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Improving the Business Climate in Morocco

Regulatory Reform and Investment Promotion

Doing Business: Catalyst for administrative reform

March 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).

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 United States Agency for International Development (USAID) under the terms of Contract No. GEG-I-00-04-00001, Order No. GEG-I-02-04-00001.

This report is the result of teamwork. The authors are: Carine Chevallier, Caroline Huwiler, Jean-Michel Mas, Lara Goldmark and Yousra El Hatib. The staff wishes to express its sincere gratitude to Mrs. Nadia Amrani of USAID/Morocco's Economic Growth Office, for her support.

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LIST OF ACRONYMS

ANAPEC	*Agence Nationale de Promotion de l'Emploi et des Compétences* (a Moroccan national agency dedicated to matching job seekers and employers in Morocco)
BAM	Bank Al-Maghrib (Moroccan Central Bank)
CDD	*Contrat à Durée Déterminée* (Fixed Term Contract)
CNSS	*Caisse Nationale de Sécurité Sociale* (National Social Security Agency)
CRI	*Centre Régional d'Investissement* (Regional Investment Center)
DAI	Development Alternatives, Inc.
DB	Doing Business
GNP	Gross National Product
IBCM	Improving the Business Climate in Morocco
IFC	International Finance Corporation
IPPA	*Impôts à Payer Par Anticipation* (taxes payable in advance)
OFPPT	*Office de Formation Professionnelle et de la Promotion du Travail* (Vocational Training Agency)
OHADA	*Organisation pour l'Harmonisation en Afrique du Droit des Affaires* (Organization for the Harmonization of Business Law in Africa)
SARL	*Société à Responsabilité Limitée* (Limited Liability Company)
TGR	*Trésorerie Générale du Royaume* (General Treasury of the Kingdom)
TNB	*Taxe sur les terrains Non Bâtis* (Tax on Unbuilt Lots)
USAID	United States Agency for International Development

INTRODUCTION

Since 2004, the Doing Business survey[1] has measured the "ease of doing business" in 181 countries, including Morocco. Every year, Moroccans learn that their country's ranking has not changed significantly, and wonder why it is that the benefits of the government's many reform efforts are not reflected in the World Bank's Doing Business report. In 2007, USAID's "Improving the business climate in Morocco" Program[2] (IBCM) conducted a regional survey in collaboration with the World Bank, using the Doing Business methodology to measure the performance of specific transactions in seven regions of the Kingdom.

This report provides a brief analysis, followed by short and medium term recommendations, for four Doing Business indicators. First, Section I offers a critique of the Doing Business methodology, which has provoked controversy around the world. This discussion is meant to help readers move beyond the debate about the methodology and towards a set of proposed solutions to real administrative reform problems that have been identified.

1. A critical look at the Doing Business methodology

The limitations of the Doing Business methodology are widely recognized. It is now time to distinguish between myth and reality - to go beyond the accusations typically made by governments displeased by their rankings, and to assess the real strengths and weaknesses of the methodology.

This section covers the salient aspects of the Doing Business approach. The analysis is not exhaustive (such an evaluation could easily be the sole focus of a large report); however, it outlines the main "pros and cons" of the methodology, especially those relevant to the Moroccan context.

It is worth noting that many of the methodological problems enumerated below were mitigated during the USAID-supported 2007 Doing Business regional survey. IBCM conducted complementary field studies which helped to put the Doing Business indicators into perspective, gathering information about each region's economic profile[3]. The 2007 survey was conducted face-to-face with 30-35 interviewees in each region, made up of business representatives and government representatives from the relevant agencies. One year later, the Program carried out in-depth follow-up analysis in selected regions.

a) A questionable methodology

i) The set of indicators is incomplete

The ranking is incomplete. The indicators do not cover all aspects of "Doing Business" nor even the most important. In a recent review, the World Bank's Independent Evaluation Group concluded that Doing Business measures only selected aspect of the

[1] See www.doingbusiness.org
[2] See www.climatdesaffaires.ma
[3] See regional economic profiles, "Improving the business climate in Morocco" Program (USAID), 2007

business climate and **should not be used alone**[4]. In addition, the ranking does not weigh indicators, although some are decidedly more important to investors.

