



USAID | **MOROCCO**
FROM THE AMERICAN PEOPLE

Improving the business climate in Morocco

**Amélioration du
climat des
affaires au Maroc**

Workplan and task schedule **October 2005-September 2006**

October 1, 2005

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Introduction

The mandate

Over the past decade, Morocco has made great strides in modernizing its economy and business environment. Regulatory reform has been driven by Morocco's membership in the WTO, the Association Agreement with the EU, free trade agreements with other countries in the region, and especially the recent negotiation of a Free Trade Agreement (FTA) with the US. Yet Morocco lags in terms of its underlying competitiveness structures, placing 8th among 12 Arab countries (as rated by the World Economic Forum), or 102nd out of 155 countries ranked by the World Bank in *Doing business in 2006*. The mandate of the *Improving the Business Climate in Morocco (Amélioration du Climat des Affaires au Maroc)* Project is to assist the Government's efforts to forge a legal and regulatory framework and build the institutions necessary to promote the growth of competitive businesses and accelerate the pace of job creation. The Project includes support for a systematic approach to the full implementation of regulatory reform to enhance the competitiveness of the country's economy, build the regulatory and judiciary systems and capabilities needed, improve the workings of the financial system, and remedy features of the tax system that keep many businesses from competing openly in the formal sector.

Many of Morocco's trading and development partners, in particular the US and the EU, and international financial organizations like the World Bank and the IMF have worked—and are continuing to work—closely with the Moroccan authorities to provide technical and other assistance in support of these initiatives. These technical assistance efforts and plans provide a context for the activities under the *Improving the Business Climate in Morocco* Project.

Objectives and scope

This document outlines the workplan for the *Improving Business Climate in Morocco* Project (the "Project") for the period October 1, 2005 through September 30, 2006. It also sketches objectives and activities for the remainder of the Project beyond this 12-month period in outline form. The underlying approach is that of a "rolling workplan;" the workplan—and subsequent editions—will be subject to review and revision after a period of six months, for this version in March 2006. That revision will provide the foundation for a workplan for the next twelve months, covering the period from April 2006 through March 2007. This review and revision will involve key stakeholders from the Moroccan private and public sector, as incorporated in the strategic management approach outlined below.

The Project is designed to contribute to the achievement of USAID|Morocco's Strategic Objective (SO) 11, "Moroccan Economy Successfully Responding to New Opportunities and Challenges of Free Trade." Specifically, the Project will primarily address Intermediate Result (IR) 11.3, "Business environment improved." The Task Order for this Project under the SEGIR Macroeconomic Policy II Indefinite Quantity Contract Project outlines a comprehensive support program for regulatory and institutional reform. The scope of work highlights specific components of the legal and institutional framework, in particular the judiciary, the financial sector, and the tax regime. Overall, though, it establishes a flexible response mechanism to work with other technical assistance and training efforts to establish the foundations for an enhanced competitiveness of the Moroccan economy. Specifically, the Project addresses four main interlinked objectives:

- An improved policy, legal and regulatory environment;
- a more efficient and effective judiciary, with three subobjectives:
 - ◆ improved consistency, transparency and predictability in judgments;
 - ◆ a rapid, effective, and coordinated enforcement of laws and judicial decisions; and

- ♦ improved organization systems in commercial courts
- improved support systems for financial markets expansion, with four subobjectives:
 - ♦ improved access to data on creditworthiness;
 - ♦ improved systems for the preparation, audit, and publication of financial information;
 - ♦ efficient, transparent and equitable moveable and real property lien systems;
 - ♦ microfinance institutions transitioned to be financially self-sustaining
- more growth-oriented tax policies, laws, and regulations.

This workplan presents the principal tasks aimed at achieving these four objectives. It is designed to show greater detail for activities scheduled for the next twelve months (October 2005 through September 2006), and to sketch the broader outlines for the outyears.

In the initial phase, Project implementation will proceed in a somewhat unbalanced manner. Tasks aimed at judicial reform in some respects represent a continuation of activities carried out under the USAID-financed *Project for Modernization of Commercial Law and the Judiciary*, building on accomplishments to date. Support to the financial sector will leverage existing linkages and networks developed under USAID's *Actions for Strengthening Microcredit Associations*. In other areas, the emphasis will be initially more on exploratory efforts and network development, in particular the establishment of objective-focused working groups. The workplan also incorporates some flexibility, since some of the tasks will be refined further in the context of the implementation of a comprehensive US strategy for support to the implementation of the US/Morocco Free Trade Agreement. However, this flexibility does not detract from a focus on the implementation of and integrated set of activities to accelerate the implementation of regulatory and administrative reform in Morocco.

As implementation moves forward, the Project team will also reinforce cross-cutting strategic elements. For example, bankruptcy issues are the targets of Components I and II, and to some extent also of Component III. Similarly, the registry of property, addressed specifically in Component III, also contributes directly to the achievement of objectives in Components I and II. Another example is trademark registration, addressed specifically in Component I, which will also affect the efficiency and effectiveness of the judiciary. This workplan accounts for some of these links among components, but further development will strengthen the overall strategic impact of the Project.

