |

²⁴ Under section 206, the weekly rest period must be granted either on Friday or Saturday or Sunday, or on the weekly “market day”

Developing “flexicurity.”

Dealing with the question of hiring requires a reflection on the current social system that requires flexibility for employers and security for workers. A system characterized by social partnerships would benefit all parties and encourage international best practices. Such a system, designed through cooperation, seems to be the only one capable of bringing together employers and unions.

The notion of “flexicurity” is, in most developed economies, the *sine qua non* foundation of a flexible labor market.

Countries offering the most employment flexibility tend to have the largest arsenal of employee assistance programs.

Thus, the Danish model is often used as an example because of its capacity to accommodate the need for flexibility while protecting workers (see figure 20).

Building on “active” employment policies

“Active” aid policies are those that are based on the condition that the potential aid recipients search for work. In this way, such policies differ from passive policies that provide benefits without accountability. Criticisms of such programs point to the perverse effects of aid, demonstrating biases of overly generous social policies that can in turn create long-term dependency.

There are two options to consider during collaboration with social partners: one based on a logic of an incentive and constraint system (workfare) and one based on a system of incentives and support, which may help ensure an easier transition back into the job market.²⁵

- The first option relates to an Anglo-Saxon model in which the objective is to make salaried work more attractive by gradually reducing benefits until they are removed completely. This system is only valid in a context that guarantees employment and training.
- The second option, developed in France, aims at a softer approach to the job search and fights against exclusion. The success of this model depends on massive job creation in the public sector.

Box 16: The Three Pillars of the Danish Model

1. Maximum flexibility in the job market: hiring and firing workers are not regulated. There is neither minimum salary (that can be fixed by each branch by collective agreement), nor a legal time limit for work.
2. A high level of unemployment benefits (indemnities for non-activity, like unemployment benefits): in Denmark the compensation for lost wages is high (70% of previous average earnings, up to 90% for low wages). Compensation can last up to four years, and by the end of this period social welfare takes over, the part paid by municipalities (35%) is also considered generous.
3. Energetic policies of (re)activation of unemployed people (training and professional rehabilitation) founded on the conviction that unemployed people have rights but also responsibilities.

²⁵ The Politics of Returning to Work in the United State, Great Britain, and France, Anne Daguerra www.ceri-sciencespo.com/publica/critique/article/ci31p69-94.pdf

In recent years Morocco has initiated programs combating unemployment and adjusting supply and demand. Programs of the National Agency for the Promotion of Employment and Skills (ANAPEC), for example, work with recent graduates to provide them with skills training and integration contracts. Special training contracts from the Office of Training and Job Promotion (OFPPT) allow businesses to be reimbursed for up to 90% of training costs. Nonetheless, burdensome procedures and delays in reimbursements discourage businesses for whom laying off rather than retraining employees is often the only option in times of crisis. For now, the workers who are fired in times of crisis can only collect unemployment benefits provided by the government. Thus, these initiatives still do not provide adequate security for workers.

The following proposals aim to bring security to dismissed workers, and provide professional rehabilitation.

Table 8. Measures to Support the Dismissed Worker.

| Issue | Objective | Measures (Short Term) | Measures (Long Term) | Legal impact |
|--|--|---|---|--|
| <i>Security for dismissed worker, or risk of dismissal</i> | | | | |
| The employer bears the high cost of redundancy | Support the unemployed, and reduce the cost of redundancy for the employer. | | Create Unemployment insurance that bears, in part, the cost of redundancy | Legal project relating to unemployment insurance. |
| Lack of professional qualifications in demand. | Promote vocational rehabilitation, match supply to demand. | Career transition and job search assistance (ex: efforts of ANAPEC and OFPPT). | Reform the education system and job training, depending on the specific skills required by the market. | |

Box 17. Objective of Legislative Reform

The analysis offered throughout this chapter demonstrates that eventual reform of the Labor Code must include safety nets for workers. If a law intends to respond to the economic situation of its country, then its application and acceptance by civil society depends on its ability to meet expectations

With regard to labor legislation, the Moroccan government has three objectives to meet:

1. Stimulate the economy while maintaining flexibility in the Labor Code
2. Foster a business climate that can compete with current international legislation¹
3. Guarantee security for workers and rehabilitation of dismissed workers.