For example, are investors really interested in knowing if starting a business in Morocco takes 2, 12 or 20 days? As long as the procedure is clear and the delays predictable, the "Business Registration" procedure is not likely to be the major factor in encouraging or discouraging an investor from settling in Morocco. Factors such as hiring and firing conditions, contract enforcement, and tax payments, however, are likely to play a larger role in investor decisions.

Some indicators, such as "Registering Property," address important issues, particularly those related to the purchase of land, but fail to evaluate key aspects, i.e. the availability of land. Among investors in Morocco, a primary concern is identifying land that can be used for investment projects or obtaining information on conditions of land acquisition. Despite investors' concerns, this information is not covered in the Doing Business report.[5]

The *Doing Business* analysis is based entirely on specific, hypothetical cases which are neither relevant nor applicable to Morocco. For example, as a part of the "Enforcing Contracts" indicator, the hypothetical case refers to a sum (of debt), which in Morocco would not justify resorting to the courts.[6] As a result, it would be erroneous to draw conclusions about the gaps in the Moroccan judicial system based on an analysis of the hypothetical case.

Another example, from the "Dealing with Construction Permits" indicator, references a proposed commercial warehouse of 1300m^2. This sort of situation only applies to 5% of cases handled by the city planning commission.[7] The cases presented in *Doing Business* are not always pertinent in a Moroccan context and the analysis does not acknowledge the possibility of variation.

ii) Insufficient data collection

Doing Business collects its information from "expert informants" in each country, mostly lawyers. Information is collected at a distance via written questionnaires. The number of informants is small, and in some cases it appears that the choice of informants is not linked to the group of professionals (for example, *fiduciaires*, *notaires*) that carry out these procedures on the most regular basis. For example, for the "Business Registration" indicator, the majority of respondents were from large law firms in the surveyed countries; these firms do not handle the majority of business registration cases. Despite these acknowledged limitations, the same "experts" are consulted repeatedly, year after year. Sometimes a single respondent is asked to complete questionnaires for several indicators of

[4] "Doing Business: An Independent Evaluation Taking the Measure of the World Bank – IFC Doing Business Indicators," Independent Evaluation Group, The World Bank, 2008.
[5] A diagnostic study and harmonization exercise carried out by USAID/Morocco identified 28 investment critical to investment.. these were linked to getting a zoning variance, opening a hotel/restaurant, and procuring a mining permit. None of these are covered by the Doing Business ranking.
[6] Most entrepreneurs responded they preferred to choose the "informal" path of mediation or arbitration.
[7] See: The report by the Tangiers urban planning agency

"a similar nature." That the data is collected remotely through questionnaires and that "experts" are not always a representative or diversified sample renders the data insufficient.

iii) Measurement can seem arbitrary

Measurements used by the Doing Business ranking can seem arbitrary when taking three factors into account: heavy influence of current distribution on ranking changes, changes in methodology from year to year, and the "one-day" rule as the length of time to complete one procedure

Changes in a country's ranking can depend importantly on where it sits in the distribution: small changes can produce a large ratings jump. The converse is also true: a major structural reform, which is costly to implement, may only lead to a very slight improvement in the ranking. The rankings depend, in part, on the reforms undertaken by other countries.

For example, abolishing the minimum capital requirement would help Morocco climb 47 places for the "Business Registration" indicator. This fluctuation is due to the fact that, for this indicator, the distribution of values between countries is very close (69 countries do not require any minimum capital). A country that abolishes the minimum capital requirement can jump from one category to another and be propelled to the top of the ranks for this indicator.

