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MOROCCO



Improving the Business
Climate in Morocco

Summary of Final Report

Improving the Business Climate in Morocco Program

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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 and the modernization of the financial sector. In the justice sector, a specialized court system was created to handle commercial cases.

Between 1996 and 2006, Morocco signed several Free Trade Agreements with a number of partners, including the United States, the European Union, and neighboring states. This new privileged status among powerful commercial partners has motivated Morocco's efforts to improve the business environment, with focus on administrative simplification and streamlining the process for handling investment applications. The Moroccan private sector has also been vocal in demanding improvements to the business climate¹.

In recent years, Moroccan policymakers have been frustrated to see that their efforts to facilitate investment are not reflected in the annual Doing Business rankings published by the World Bank². It has been widely recognized that the Doing Business methodology has major limitations, including the fact that the ten indicators don't come close to covering all, or even the key, aspects of a country's business climate³. Nevertheless, some indicators (those which measure the "time and motion" aspect of regulation) have been shown to serve as useful entry points for a reform dialogue. In Morocco, where decentralization and competition between regions are part of the national policy orientation, secondary cities offer promising terrain for demonstration projects to streamline regulatory processes.

¹ See, for example: *Confédération Générale des Entreprises du Maroc, "Livre Blanc, Pour Renforcer et consolider le dynamisme de l'économie marocaine,"* (2007).

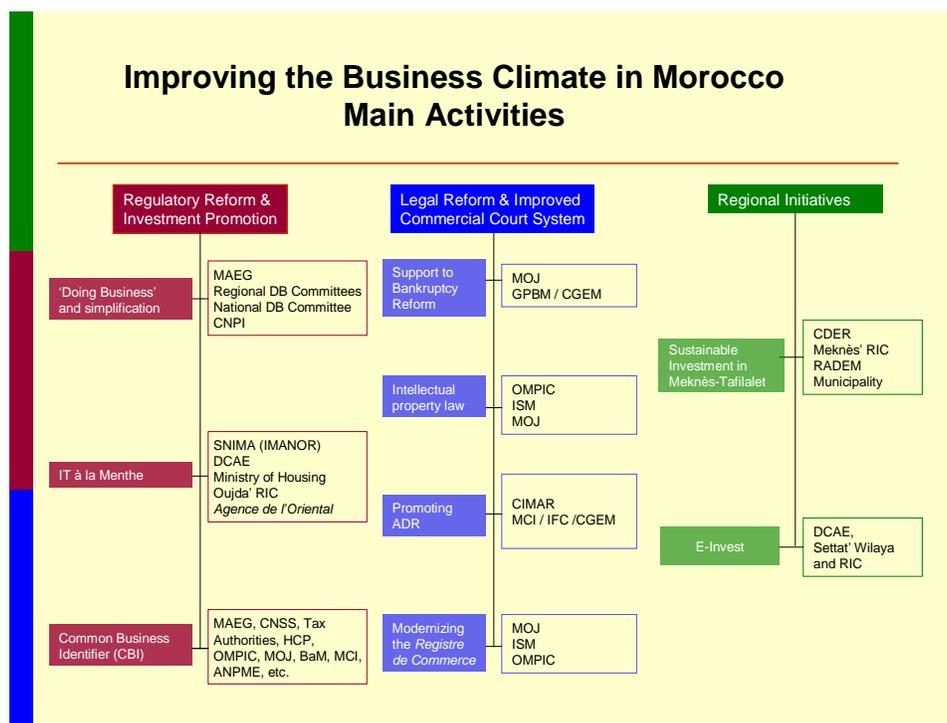
² The World Bank's Doing Business ranking (www.doingbusiness.org) examines the ease of doing business in 183 countries, including Morocco.

³ See World Bank, "Doing Business: An Independent Evaluation: Taking the Measure of the World Bank-IFC Doing Business Indicators." Independent Evaluation Group. Washington, D.C.: World Bank.

THE PROGRAM

“Improving the Business Climate in Morocco” is a USAID program (referred to as IBCM or “the Program”) which ran from October 2005 and September 2009. Originally designed to help Morocco comply with certain provisions of the recently signed free trade agreement with the United States, the Program responded to requests from Moroccan partner ministries to broaden and shift its focus. The ultimate goal was “to make it easier to do business in Morocco”. The Program worked towards this goal by carrying out a series of activities under two broad headings: 1) Regulatory Reform and Investment Promotion, and 2) Legal Reform and Improved Commercial Dispute Resolution. Figure 1 provides a general overview of the Program’s main activities and partners⁴.

Figure 1: IBCM Main Activities



IBCM was funded at a level of US\$9.25 million, with resources going directly towards technical assistance, i.e. consultancies, trainings, events, and study tours related to program objectives and deliverables. The Program was implemented by Development Alternatives, Inc., and its subcontractor, DPK Consulting, offered expertise in commercial law. IBCM long-term staff worked closely with counterparts in key government and private sector

⁴ Figure 1 shows IBCM’s main activities and partners during the final year of implementation (2008-9). The specific configuration of these activities and partners changed slightly from year to year.

organizations to build capacity and advance reform efforts. A multi-stakeholder Steering Committee oriented the Program's work, and all members were committed to the "level playing field" concept. Deliverables were designed expressly to strengthen national and local institutions, with expected benefits accruing directly to Moroccan businesses -- often small and medium-sized business without the connections to get around regulatory or administrative obstacles. The assumption was that local improvements in regulatory efficiency, transparency, and commercial dispute resolution would also make Morocco more attractive to international investors. In this case also, benefits would accrue to those businesses with relatively less experience in Morocco and fewer personal connections.