CHAPTER 3: CROSS-CUTTING ISSUES

The analysis of Doing Business indicators, taken as a grid for assessing Morocco’s economic development, demonstrates that some problems and barriers to investment overlap.

The investor faces a general lack of visibility with regard to procedures. As such, it is difficult to anticipate delays and costs associated with investment, and this in turn limits investment.

Similarly, bureaucracy and a lack of communication and coordination among involved agencies weigh down administrative procedures relating to investment.

In this section, we propose strategies for reform for the problems identified by the analysis of the Doing Business indicators. Clarifying principles and projects for policy reform should be prioritized, contributing to continuing efforts in this arena.

SECTION I: AVAILABILITY OF INFORMATION

The analysis demonstrated the difficulty of accessing information, and the lack of communication between agencies at the regional level.

Despite initiatives to simplify administrative procedures, they remain complicated and not transparent.

The complexity and length of administrative procedures are linked to non-automated processes and procedures, and a lack to delegating decision making, in addition to the lack of information sharing between agencies.

For investors, it’s important to understand precisely the way to interact with agencies. This requires the formalization and wide dissemination of procedures, and also the establishment of effective remedies in cases where agencies decide not to work with investors.

Moreover, lack of accurate information about laws, and their varied interpretation does not guarantee the equal treatment of all citizens, and systematically penalizes those who are the farthest from decision-making centers.

Therefore, formalization of the majority of procedures through the creation of manuals for involved actors is necessary.

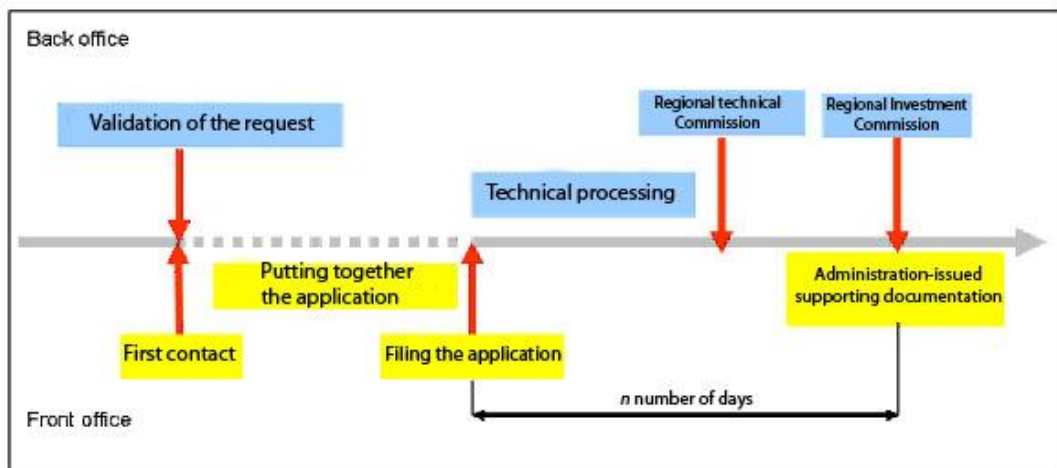
This educational effort must be accompanied by making information available on a wider scale. This could be ensured by the use of new technologies and the systematic designation of unique points of contact within ministries and local agencies.

SECTION 2: SETTING LIMITS ON THE REVIEW PROCESS

Investment projects always encounter a number of administrative formalities instituted by multiple commissions. Redundancies and contradictions constrain and increase delays in dealing with requests.

Putting a limit on the review process would put an end to requirements to follow a sequential process for administrative procedures. The most effective way to achieve limits is to improve the organization of the multiple committees required for each project. Such a system could encourage positive regional competition, i.e., through a national maximum timeframe for the review of investment projects. Each region could then work to show its process to be even faster than the maximum timeframe. The establishment of a maximum timeframe would provide security, and make investors much more comfortable because they could anticipate delays.