In addition, the Doing Business methodology is subject to change. Changes were made between 2005 and 2006, and more recently in 2009 with the inclusion of 3 new indicators. Given the changes made to the methodology, comparing overall performance rankings from year to year is not straightforward. Similarly, the method of tallying specific procedures has been reassessed. Before 2006, the Doing Business survey, for example, counted as a single procedure the act of obtaining tax clearance (a formality required under the "Registering Property" indicator), whereas today, it considers the same transaction to require four procedures. As a result of this change in measurement, Morocco fell 72 places.

iv) Standardization of units

According to the Doing Business methodology, every procedure is recorded as taking "at least one business day," regardless of the actual time required For example, a procedure requiring 2 hours is recorded as needing 24 hours, provided it requires only one trip by the applicant. This penalizes agencies such as customs or the Regional Investment Centers in Morocco, which are proud to post delays in terms of hours and even minutes. Also, the methodology does not distinguish between procedures for which a physical presence is required versus those that can be carried out via Internet.

v) "Anglo-Saxon" bias

This is a frequent accusation leveled at the Doing Business ranking, one the French have written about at length[8]. From the French perspective, the Doing Business approach does not recognize the value of procedures and systems which are explicitly set up to reduce risk (for example, the role of the notary, or the requirement to submit and receive documentation which can hold up in court) or to protect rights (of the employee, the supplier, the consumer.) Recently, the World Bank has acknowledged the importance of the latter category of concerns, with respect to employees. The "Employing Workers" indicator used through 2008 has been eliminated and a new, more balanced measurement is to be introduced in September 2009 with the launch of the "Doing Business in 2010" report.

vi) Obsession with reducing delays is not always constructive

The "time and motion" approach used by Doing Business (i.e. counting the cost, the number of procedures, and the number of days to compete a formality) supposes that less regulation is better; thus it can be hard to tell whether the top ranked countries have an efficient regulatory framework or simply inadequate regulation. The emphasis on time can push government agencies to do things fast – but not necessarily well. This can lead to bad decisions, or to hidden delays. For example, an in-depth analysis of procedures for "Dealing with Construction Permits" revealed that, because local agencies wanted to reduce delays, insufficient time was allotted for the technical review of some applications, which resulted in having to re-present the same application several times to the committee. In this case particularly, where a deficient review process can lead to the collapse of buildings, "smart" rather than "minimalist" regulation is needed.

vii) "Transitional step" are penalized

Finally, the Doing Business methodology may penalize a country undergoing a transition towards more ambitious reforms. In Morocco for instance, decentralization aims to bring services closer to citizens and to empower local communities, and is accompanied by handing over responsibility for the management of some administrative formalities to municipal governments. Decentralization requires time for the necessary adjustments and the upgrading of local actors involved. This transitional phase, if it generates temporary delays, may be penalized in the Doing Business ranking (see for example, the number of trips to the municipal government to pay tax arrears before registering a property).

b) Doing Business - a tool for reformers

i) Procedures are viewed from the investor's perspective

The Doing Business approach takes the perspective of the investor. Any one indicator will identify a set of issues that involve multiple jurisdictions, often affiliated with various ministries (see: "Dealing with Construction Permits", "Registering Property", etc.). Tackling the problems raised implies collaboration between authorities and ministries, in

[8] See, for example Bertrand du Marais "Entre la Jamaïque et le Kiribati: quelques réflexions sur l'attractivité du droit français dans la compétition économique internationale" Rapport du Conseil d'Etat, Paris, 2006. The OHADA network (a group of countries in Francophone Africa which have civil law systems) have also made formal declarations against the Doing Business ranking, however their approach is less substantive and more, shall we say, impassioned; OHADA.com.

order to offer streamlined services to citizens and entrepreneurs. In Tangiers, for example, the Regional Investment Center took the initiative to address the procedure for obtaining construction permits by considering concerned authorities as partners in *a single* process, with the mission of better meeting customer needs - in this case the developer and the architect.

ii) The Doing Business ranking does highlight actual failures

The Doing Business survey does identify real problems. In 2007, the regional survey found that it took over 85 days to register property in Tangiers, revealing alarming failures at the land titling agency. The problem has since been addressed and remedied, and delays have been significantly reduced.

A more detailed analysis of the procedures used by Doing Business helped to shed light on a recurrent phenomenon: government agencies will often take advantage of a "procedure in progress" to monitor citizens or investors on related issues. For example, when registering property, the buyer must wait until the seller has "proved" to the regional tax office that no taxes are owed on the property. The complexity of this process is one issue; the fact that this is required at all is another. In fact, system failures – such as the inability to collect or monitor tax payments – lead to these types of controls. Some of these control measures are provided for in the law, others are at the administration's discretion.