For the Regulatory Reform and Investment Promotion component, key partners were the Ministry of Economic and General Affairs, the Ministry of Interior, and the Ministry of Industry, Commerce and New Technologies. The Program also worked at the regional level with Regional Investment Centers, municipal governments, chambers of commerce, and other specialized agencies. Key activities under this component included the following:

- Completion of a **regional Doing Business survey** including follow up analysis and reform work related to the following **four indicators**: Registering a business, Dealing with licenses, Property title transfer, and Employing workers.
- Implementation of **e-invest** in three pilot regions; a software offering a connection between Moroccan government agencies' back offices to expedite the process of reviewing investment applications.
- Support and key contributions to an inter-ministerial commission to advance the implementation of a national **Common Business Identifier (CBI)**, a number that is associated with a business' name and address. Like the reform of the secured transactions framework, the CBI is a prerequisite to modernizing the commercial registry.
- Support to the *Service de Normalisation Industrielle Marocaine (SNIMA)* in its transition to becoming an **independent standards agency**. The Program worked to make sure SNIMA's transition will be executed in a way that will bring Morocco closer to full compliance with the US-Morocco Free Trade Agreement and the Technical Trade Barriers agreement of the World Trade Organization (WTO). A key area of focus was increasing the transparency of technical norms formulation and promulgation through the web.
- Development of a **sustainable investment strategy** for the Meknes Tafilalet region, with focus on demonstration projects offering funding through the clean development mechanism (CDM), as well as other viable activities in the renewable energy sector, especially the solar technology value chain. A sustainable development branding and communication strategy was developed for the region.

For the Legal Reform and Improved Commercial Dispute Resolution component, the key partner was the Ministry of Justice (MOJ). Other partners included the *Institut Supérieur de la Magistrature* (ISM), the *Office Marocaine de la Propriété Industrielle* (OMPIC), the *Confédération Générale des Entreprises du Maroc* (CGEM), and a pilot ADR service provider, the Rabat International Center for Mediation and Arbitration (CIMAR).

Key activities implemented under the Legal Reform component included the following:

- Training, tools, and outreach events designed to increase understanding of and improve the application of the new **intellectual property** law.
- Support to **legal reform** efforts (specifically, for the bankruptcy law and the new law governing arbitration and mediation).
- Promotion of **alternative dispute resolution** (ADR) in Morocco, including training for mediators and arbitrators and support to ADR service centers.
- Training of judges and clerks in a number of commercial law areas, accompanied by an effort to **institutionalize continuing legal education** for commercial court judges and staff.
- Exploring options for the **modernization of the commercial registry** (*Registre de Commerce*).

ACHIEVEMENTS

REGULATORY REFORM AND INVESTMENT PROMOTION

Regulatory reform in Morocco must be viewed as a long-term undertaking if it is to yield significant economic dividends. USAID's Improving the Business Climate in Morocco Program contributed to significant progress along two axes: (1) By advancing reform proposals linked to specific technical areas detailed below, and (2) by supporting the Moroccan government's establishment of institutional mechanisms to review, advance, and follow up on reform proposals.

The performance management plan (PMP) established for IBCM was based on a number of specific quantitative indicators which were largely met, as well as a "policy index." This index measured progress along a set of chronologically ordered steps:

- identification of priority reforms,
- dialogue with stakeholders (this included three sub-steps: presenting a preliminary analysis, identifying success and failure factors, and identifying a champion to lead the reform effort)
- formalization of a mechanism to shepherd the reform through the approval process,
- agree on a common reform proposal,
- submit policy to approving bodies, and
- new policy measure approved and published.

Taken together, these steps represent IBCM's methodology, or approach, used to build support for and advance business climate reforms. Out of a possible score of 32 (8 steps by 4 policy areas), a total of 25 were completed. There was also an additional policy activity (development of the common business identifier) that was not measured since it had not been anticipated at the time the PMP was prepared. Seven of the eight steps were completed for this policy activity.

Doing Business indicators as the entry point for reform. Work on the Doing Business indicators was measured in the aggregate. Progress was uneven for the four indicators IBCM worked on. Significant progress (7 of 8 and 8 of 8, respectively) was made for the first two indicators discussed below. For the others, progress was limited to the analysis phase (step 2). However, stakeholders have recognized that the work done will serve to inform and guide future efforts in these areas.

- Related to the **Registering a Business** indicator, IBCM in partnership with the International Finance Corporation (IFC) facilitated a public-private dialogue to come up

with twelve specific recommendations which will permit Morocco, in the future, to offer on-line business registration. Three of those recommendations were successfully introduced into the *circuit d'adoption*. These were: a) a proposal to amend the law to eliminate the minimum capital requirement; b) a proposal to amend a decree in order to eliminate the requirement to publish registration of one's business in a private legal journal, and c) a proposal to introduce a standardized form for business registration, to be used no matter what the point of entry.