Figure 13. Setting limits on the review process for investment projects



SECTION 3: ADEQUATE CONTROLS

Promote *a posteriori* application filing and controls rather than multiple *a priori* controls so as not to slow down processing (as is the case for the tax clearance for the “Registering Property” indicator), and establish a climate of trust between the State and the taxpayer. Tax audits, for example, are no longer perceived as an assault or punishment for the taxpayer, but rather as regulatory mechanism and promotes equality among taxpayers.

A reporting system requires accountability on the part of applicants and construction professionals. This does not, however, prevent agencies from instituting controls and conducting inspections that could be redundant.

A properly functioning system of reporting requires:

- Accessibility of information and transparent procedures
- A system of communication between different agencies or ministries to facilitate the cross-checking of information and avoid penalizing the applicant.
- Efficient controls to sanction and discourage fraudulent behavior.

SECTION 4: CONDITIONS FOR DECENTRALIZATION

Administrative practice is influenced by political trends. The decentralization process initiated by Morocco means that local actors (i.e., municipal governments) are becoming more involved in business-government transactions (such as granting permits and collecting taxes).

For this process to be effective, there is the need for intensive upgrading at the municipal level. Failing to do this is likely to have a counterproductive effect.

Legislative provisions may be irrelevant to local realities in the context of decentralization: the majority of elected officials cannot bear the burden of the responsibilities and powers they are given due to lack of skill and limited resources.

Analysis of the “Dealing with Construction Permits” and “Registering Property” indicators demonstrate why it is important to reinforce local capacities and to combine efforts, specifically relating to timely technical assistance, and consistency between Municipalities, agencies, and ministries.

If the long-term objective is functional decentralization, than intermediate steps must be followed to guarantee its success at the local level.

SECTION 5: NEW TECHNOLOGIES AT THE HEART OF MODERNIZATION

Virtualization of administrative services offers new levels of freedom and flexibility to agencies and their users. Information will become readily available at all times for users wishing to initiate an administrative procedure. As for agencies, it will become possible for them to share and exchange useful information thanks to their new communication through information systems.

With virtualization, the processing of applications would no longer be linked to physical infrastructure or the responsiveness of the agent that interacts with a user. Information would become transparent, and the ability to track the progress of an application would be assured. Administrative costs would be reduced, and information would be protected by an access code. The flow of information would increase and the user would no longer be in charge of ensuring the transmission of information from one agency to another.

The only way to offer the same service to all Moroccans, regardless of proximity to regional economic centers, is to provide remote access to services. Morocco possesses state-of-the-art technologies (infrastructure, stakeholders and uses). This is an opportunity to “bring government closer to the citizens,” as called for by His Majesty in his January 9, 2002 Royal Letter.

Finally, and perhaps the most crucial for the future, the administration must move towards the “virtualization” of its services rather than “one-stop-shops.” It will never be possible to open physical “One Stop Shops” in each of Morocco’s 1,600 towns.

Box 18. The Limitations of the “one-stop shop”

In the 80s, the first attempts at coordination between agencies resulted in the concept of the “One Stop Shop.” The idea was to gather all of the involved agencies in one place. This was the beginning of the CFE in France, and the “One Stop Shops” in the United States and England. Until the advent of the Internet, this model influenced all efforts and modernization. So, today, many countries have “one stop shops,” (Mali opened one in May of this year).

The limits of the “One Stop Shop” soon became apparent: it only served the most developed economic centers (where mobilization of civil servants could be justified by the volume of registrations). Moreover, it requires at least two trips back and forth: to submit the application and to collect the certification.

SECTION 6: THE KEY ROLE OF COMMUNICATION

Certain regions have developed exemplary practices that significantly contribute to the improvement of the business climate. Sharing successful experiences at a national level encourages a more homogenous environment, which is more conducive and attractive to sustainable investment in Morocco.