The survey also draws attention to the existence of procedures which exist on the books but in practice are not used, because they are considered superfluous or are no longer 'up to date', (i.e., legalization of the accounting ledger, publication of business registration via two different print publications, etc.).

iii) A tool that gets these topics talked about

In Morocco and in many other countries, regulations that affect business operations have become a topic of public debate, thanks in large part to the World Bank's annual Doing Business ranking. This leads to frustration on the part of policymakers who feel that the reforms they are working on do not get reflected in the rankings. However, Doing Business has the merit of having broadened the debate on administrative practices to include stakeholders outside the narrow perimeter of concerned government employees.

Finally, the experience of Tangiers (a city which took suggestions for reform seriously after the results of the regional survey) showed that the Doing Business ranking can help local authorities reflect on their practices, and motivate them to make changes which are quantifiable and visible.

2. Analysis and recommendations on four indicators

a. The selection of indicators

Of the five indicators studied for the regional Doing Business survey in 2007, three are analyzed in this report: "Business Registration" "Dealing with Construction Permits" and "Registering Property". These indicators were judged to contain the most promising

opportunities for reform. In addition, in February 2008, the Ministry of General and Economic Affairs asked for an analysis of the "Employing Workers" indicator, which is also included.

Following the 2007 regional survey, further work on each indicator was carried out in consultation with relevant ministries, at the request of the agencies concerned.

For the "Business Registration" indicator, the Program partnered with the International Finance Corporation (IFC) to conduct a process mapping exercise and work with stakeholders to reengineer the process. The objective is to move towards online business registration. For the "Dealing with Construction Permits" indicator, the Program worked with local agencies in Tangiers to clarify and streamline the procedure.

The criteria used to select indicators and pursue reforms were:

- A clear interest on the part of the concerned ministries and administrations to improve the performance of specific tasks and to adopt a "customer service-oriented" attitude. In Tangiers, for example, the government wished to address the "Dealing with Construction Permits" indicator, and in Casablanca, "Business Registration" was deemed a priority.

- The ease with which an indicator is able to stimulate dialogue on considering reforms: the "Enforcing Contracts" indicator, for instance, failed to arouse the user's interest in reforming the procedure. The "Business Registration" indicator, however, given the high level of interest in moving to online registration, has served as a way to bring together a number of related initiatives.

- Finally, a practical consideration: the expertise already gained by the Program's team and the availability of international benchmarks (applicable to Morocco) on selected indicators and procedures.

b. The "Business Registration" indicator

i) What does it measure?

The "Business Registration" indicator measures the number of procedures, the costs and time involved in registering a limited liability company by Moroccan associates.

In the Doing Business survey, "Business Registration" refers to 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.

ii) What are the best international practices in this area?

Business registration seems to be a logical starting point for reform efforts. 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 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.

iii) What should 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 different 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 which 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 which could be implemented in the short and medium term. The right-hand column identifies, for each issue, the applicable law or regulation and the modifications which would be needed in order to permit online business registration.

<u>NOTE</u> : Some of the themes involved are cross-cutting, relevant to a number of administrative procedures beyond business registration. It might be worthwhile to consider these issues from both perspectives: developing a concrete solution in the context of business registration, and initiating the debate beyond. The most obvious cross-cutting themes are: electronic signature, legalization of documents, the collection of multiple administrative fees, and the legitimacy of scanned or other electronic documents.

Summary of recommendations (in **bold**, the measures which have a strong impact on the Doing Business ranking).

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 1: Summary of recommendations related to the "Business Registration" indicator.

	Issue	Online Registration	Measures (short term)	Measures (medium term)	Impact on current legislation
1	LLC (SARL) application form	Fill out the online form	Reengineering 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 applications 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 and supplementing Law No. 5-96 on LLCs (SARL) of February 14, 2006
4	Registration fees	**Reduce the business creation 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 24 December, 1958 as amended by the Finance Act for the year 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 and 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 a LLC		Prepare and sign a partnership agreement with the "interbank payment center".

	Issue	Online Registration	Measures (short term)	Measures (medium term)	Impact on current legislation
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 requirement 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 and 33 of Law No. 20-05 amending and supplementing Law No. 17-95 on the *Société Anonyme* (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, 18th
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

c. The "Dealing with Construction Permits" indicator

i) What does it measure?