- Related to the **Dealing with Licenses** indicator, IBCM worked with local government agencies in Tangiers to re-engineer the process to obtain a construction permit. Without changing the relevant laws and regulations, the organization of the communication between agencies during the approval process was re-engineered and a special "orientation tool" was prepared and tested for use with architects who present projects to the municipal government. The national housing ministry is planning to replicate this experience at the national level.
- Related to the Registering Property indicator, IBCM worked with public stakeholders to develop a set of recommendations and options on how to simplify the process for obtaining a tax clearance.
- Related to the **Employing Workers** indicator, IBCM conducted an analysis in response to a special request from the Ministry of Economic and General Affairs. The Program compared the demands of organized labor and the Moroccan national business association (representing employers) made during the *Dialogue Social*, to estimate the potential effects of each on the country's Doing Business ranking, and recommended small changes to clarify or better implement the recently reformed labor code (passed in 2004).

National business climate committee. Perhaps the Program's most significant achievement on the policy front was the establishment of a national business climate reform committee, to be housed in the

Structure and functions of the national business climate committee

Measure 69: The State engages to create a public-private committee, presided over by the Prime Minister, as quickly as possible.

The committee will be charged with:

- Identifying needs and compiling proposals for operational solutions;
- Coordinating and allocating tasks;
- Supervising and facilitating tasks and evaluating results;
- Aligning existing projects;
- Proactively managing international ranking systems;
- Communicating the status of upcoming, in progress and completed reforms to the public;

The committee's actions will mainly focus on:

- Construction license procedures;
- Business registration procedures;
- Court procedures and publicizing legal decisions;
- Continued reforms to business law;
- Introducing electronic government (E-gov) for key procedures;
- Facilitating credit access for investment projects;

The Ministry of General and Economic Affairs will assume the position of secretary.

Ministry of General and Economic Affairs. The committee was formally established as part of the *Pacte Nationale pour l'Emergence*, an action plan for the country's industrial and commercial development signed by key ministries and private sector representatives, in the King's presence, during February 2009. IBCM had proposed and circulated recommendations about the need for such a committee and a suggested scope of work, which were well-received; these inputs have become the basis of the committee's mandate and design. This committee's existence and proper functioning will ensure that regulatory reform proposals being implemented now are carried through and receive follow up in the future, as well as offering a "fast-track, high-priority" forum for the review of new proposals, thus guaranteeing a sustainable process force for regulatory reform at the national level.

Common business identifier. A precursor to the national committee but following a similar, inter-ministerial model, this activity was developed in response to a request from the central bank of Morocco, *Banque Al-Maghreb*, and led by the Ministry for Economic and General Affairs. The development of a common business identifier was a proposal that had suffered from deadlock for over ten years. The identifier is a unique number (such as the tax identifier or social security number) that is associated with an enterprise's name and correct address. It is shared by all agencies that interact with business. Actually, one of the ways IBCM was able to move the process out of the deadlock stage was by changing the name from the *unique* to the *common* business identifier. When described as a "unique" business identifier the discussion turned quickly to the reason why one or another agencies' already existing identifier should be used. Today, the common identifier has been accepted as a "code" or "key" which will be added to each and every database, and used to help different agencies communicate information about Moroccan enterprises through a web platform. In addition to generating consensus around the concept from over a dozen ministries and agencies, the following advances were made:

- A decision to associate the generation of the common business identifier with the registering a business procedure, which represents a company's first contact with the government.
- The development of a demonstration software to simulate the generation of the CBI and the storage of the associated information in a web database
- Also for demonstration purposes, a reconciliation of past data from the central registry with the new system.
- A connection between the Common Business Identifier (CBI) demonstration database and the internal systems of the three most directly concerned government agencies, (the tax authorities; the Ministry of Justice, which manages the local Commercial Registry

(RC), and the Moroccan Industrial Property Office (OMPIC) which manages the national commercial registry).

- A test of the CBI pilot platform at the commercial registry of the first instance court in Mohammedia.
- A draft decree, which will be issued by the Prime Minister to institute the Common Business Identifier (CBI). The decree requires all government agencies managing and storing data on enterprises to participate in the initiative.

In September, the Program learned that the CBI initiative would be presented to the King, along with a proposal for national deployment. This high-level attention, as well as increased interest in the CBI shown by the HCP and private sector, bodes well for the continued progress in its implementation. To make the identifier a reality, Morocco will need to allocate financial resources to its implementation at the national level.

E-invest. This web-based software performs back-office functions related to handling investment applications. The purpose is to streamline a process that formerly required investors to submit paper applications to more than half a dozen different government agencies in sequence, that is, only submitting the second request after the first had been approved. Obtaining the required permits and authorizations to realize an investment project could take years, unless by luck or connections the investor was able to receive special treatment.

The software had originally been developed under an earlier USAID project, at the same time as an on-line procedures manual which clarifies to investors the nature and scope of procedures that must be followed to obtain authorizations. IBCM finalized the manual, implemented the software in three pilot regions, and worked with the Ministry of the Interior to establish a supervisory and training unit which has begun rolling out the software nationally to all sixteen regional investment centers. Achievements include:

- E-invest is operational in three regions (Settat, Rabat and Tangiers). The system is used by 30 government institutions, with more than 75 projects active in the database. IBCM trained a cadre of professionals inside the regional investment centers who are equipped to train new users and promote the system.
- An investor portal maintained by the Ministry of Interior which provides access to e-invest and the procedures manual (see www.einvest.ma). The portal and associated investor information websites supported by IBCM receive more than 2,000 unique hits per month (30,000 per year).
- The Ministry of Interior has been awarded one million dirhams, to be complemented by their own matching funds, by the Fund for the Modernization of Public Administration

(FOMAP) managed by the Ministry of Modernization. The funds are being used to finance the national implementation of e-invest.