The level of regional flexibility provided for in the law, when used in a positive way, can inspire other areas to undertake reforms to improve the business climate in Morocco. Communication at the regional and national level is essential, and must be facilitated by regional Doing Business committees. The initiatives that they develop must foster and inspire continuous reflection at the central level. In general, communication must accompany the reform process to ensure adherence on the part of the government and public at large:

- *During the development phase:* this phase of consultation that will involve the maximum number of players from the government and private sector through the use of roundtables and public debate. Stakeholders must remain informed of the progress of work, and act as levers to allow for rapid adoption of legislation (lobbying).
- *During the training phase:* this phase is the time for procedural to adopt the new organization, new roles and new tasks.
- *During the application phase:* this is a key moment for raising awareness. Publicity of new procedures is crucial, to make it widely known. For this, communication networks like the press are good avenues of communication.

Box 19. Outreach and Communication about Program Activities (see Annex 13)

The communication strategy to educate the public about the necessity of reform and the results of the current reforms, has consisted of the following:

- The Program published an article about the “Hiring Workers” indicator, entitled “*Les entreprises marocaines cherchent une issue*” and an article detailing the tangible achievements of the regional initiative, “Sustainable Investment in Meknès-Tafilalet.”
- Several external publications covered the Program’s activities, such as « *Pourquoi est-il si difficile de vendre un bien ?* », « *Autorisation de construire : des pistes pour moins galérer* », « *les enjeux de la création d’entreprise en ligne* », « *les initiatives nationales en cours pour faciliter la création d’entreprises* ».

SECTION 7: MODERNIZING ADMINISTRATIVE PRACTICES

In Morocco, there practices still exist that are as old as the laws that institutionalized them, and that can be considered archaic or aberrant and should be modernized. Three examples include:

- The municipality must legalize every signature on an administrative document; going to the municipality is a long procedure for the founder of a business, and the cumbersome nature of this process is only increased when one of the signing parties is a foreigner.
- Some agencies require that copies of documents or supporting materials be certified, which imposes even more delays on the investor.
- The lack of delegating power at agencies can make the review process and handling of files slower. For example, for applications for construction permits, the lack of the chairman of the municipal council can prevent documents from being sent to the necessary agencies.

CONCLUSION

Work with the Doing Business indicators provided an opportunity to demonstrate their limitations (particularly with regard to methodology), but we must recognize that Doing Business inspires many reforms: at the same time that it inspires policy reform on “administrative” themes, it also helps to situate Moroccan practices in the context of international best practices. In Morocco, certain agencies and regions that approached the Program for help are now helping bring Morocco closer to best practices.

The Program, in collaboration with its partners, can then:

- offer more refined analysis of the relevant indicators,
- identify agencies that are catalysts for change and work with them,
- identify opportunities for reform of government actions, while bearing in mind their feasibility (politically acceptable and technically feasible).

This translates into work on two levels:

- at the regional level, we have realized pilot projects to illustrate the feasibility of proposed reforms;
- at the national level, we have facilitated inter-agency dialogue to allow for the adaptation of laws to accompany reform efforts, and to plan the national roll-out of regional and local initiatives that have been successful.

It bears repeating that without transparency (of information, communication, etc.) the climate of trust that has been the object of all of our activities is impossible. Our recommendations, our avenues for reflection are all subject to a measure of neutrality, and can only be realized by the will to see Morocco included in the group of major international players while respecting its context, its culture, and its business climate.

But transparency is not by itself sufficient if it is not reinforced by the behaviors of actors in modernization. But how can success be achieved when responsibilities are diluted because the manual of procedures that defines the role of each actor involves so many agencies? As we have seen, clarifying responsibilities and operational capacities of organizations: the successes of recent years are the result of this binomial (transparency and responsibility), and prove that it is possible to affect change, that notion is set in stone when it comes to administrative procedures. Transparency associated with this performativity nearly automatically fosters trust between agencies and individuals, and benefits both.

We hope that the momentum and activities initiated over the course of the “Improving the Business Climate in Morocco” Program will continue, that proposed reforms and the tools developed (attached in the appendixes of this report) will be useful to all those who contribute to creating a more economically attractive and socially responsible environment in Morocco.