The "Dealing with Construction Permits" indicator considers all procedures required to legally build and operate a warehouse[9] (for Morocco, this falls in the "big projects" category), ranging from obtaining the cadastral map to registration with the land titling agency.

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

ii) What are the best international 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.

iii) 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 building 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).

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

The reviewing time could be shortened significantly through better coordination between the different agencies involved and a clarification of the requirements for applicants. This would lead to a more efficient review process for the application files, as opposed to the current "hurry-up-and-wait, then do-it-again" system. Based on a chronological analysis of the steps to be carried out, it becomes clear that there is great potential for improvement if clarifications are made before, during, and right after applications are submitted.

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.

Table 2: 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	▪ Standardize and disseminate information on safety standards. ▪ Institute an early review by technical and urban planning experts ▪ **Update the cadastral map**	▪ **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	▪ Online publishing of the procedure ▪ Verification of documents when submitting the application	▪ 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[10]	Validation of the application	▪ Coordinate the holding of various committees to deliberate on the same project ▪ Reassess the powers and responsibilities of committee members as to: - Consulting specific agencies before deciding on an application - **Forwarding the application file and the supporting documents to the concerned department** - Convening of relevant agencies	▪ **Scanning documents and making them accessible to all committee members.**
			Formalizing the procedure		

[10] 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	▪ 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	▪ 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	▪ Publishing the Committee's decisions during the session via a website.	▪ **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.	▪ 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.	▪ **Give the inspection role to an independent entity, with powers to initiate sanctions**

d. The "Registering Property" indicator

i) What does it measure?

The "Registering Property" indicator shows 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 takes into account all procedures required by law or necessary in practice, whether they are the responsibility of the seller or the buyer.

ii) 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.

iii) Where does Morocco stand?

According to Doing Business, 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.

Having insufficient information about the local taxes levied on the property, the taxation authority asks the taxpayer to provide evidence of payment of taxes managed by other authorities. Concretely, to obtain the tax clearance, the taxpayer must approach the following authorities:

1. 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.

2. The regional **tax treasury,** to pay the amount indicated on the IPPA document, and any arrears on the taxes mentioned above.

3. The **municipal treasury** to pay any arrears on local taxes (tax on unbuilt lots, or *taxe sur les terrains non bâtis - TNB* in French).[11]

4. In some cases, the municipal treasury may require a separate payment certificate from the **municipal administrator**.

5. Submit evidence of payment to the regional **tax treasury** to obtain the tax clearance.

Each trip is counted by Doing Business as a separate procedure.

Issues and solutions:

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

- A lack of harmonization of the procedure: practices (especially the ones related to obtaining the tax clearance) vary throughout different regions.

- 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 table below highlights two lines of action, within the framework of a structural reform of local tax management. Recommendations, if followed, would have a significant impact on the ranking (reducing the time required to obtain the tax clearance to a single procedure).

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

- **Decentralization of management of local taxes (to municipal governments)**: such a measure would logically be part of a comprehensive decentralization. This sort of decentralization will not only involve the revision of the local tax regime, but also will require training and upgrading of management systems. The transfer of know-how could be temporarily supported by regional tax authorities[12].

Note: If all the measures in bold were applied, and if other countries did not reform, Morocco would advance from 117th to 39th place for this indicator.

[11] 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."
[12] Proposal made by the regional tax authorities in Tangiers and Casablanca.

Table 3: 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	▪ 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
Involvement of multiple agencies in the management of local taxes, with the results of: - 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)	Support for municipal governments taking over the role of tax collection: transitional period of 5 years minimum Training municipal staff in the management of local taxes: ▪ **Assign the staff who currently manage these taxes to the municipal government** Before decentralization is complete: allow the exchange of tax information between the tax authorities and the municipality: - **Improve the use of means of communication (telephone, fax, Internet ...)** **Allow the tax collection agency to recover taxes for the municipal government through adjustments**	▪ 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.

e. The "Employing Workers" indicator

i) What does it measure?