Transparency of standards. IBCM supported the *Service de Normalisation Industrielle Marocaine* (SNIMA) during its transition to becoming an independent agency, with an eye towards bringing Morocco closer to full compliance with the US-Morocco Free Trade Agreement and the Technical Trade Barriers agreement of the World Trade Organization (WTO). Focus was on increasing the transparency of technical norms' formulation and promulgation. Specifically, the Program assisted SNIMA in developing a standards portal with functions that will enable it to streamline two important functions related to regulatory transparency: a public consultation process for the development of new standards, and the dissemination of information, including the sale of standards via an on-line boutique. The design of the website, completed and operational as of June 2009 (www.snima.ma), conforms to international regulations and includes state-of-the-art functionality comparable with the best standards websites in the world. The new portal allows both Moroccan and international businesses to access current standards and norms, promoting SNIMA's role as the Moroccan standard agency, and facilitating its communication with the private sector.

Meknès Vert. This pilot project began in 2007 following the completion of a regional study identifying opportunities and constraints to private investment in the region. Today, the region's abundant natural resources are also associated with alarming degradation as a result of pollution and desertification. Such desertification compromises the possibility of sustainable development. With this in mind, and in an effort to make use of internationally available "green funds," the Regional Center for Investment (RIC) of Meknès-Tafilalet asked IBCM for assistance in attracting sustainable investment in 2007. A few sectors emerged as offering the most promising potentials: organic agriculture; sustainable tourism and renewable energy (including Clean Development Mechanisms, CDM). As part of this initiative IBCM was able to:

- Support two pre-feasibility studies for clean development mechanism (CDM) projects linked to the Meknès landfill and water treatment station.
- Carry out business linkage activities in the solar technology sector, resulting in an organized installers' network, signed commercial agreements with distributors, and a plan for continued training and support to the network to be facilitated by the Center for the Development of Renewable Energies (CDER).
- Develop a regional communications and branding strategy, including a logo that was embraced by the entirety of the regional government.
- Coordinate among donors working on environmental topics in Morocco, resulting in increased funding for the Meknès region.

LEGAL REFORM AND IMPROVED COMMERCIAL COURT SYSTEM

Continuing legal education. In 2005-2006, IBCM followed the tradition of past USAID programs in Morocco, designing and delivering training on specific commercial law topics as requested by the Ministry of Justice and Commercial Court Presidents⁵. Beginning in 2007, USAID encouraged the Program to adopt an approach which would not only deliver quality training but would at the same time strengthen Moroccan judicial institutional capacity to offer commercial law and business skills training. Given resource limitations and the expressed need for the *Institut Supérieure de la Magistrature* (ISM) to prioritize training for new judges over continuing education, the best way to achieve such a goal seemed to be an approach focusing on building trainer capacity, in the form of both subject-specific expertise and the ability to design and deliver trainings.

During 2007, IBCM developed a pilot training-of-trainers program focused on trademark law. The sequence of activities began with the development of a guide on trademark law, which was followed by the delivery of training on this topic to Commercial Court judges around the country, and then by a study tour for a group of judges, financed by the United States Patent and Trade Office (USPTO). The Program then worked with the Ministry of Justice and ISM to select four judges from this group that could become trainers. The four judges co-facilitated the next round of trainings offered to additional Commercial court judges. These judges have also become resource persons on this subject material inside their courts.

Based on feedback collected through a survey conducted by IBCM in the summer of 2008, a decision was taken to continue investing resources in the “Four Judges” approach to training of trainers⁶. The approach was used in the development of a Patent Law Guide and training programs on patent law, training for (non-judicial) mediators, and training programs for clerks (*greffiers*) on commercial registry procedures.

Achievements under this heading, then, relate not only to the number of judges and clerks trained and the application of those skills in their daily work, but also to the development of

⁵ Courses given in this initial phase included accounting for bankruptcy cases, banking law, corporate finance, and the role of banks in bankruptcy proceedings. The trainers were legal and financial experts from outside of the courts. A particularly successful experience involved the placement of an accountant inside the Casablanca commercial court, following a training given on the topic. The expert was available to judges for consultations over a three-month period.

⁶ For more information about the survey’s objectives, methodology, and an analysis of results, see: “Judicial Training, Bankruptcy Reform and Modernization of the Commercial Registry: Final Report,” IBCM, USAID/Morocco, September 2009.

a relatively low-resource approach to building institutional capacity to deliver continuing education for commercial court judges and clerks.