A word on our assistance approach

The lessons of assistance to promote regulatory and other policy reforms are clear: lasting policy reform ultimately comes from within. Policy reform is always a political process which cannot be shaped from the outside, even with significant monetary incentives. The “drivers” of reform must be part of that political process. David Ellerman, a former adviser to and speechwriter for Joseph Stiglitz as Chief Economist of the World Bank summarizes the main lessons as follows, distinguishing between the “helpers,” advisers and providers of technical assistance, and “doers,” leaders in government, the private sector and civil service organizations in the host countries:

- help must start from the present situation of the doers—not from a “blank slate;”
- helpers must see the situation through the eyes of the doers—not just through their own eyes;
- help cannot be imposed upon the doers—as that directly violates their autonomy;
- nor can doers receive help as a benevolent gift—as that creates dependency; and

- does must be “in the driver’s seat”—which is the basic idea of autonomous self-direction.¹

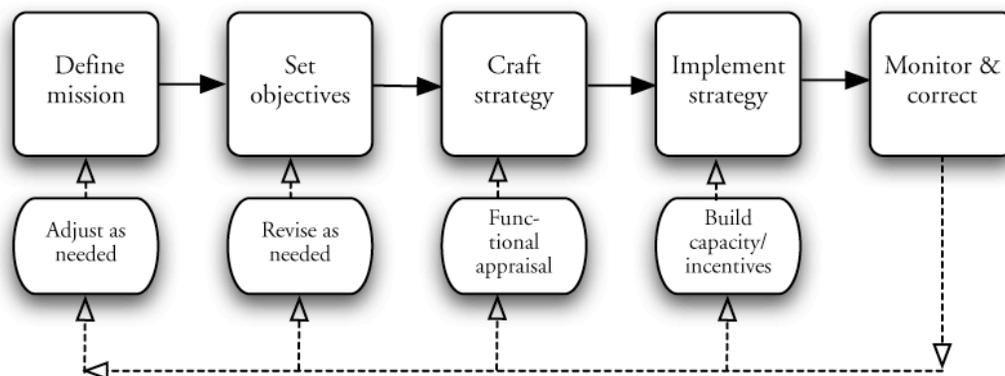
The task of technical (and other) assistance is to support and guide, but “leave the driving to others.” This philosophy has governed USAID’s successful projects in Morocco, including the two predecessor projects of the *Improving the Business Climate in Morocco* Project.

All indications are that Moroccan authorities are in fact ready to “drive.” In the context of the FTA negotiations with the US, Moroccan institutions brought up precise and targeted requests for technical assistance. While there will be obstacles, the approach requires less of an advocacy role; instead, it stresses the need for a pragmatic approach to achieving institutional performance that leverages recent legal and regulatory reforms, and moves the process to a higher level.

Strategic management principles guide the Project approach to providing technical assistance. These principles stress a continuing participatory process of defining a particular mission, establishing objectives, crafting and implementing a particular strategy, and monitoring to correct specific issues along the way. This process is illustrated in **Error! Reference source not found.** As a rule, the Project team will not necessarily go through this process in an explicit and formal manner, but these are the steps that have to be covered.

The strategic management approach provides a framework for the continuation and expansion of the approach that has worked very effectively with previous efforts in judicial reform and financial sector development that have been integrated into this Project. Overall guidance is being provided by the Steering Committee (*comité de pilotage*). For each component, and for specific tasks, the Project Team will form a working group of key representatives of both the public and the private sector to define targets and provide support in implementation. One of the criteria for the composition of these working groups is to ensure adequate resources for addressing specific issues, in particular gender implications. The formality of the working group sessions will vary, but they remain the underpinning of our approach.

Figure 1: The steps in strategic management



The Project builds in part on the accomplishments of two earlier USAID-funded activities, one focusing on support for the emergence of a more efficient and effective judiciary, the other addressing key aspects of the development of the financial sector, with a particular focus on microfinance. Activities aimed at the implementation of judicial reform under the current Project will benefit from existing networks and the

¹ See David Ellerman, *Helping people help themselves: From the World Bank to an alternative philosophy of development assistance*. Ann Arbor, 2005.

leadership in this area established under the predecessor project. Similarly, USAID leadership in the financial sector, in particular with respect to microfinance, has been firmly established. With respect to the broader support for regulatory and institutional reform toward an improved business environment and support for streamlining the tax regime, the Project will need some time to build appropriate institutional linkages and find its “niche” in the on-going and planned technical assistance efforts.

One of the key elements in this process is the integration of *monitoring* as part of the overall activity, at all levels. Monitoring therefore becomes less a reporting obligation, but emerges as a critical management tool for the implementation of each activity and set of activities. The application of the Performance Monitoring Plan (PMP) therefore forms an integral part of this workplan.