The "Employing Workers" indicator measures the degree to which the government regulates the "employer-employee" relationship. It focuses, in particular, on the ease of hiring and firing workers. The indicators considered are:

(1) The difficulty of hiring a new employee

(2) The rigidity of working hours

(3) The difficulty of firing an employee

(4) The non-wage costs of hiring

(5) The costs associated with layoffs

In contrast to other indicators, the "Employing Workers" indicator focuses less on the procedures associated with the transaction, and more on the legal and regulatory framework associated with hiring.

This report looks beyond the flexibility measures which are, in a sense "recommended" by the fact of their inclusion in the Doing Business survey. IBCM's analysis considers the following question: Under what conditions could the Moroccan government politically support such flexibility? The answer: by proposing complementary measures aimed at protecting workers.

ii) What are the best international practices in this area?

The countries with the greatest employment flexibility generally have the widest range of programs to support employees. Indeed, the Danish model of "flexicurity", is often used as an example, due to its ability to achieve flexibility (Denmark holds the highest score for this Doing Business indicator), while protecting workers. This system is based on three pillars:

(1) **Maximum flexibility in the labor market**: hiring and firing are virtually unregulated, there is no minimum wage, nor official working hours (yet these may be established in each sector through collective agreements);

(2) **High benefits in case of unemployment** (compensation for non-activity, such as unemployment benefits): in Denmark, the rate of compensation for loss of earnings is high (70% of previous wage on average, up to 90% for low wages). The duration of compensation can reach up to four years. A social assistance benefit takes over at the end of these benefits; (35%) paid by municipalities and considered generous;

(3) **A strong (re-)habilitation policy of the unemployed** (training and vocational rehabilitation) based on a widely shared belief that the unemployed have rights but also duties.[13]

[13] The concept of "flexicurity", developed in Denmark, French Embassy in Denmark, manuscript

iii) Where does Morocco stand?

Ranked 169th out of 181 countries with regard to the "Employing Workers" indicator, Morocco is considered to have a rigid legal framework, especially for hiring.

Recent changes made to the Labor Code (a new code was passed in 2004), do not seem to be reflected in the Doing Business ranking. This can be explained by (1) the fact that most aspects affected by the code are not measured by the Doing Business ranking, (2) the lack of implementing decrees to clarify what is meant by the law (i.e., definition of "mass layoff", below).

At the request of the Ministry of General and Economic Affairs, the Program produced a report examining the potential impact on the Doing Business ranking of proposals made in the context of Morocco's "social dialogue," an ongoing exchange between organized labor and the Moroccan national confederation of business (see IBCM report: "The Social Dialogue in a Doing Business perspective"). The table below summarizes the main recommendations.

Note: If all the measures in bold were applied, and if other countries did not reform, Morocco would advance by nearly 100 ranks.

Table 4: Summary of recommendations related to the "Employing Workers" indicator.

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) [14]	Allow *CDD*s 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 [15]	Remove ambiguity linked to the mass layoff concept	**Definition of "mass layoff" compared to the total workforce: a threshold higher than 12.43%** [16]		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** [17]		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

[14] In practice, renewals of Fixed Term Contracts (CDD) are carried out illegally.
[15] 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.
[16] Threshold implicitly taken into account by *Doing Business*.
[17] 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
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[18]	Make flexible the choice of days off per week		**Allow the employer to choose the days of weekly rest**	Reengineering sections 206 and 207 of Law 65-99
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	

[18] Under section 206, the weekly rest period must be granted either on Friday or Saturday or Sunday, or on the weekly "market day"

CONCLUSION

Through this study, conducted across four indicators, a number of cross-cutting principles emerge, which offer alternatives to current way of thinking and practices of the administration. These principles are relevant beyond the framework of the four indicators studied and, if accepted, could significantly improve the relationship between government and business, particularly entrepreneurs/investors who serve as engines of the economy. These principles, set out briefly below, are consistent with current international best practices:

1) **A new paradigm for government-business interaction.** At a time when Morocco is positioned as an off-shoring information technology platform, the agencies with whom investors interact must present an image of modernity and efficiency. The entrepreneur/investor must be viewed as – and treated like - a client.