Bankruptcy law reform. After more than a decade of implementation problems with the bankruptcy law (transplanted from the French system), both the public and private sectors in Morocco have recognized the need for reform. Building on past involvement by USAID on this topic, IBCM was able to advance the discussions in Morocco to a new phase, characterized by broad consensus on a number of specific issues regarding both substance and process. In addition to the training programs mentioned earlier, IBCM contributed to the bankruptcy reform discussion in three ways: (1) a 2007 report which aimed to help resolve some remaining gaps in the law, in the form of a report which suggested specific amendments; (2) A 2008 report, accompanied by research materials, which raised a number of issues relating to the overall reform process, such as the need for an open and transparent process in which all stakeholders have input and prioritized some of the specific reforms, and (3) supporting a continued public-private dialogue, including a conference addressing specific reforms in three priority areas. Relative consensus has been reached on selected aspects of these three issues:

- The need for **more active participation by creditors in the reorganization process**, and more broadly, finding an equitable balance between the rights and obligations of creditors and those of debtor companies.
- Identifying reforms which will establish **clear regulations and effective supervisory institutions relating to the qualification, training, discipline, and compensation of trustees or *syndics***.
- **Redesigning the prevention phase so that it is used more and more effectively.**

A consensus has also emerged that the reforms will involve improving the existing legal framework, rather than attempting to completely redesign it or to introduce new procedures. There are other areas for reform that will need to be identified as well, and there is now a forum within which that process can be housed. Similar to the establishment of the national business climate committee, a public-private committee has been formally established to develop reform proposals related to bankruptcy law. Stakeholders working together through this committee will develop specific amendments to the law and propose regulations (*décrets*) and reforms to strengthen the implementing institutions such as the Commercial Courts.

Modernization of the commercial registry. At several points during a company's life cycle (registration, change of address, borrowing from a bank, negotiations with creditors, closing), the commercial registry serves as the primary, and the only legally recognized, source of information about businesses operating in Morocco. IBCM was originally mandated by USAID to work towards the modernization of Morocco's system for

registering moveable collateral, with the aim of increasing access to credit for small enterprises. However, a decision was taken with the Ministry of Justice to hold off on modernizing the collateral registry system and instead look at the commercial registry in its entirety.

An information technology diagnostic presented several possible modernization scenarios for the commercial registry, and identified a critical issue on which work was begun (see the common business identifier above). Additional work linked to modernizing the commercial registry included a legal diagnostic related specifically to the collateral registry issue, a flowchart of current operational practices, and a training courses for clerks (*greffiers*) on the Registering a Business procedure.

The steps described above have laid the groundwork for modernization of the commercial registry system. USAID has announced continued support to this process in its 2010-2015 strategy. It is expected that these efforts will build on the work conducted by IBCM. Moving forward, there are several decisions which will need to be taken by the Moroccan stakeholders, related to: what functions the commercial registry should encompass; the associated institutional governance and economic models; information technology choices, and implications for the regulatory and legal framework.

Alternative dispute resolution (ADR). Following a request from the private sector to work in this area, IBCM conducted an assessment in 2006 and began building partnerships with interested institutions and individuals. IBCM's support to the development of ADR focused on three key aspects: 1) work to increase the **supply** of ADR services, such as training mediators and supporting ADR service providers, 2) fostering **demand** for ADR, namely outreach efforts to the business and legal communities to encourage the use of commercial mediation, and 3) support to national level **policy-making** relating to commercial mediation. Achievements include the following:

- IBCM offered the **first private mediation training for business disputes ever held in Morocco** on June 14-16, 2007, organized in collaboration with (CIMAR) and the local non-governmental organization Search for Common Ground. The Program and its partners continued to offer quality introductory and advanced trainings through 2009.
- The Program helped a pilot ADR center, the Rabat International Center on Arbitration and Mediation (CIMAR) develop its capacity to offer mediation services to the business community, gain visibility and increase its volume of activities. CIMAR (www.cimar.org.ma) is now the best known and most active ADR center in Morocco, with the highest volume of cases reported anywhere in the country (though still only a

few per month). Cases have been resolved in the following sectors: insurance, real estate, banking, transportation, and manufacturing.

- The Program raised awareness of and demand for mediation in the business community through the organization of outreach events and other forums on mediation and arbitration. Selected awareness raising activities were conducted in collaboration with the IFC, such as the development of a website managed by the Ministry of Industry and Commerce (www.marc.org.ma).

- IBCM provided technical expertise, information, and recommendations related to the legal and regulatory framework for ADR in Morocco. These included comments on the draft law (passed by Parliament in July 2007 and promulgated in December of the same year); events and presentations on the topic of mediator ethics, training and confidentiality, as well as clarifications regarding court-connected mediation. In 2008, the Program and the IFC obtained a common agreement from partners on a **national public-private commission** to promote mediation, made up of the Ministry of Industry and Commerce, the Ministry of Justice, the Ministry of General and Economic Affairs, the national Moroccan business association (CGEM), and the national Moroccan banking association (GPBM). Both IFC and USAID are members with observer status. The commission met formally for the first time on September 18, 2008. Like the national business climate committee, this commission represents a mechanism to ensure continued support from, and collaboration between, the public and private sectors in the area of ADR.

The **National Public-Private Commission** oversees four main activities:

1. Providing an overall framework for public-private discussion on ADR related policy issues and donor coordination;
2. Providing institutional support to mediation centers, including incentives and mechanisms for quality control;
3. Offering mediation training (both continuing education for professionals and introducing mediation into the curriculum of law and business universities);
4. Promoting mediation by sponsoring and organizing awareness raising events.

SUSTAINABILITY

Since policy reform is a continuous process, it is difficult to suppose that at the end of a program such as IBCM, all will be complete. One way to ensure the sustainability of reforms is to advance as far as possible in their development, implementation, and communication about them. Many reforms experience a “point of no return,” when participating actors have fully committed and momentum has been achieved. In cases where this point is achieved, reforms are usually sustainable. In addition to trying to make sure most reform processes hit the point of no return, IBCM worked to build sustainability into each and every activity conducted. This was done by using one, two, or all of the following measures: 1) investing in human capacity through training, skills development, on-the-job practice, and establishing feedback loops for continuous professional development, 2) establishing formal institutional mechanisms for the continuity of (reform or policy dialogue) activities, or offering support for institutional capacity-building, and 3) coordinating with donors, private investors, and relevant government agencies to ensure continued resource flows towards priority activities, or to ensure that regional pilot activities could be expanded to the national level. Activities where all three measures were taken probably have the best chances to be sustainable; though this was not always possible. In every case at least one sustainability measure was applied.

LESSONS LEARNED

Lessons learned during the implementation of this program are presented below, organized under four headings. The first set of lessons address both substance and process-related issues specific to the Moroccan context, and come the closest to resembling “recommendations” for Moroccan policymakers. The second set of lessons relate to the use of Doing Business and other international rankings as an entry point for reform. These, while they do reflect IBCM’s experience, contain broader lessons that may be applicable in other contexts, i.e. for project teams or policymakers around the world who are thinking about how to make constructive use of these rankings and indexes. The third set of lessons address the role of the private sector in a reform project such as IBCM. These lessons also raise issues that transcend the country context and may be relevant for reform efforts around the world. Finally, lessons on communication are practical and operational in their orientation, but should be useful for a broad range of actors.

LESSONS RELATED TO THE POLICY REFORM PROCESS IN MOROCCO

The current Moroccan context offers a window of opportunity for advancing further with business climate reforms. There is a general appreciation among stakeholders of the progress already made, combined with the recognition that more reforms are needed. In some quarters (though not all) there is openness to trying new things. Below is a list of issues Moroccan policymakers and civil servants must face and address if business climate reform is to be successful.

- 1) **Modernizing administrative practices.** The implementation of current business regulations in Morocco is plagued with archaic, inefficient, and unproductive practices that are as old as the laws that introduced them. Certified copies, fiscal “stamps” that must be glued to forms, the legalization of signatures, and the lack of delegation inside government agencies makes the handling of applications much slower than necessary.
- 2) **Setting time limits on the review process.** Investment projects must be approved by passing through numerous committees (different procedures correspond to committees meeting at different times, however, membership is overlapping) and complex administrative processes. By setting a maximum time limit on the review process, the Moroccan government would introduce an incentive for regional agencies to collaborate more closely, when appropriate merging the various review committees into one. Each inspector or agency wanting to review the application could do so – by taking action rather than waiting for the file to be sent to them – during a specified time. Regional governments wanting to outdo their neighbors could aim to complete the process in less than the maximum time – but investors would know that at the very least, they would

have an answer to their application within a specified time frame (i.e. three, six, or nine months).

- 3) **Reducing *a priori* controls.** Procedures like the tax clearance are burdensome for two reasons: first, the various agencies involved do not communicate amongst each other and force the investor to “play messenger”; second, the sale of property is blocked so that the tax authorities can make sure that no back taxes are owed. If other ways to monitor and collect taxes were introduced (as is the case in the majority of countries around the world), the seller would no longer have to obtain this tax clearance as part of the procedure to transfer the property title.
- 4) **Using information technology to its full potential.** The options available today through the use of modern information and communications technology make it possible for government to offer real-time, 24-hour access to services, reaching the most remote rural village (assuming an internet connection). One important conceptual difference is that rather than investing in physical infrastructure all over the country (i.e., the regional investment centers’ one-stop shops), the government today can envision service “windows” in each of Morocco’s 1600 towns - an unprecedented level of proximity to citizens. Information systems can be used to track the efficiency of government interaction with business, to introduce transparency, and to help agencies collaborate behind the scenes, presenting a seamless front office to the investor. Morocco, with its high level of internet and telephone connectivity, should seize the opportunity to modernize its administration by using information technology in creative and forward-looking ways.
- 5) **Strengthening regional-national dialogue.** Decentralization has been highlighted as a national priority in the Kingdom, and efforts have been ongoing to strengthen capacity at the regional and municipal government levels. Often, however, business climate reforms are discussed only at the national level. IBCM’s experience demonstrated the benefits of working simultaneously at both levels, and the importance of generating a regional-national dialogue. Process reforms can be tested and refined in one region, with support (whether moral, physical, or technical) coming from the national level. Then, once a model has been shown to work, it can be implemented in all regions. Pilot and demonstration programs at the regional level are an effective way to test and develop innovative approaches to business climate reform that are relevant to the end clients – local and foreign investors.
- 6) **The need for a neutral facilitator.** At multiple points during the Program’s life, counterparts commented on the value of an “outside observer” (in the case of delivering

information about the Doing Business rankings) and a “neutral facilitator” (in the case of the facilitation performed by IBCM for several inter-ministerial and/or public-private reform committees). IBCM staff took this role very seriously, trying to make sure that international “benchmarking” presentations offered information about various alternatives or models (rather than pushing one country’s solution) and that meeting facilitation was conducted in a transparent and professional manner. IBCM also took care to present its work as falling within the framework of the Moroccan government’s policy priorities and plans (rather than the reverse, as some donors are known to do). In the long-term, such a role belongs to the Moroccan government, for example to the Ministry of General and Economic Affairs, which has been charged with coordinating cross-cutting initiatives. This Ministry and others may also want to consider actively incorporating donor coordination into this role (this was another task that IBCM took on, based on demand or necessity). Certainly it is important for multiple donors or agencies of the same bilateral assistance program (i.e., United States government agencies) to be delivering consistent messages and implementing complimentary activities in a collaborative setting.