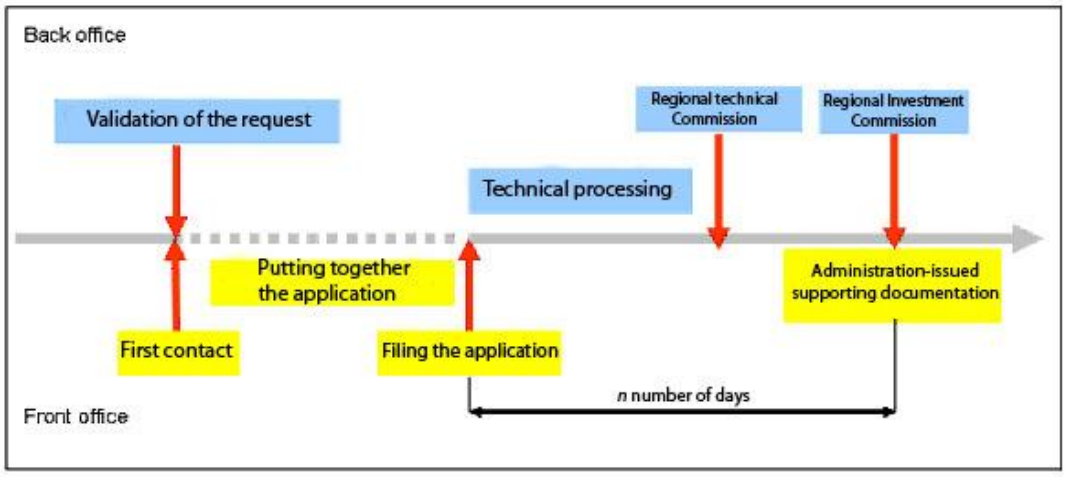
2) **Communicate to inform**. Stakeholders, whether public or private, must be informed of their rights and duties. Without accurate information, interpretations of the law will vary depending on the interlocutor, region, etc. As a result, the law, as it is interpreted, does not ensure equal treatment of all citizens and systematically penalizes those who located further away from decision centers.

   This is why a systematization effort is necessary for most procedures, via written procedures manuals intended for government users.

   For business, it is important to know, in simple and precise terms, what is expected by the authorities. This requires a broad dissemination effort to the public and the systematization of administrative formalities, but also and especially the establishment of communication channels through which grievances may be aired, in the case of inadequate service or unjust treatment.

3) **Setting limits on the review process for investment projects.** The treatment of investment applications should respect certain parameters, regardless of the nature, amount, sector, or geographic location of the project. The most effective way to achieve limits is to improve the organization of the multiple committees required for each project. Committee members for many of the procedures required are the same or overlapping. Projects are required to follow a sequential process when it would be much more efficient to handle several procedures at the same time (during the same committee meeting). 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. Investors don't necessarily mind if a wait is involved, as long as the timeframe is predictable – so that they can schedule around it. The establishment of a maximum timeframe would provide such security, and make investors much more comfortable. See Table 5 below for a visual depiction of how this process would work.

Table 5: Setting limits on the review process for investment projects



4) **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).

5) **Paying administrative fees must be made easier**. Today, there are several types of administrative fees: registration fees, fiscal stamps, charges, parafiscal taxes, etc. The user can only pay these fees through the network of the national treasury, or at agencies of the central bank (Bank Al Maghrib –BAM). This prevents the regional investment centers from acting as true one-stop-shops.

6) **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.

7) **Finally, and perhaps the most crucial for the future, the administration must move towards the "virtualization" of its services. It will never be possible to open physical** "one-stop shops" in each of Morocco's 1 600 towns. 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 requested by His Majesty in his January 9, 2002 Royal Letter .

There are many opportunities for action. Analysis of performance *vis-à-vis* the Doing Business indicators is merely the first step in a larger government effort to improve administrative efficiency, as viewed by investors. This report identifies promising avenues

for specific reforms, within a broader conceptual framework of "the investor as client." The recent establishment of an inter-ministerial business climate committee is an opportunity to move forward with administrative simplification and follow up on the progress of business climate reforms that have already been undertaken – an often underemphasized but extremely important aspect of reform. This momentum should help ensure Morocco's sustained economic growth and development in the next decade, as past reforms are consolidated and new ones are undertaken.