LESSONS RELATED TO DOING BUSINESS AND THE USE OF GLOBAL RANKINGS AND INDEXES TO CATALYZE REFORM

- 1) **International rankings do not capture country-level specificities.** It’s important to remember that, like other rankings of a similar nature, the Doing Business rankings were developed specifically to allow for cross-country comparison: they simply do not capture country-level particularities or nuance. The methodologies have limitations, and may change from one year to another (making comparisons over time difficult)⁷. Rankings and scores should be taken with a grain of salt; local implementers will want to do their own customized, and complementary, analyses if they are to use global rankings of indexes to further national reform.
- 2) **Significant resources are needed.** Subnational surveys are costly and should not be undertaken lightly, in part due to the cost of doing them alongside complementary local-level studies, such as the regional economic profiles developed by IBCM. Rigor is important when collecting data (or else, the international parent organization for the survey or index may reject the results). In the case of IBCM, it took two tries to get the

⁷ Changes in the Doing Business indicators did cause problems but the analysis could be adjusted since it was clear what the changes were. In the case of the World Economic Forum’s Global Competitiveness Index (GCI), the admission by a panelist at IBCM’s national conference that the financial part of the index was “still under construction,” did not mix well with an already skeptical audience from the Ministry of Finance. For this and other reasons, results from the subnational Executive Opinion Survey, conducted in parallel with the Doing Business study, were less useful to IBCM and regional stakeholders.

data right. Once that was achieved, Morocco subnational survey responses were used to inform corrections made to the international ranking. Last, the team will need to invest in understanding and explaining the methodology – precisely because it is so important to move beyond a debate about the methodology used and into an active reform process.

- 3) **All indicators are not alike.** In IBCM’s experience, the so-called “time and motion” indicators provided the best entry point for reform dialogue. These include: Registering a Business, Registering Property, Dealing with Licenses, Paying Taxes and Trading across Borders. The focus on time spent and the complexity of procedures provide a simpler basis for reaching consensus leading to action, i.e., “OK. We all agree it takes too long and is burdensome for the investor. What can we do to make this process more efficient?” This is an easier point to reach agreement on than some of the ideologically charged issues surrounding the legal indicators involving, for example: balancing the rights and wishes of employers and employees (Employing workers indicator), the daunting prospect of reforming the civil procedure code (Enforcing contracts), or the complex political and economic stakes surrounding bankruptcy law (Closing a business). IBCM opted instead to work on these issues in a more neutral context - for example, by building on past efforts at bankruptcy reform undertaken by the Ministry of Justice.
- 4) **Even better the second time.** One year after the subnational Doing Business survey, IBCM conducted a mini-update in three regions where it was assumed there might have been some improvement, and local stakeholders might be interested in working on pilot initiatives. In the case of Tangiers, each contact with local stakeholders provided increasing returns. While the first presentation had not been extremely well-received – in part because Tangiers was ranked last in the country – local stakeholders were extremely responsive to updates which showed improvement, taking the initiative to organize workshops themselves, and invite IBCM to come present. This interaction led to an opportunity for IBCM to participate in a re-engineering project which had begun several years ago but had not gained traction. Local ownership of the initiative, combined with the “neutral observer” phenomenon, offered the key ingredients for a successful reengineering of the process for obtaining a construction permit. It is often hard to swallow bad news the first time – but the flip side is that it can be extremely motivating to hear that the news has gotten better.

LESSONS RELATED TO THE ROLE OF THE PRIVATE SECTOR

- 1) **Program design should consider the need to involve various private sector stakeholders.** Any development practitioner will learn in “policy reform 101” that for reform to be effective, the private sector must be involved in the diagnosis and the

reform dialogue. In Morocco, this can be a challenge. At the time IBCM began operating, there were no established institutional mechanisms for public-private consultation and collaboration in policymaking or the development of regulations. The Moroccan private sector is fragmented and not represented wholly by any one organization. The large, national business association tends to be populated by large business elites.⁸ In the case of IBCM, Program staff found that private sector stakeholders varied from one reform topic to another. In some areas, such as the promotion of commercial mediation, the Program developed an important web of contacts with key stakeholder groups (i.e., ADR centers, mediators, lawyers, notaries, accountants, in-house counsel, business owners, judges and clerks). The Program was also successful in galvanizing private sector stakeholders in Tangiers for work on construction permits (primarily architects and real estate developers). In other areas, limited resources made it difficult for IBCM to proactively engage the private sector on a sustained basis, beyond the requisite formal contact with the national business association. The type of investment in time and resources to bring diverse segments of the private sector stakeholder pool together, get to know them, and work with them during the reform process, is something that must be foreseen and explicitly made a part of Program design.

- 2) **Clarifying what is an appropriate private role.** Morocco has recently made a major commitment to public-private partnerships as part of its next phase of economic development. Explicit private roles (including financing as well as representation on policy committees) have been formalized under the *Plan Emergence*, *Plan Maroc Vert*, and there is awareness of the commitment to public-private collaboration at all levels of government. How to ensure, though, given Morocco's reality, that the less privileged and less informed segments of the private sector are included in the process? How to make sure that private stakeholders are not bringing conflicts of interest or influence-peddling with them into the policy-making arena? While public officials are conscious of the limits they are supposed to respect (whether, in fact, they do so or not), a private member of the national ADR, bankruptcy reform, or business climate committee has no code of ethics to follow beyond his own. IBCM glimpsed the beginnings of such problems during its work on alternative dispute resolution. To date, the exact role of the private sector representative on the national business climate committee has not been decided. This is something to watch – closely.

⁸ While the business association leadership might protest such a characterization, stating that the group has a broad membership throughout the Kingdom, it cannot be denied that this characterization is true with respect to the individual members who are selected to represent the association on reform committees.

LESSONS RELATED TO COMMUNICATION

- 1) **It's never too early...or too late.** Government counterparts, donors, and USAID implementers as well, sometimes err on the side of caution, i.e., “let’s wait until we have something to tell before we communicate.” This can lead to surreal communications campaigns that begin when the work has been completed - program “launches” conducted on the same day as the donor pulls out, etc⁹. One of the lessons learned from IBCM is that, in the area of policy reform, it’s never too early – to talk about the need for reform, that is. A good outreach strategy will include a pre-emptive component focusing on asking the question: “what is the problem?”, a second phase, when outreach gets out the following message: “there are solutions out there, and it is time to try them,” and finally, the third phase delivers the good news: “progress is being made.” Getting this right is, of course, a delicate balance, and requires prioritizing the content of the message over the various institutional stakeholders. At certain stages in the outreach campaign it may make sense to refer to analysis conducted with support from a donor, while in later phases the government may want to, and should, claim credit for the progress being made.
- 2) **Avoid the “big bang” approach.** While resources devoted to communications and outreach are often under-dimensioned, there is one frequent exception. That is, the major event, such as a conference or a “media blitz” that is planned to occur during a specific time period (such as when a new activity is launched or results become visible). This may be effective, but not in isolation. If communications resources are scarce, it may be a better strategy to spread them evenly throughout the implementation period. If this work is done well, reporters will actually be interested by the time the major conference comes around, and major resources won’t have to be devoted to attracting them or to “getting the word out”. Like implementation, a sound communications strategy begins early and bears fruit throughout the whole life of a project.
- 3) **Changes in perception are needed to achieve changes in behavior.** The human/psychological dimension of communication efforts deserves more attention. There is an element of “changing behavior” that is a part of reform efforts, especially those that require civil servants to become more service-oriented. Communication materials should use the full array of creative methods like cartoons, posters, websites, written documents, interactive technology, etc. but in an intelligent manner. It’s less about getting a general message out through all the channels and more about selecting

⁹ See, for example, the EU-funded MEDA program to automate the court system. The first “pilot” court was unveiled just as the four year project ended.

segments of the target audience for certain specific messages in the most appropriate format for them.

- 4) **Get it online.** Just as with reform dialogues, Programs should harness the power of modern information technology to make communications faster, more transparent, and reach broader audiences without incurring additional cost.

CONCLUSION

The Improving the Business Climate in Morocco Program was designed to make it easier to do business for local and international firms. To do this requires a combination of policy reform, support to implementation, capacity building, and awareness building. Three principles emerged during the life of the Program to guide its work across the different substantive areas (i.e., commercial dispute resolution, administrative simplification, investment promotion). These principles are listed below.

- 1) **Fit into the broader Moroccan vision.** Actions that were most successful were inserted into a broader framework designed by Moroccan policymakers. Ownership of the broader framework by local leaders and stakeholders makes the Program-supported activity much easier to accept – and much more likely to attract the necessary local resources to make the activity successful, and sustainable. Two sets of activities are good examples of this: the intellectual property work conducted in partnership with OMPIC, and the reengineering of the construction permit procedure undertaken in Tangiers. In both cases, the activities supported by the Program fit directly within the larger strategy of the counterpart organization – a strategy and a direction that was consistent with the Program’s objectives and mandate.
- 2) **Turning obstacles into opportunities.** While international rankings and indexes tend to highlight weaknesses in need of remediation, IBCM found that local actors, including the private sector, responded best to “opportunities,” whether at the policy or economic level. In future programs, to do this effectively, it is important to contemplate from the design phase the mechanisms needed to organize a fruitful and far-ranging collaboration with the private sector.
- 3) **Offering options.** One entry point, discussed above, is the framework developed by local political leadership. Another is to use, as IBCM did, international rankings and indexes to draw attention to needed improvements. A necessary complement to both of these first steps that never fails, is the ability to present – in a neutral fashion - a variety of technical options and discuss the pros and cons of each. This approach helped IBCM gain the trust of local counterparts and imbued technical recommendations, when offered, with a high level of credibility.