A focus on equity

Morocco’s current reform drive actively addresses the full mobilization of the country’s human resources. Regulatory reform has already played an important part in these initiatives to ensure greater equity and access, and key regulatory reform tasks will continue to contribute. As part of the built-in emphasis on monitoring and evaluation in our approach to the Project, the Project team will focus on the impact of key regulatory changes on different population groups, especially women and the poor. In that manner, regulatory reform will directly contribute to achieving the goals of social and economic development.

Component I: An improved policy, legal, and regulatory environment

The principal mandate for this Component of the Project is to support efforts to streamline regulatory and administrative procedures to increase the competitiveness of the Moroccan economy by lowering the transaction costs of doing business. It will also seek to strengthen policies and administrative structures that directly shape overall productivity. Our approach for Component I combines three elements: (1) building on accomplishments and structures created under previous USAID-funded projects, this Component will continue support to the reform of bankruptcy procedures and the protection of intellectual property rights; (2) it will provide targeted assistance to initiatives to enhance the transparency and effectiveness of the regulatory process and contribute to the ability of Morocco's producers to compete in both domestic and global markets; and (3) it will respond flexibly to targets of opportunity to advance the process of regulatory reform.

Task I.1: Promote bankruptcy law reform

This task addresses the regulatory aspects as a complement to Task 2.1.3 under Component II, which focuses primarily on training. It is designed to re-engage the drafting committee and to develop appropriate regulatory and administrative texts.

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Subtask 1.1.1: *Restore the drafting committee and meet and report on a bi-weekly basis.* Personnel and other changes are likely to alter the composition of the drafting committee, but it will meet to continue the work already initiated.

Subtask 1.1.2: *Draft final version of code revisions to be submitted to the circuit d'adoption.*

Subtask 1.1.3: *Conduct a local symposium in Rabat on changes proposed by the drafting committee under the leadership of the Project.*

Subtask 1.1.4: *Host roundtables with stakeholders in other regions on the changes proposed by the drafting committee.*

Future tasks

- Support in application of the evolving framework
- Provide support for the training for court officers under Component II

Task I.2: Assist in the implementation of reforms of trademark registration and protection of intellectual property rights

Building on the work in the area of intellectual property protection under the *Modernization of Commercial Law and the Judiciary* Project, this task will focus on support for current efforts to ensure a more effective trademark registration system and a more active role of the customs services in enforcing intellectual property rights. These efforts are aimed at meeting requirements under TRIPS and the FTA with the US.

With respect to trademarks, Morocco's current system is essentially limited to straightforward registration. The *Office Marocain de la Propriété Industrielle et Commerciale* (OMPIC) admits any and all claims to a right to trademark ownership through simple registration of a claim. It is therefore not unusual for the same trademark registered by more than one claimant, creating conflicts concerning protected trademarks in Morocco. The failure of the trademark office to research the validity of a trademark before awarding protection or to establish a procedure to prevent conflicting registrations results in creating disputes and leaving it up to courts to resolve them.

To address these issues, OMPIC intends to establish a *trademark opposition system* that will enable holders of trademarks that are protected in Morocco to present written opposition to the registration of trademarks that impinge on their rights. The implementation of a trademark opposition system will reduce the number of law suits in the area of industrial property rights submitted to the courts. A draft amendment to the Law 17/97 that will introduce this system is in the *circuit d'adoption* and is expected to become effective in 2006. The draft amendment also includes provisions for the customs service to seize goods that are being imported in violation of intellectual property rights, in line with the requirements of TRIPS and the FTA with the US.

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Subtask 1.2.1: *Provide training to commercial court judges regarding the new trademark opposition system.*

Subtask 1.2.2: *Establish a legal recourse procedure regarding the decisions of OMPIC with respect to oppositions to the registration of trademarks.*

Subtask 1.2.3: *Provide training to commercial court judges with respect to import seizures by customs.*

Future tasks

- Provide further targeted technical assistance and training, as needed (in close cooperation with other providers of similar services)

Task 1.3: Enhance regulatory impact analysis

In the US, the Office of Management and Budget (OMB)—which plays a key role in both budget preparation and the review of proposed regulation—has long ago introduced the notion of a rigorous *regulatory impact analysis*. Similarly, other countries have tightened their requirements for a careful assessment of the costs and benefits of new (and also existing) regulations. Such an impact analysis focuses not only on the aggregate benefits and costs of proposed regulations, but also on their distribution across different segments of society or regions. The Project team understands that requirements for regulatory impact analysis have been promulgated by the Secrétariat Général du Gouvernement (SGDG) which in some respects performs a role similar to that of OMB. Even so, we surmise that stricter emphasis on rigorous impact analysis may require additional support, both in terms of establishing the principle and developing the institutional capabilities in the respective Ministries and agencies.

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Rigorous analysis of the impacts of proposed regulations is at the heart of streamlining the regulatory framework and providing the context for the fair and transparent application of existing regulations. While Morocco is conducting some regulatory impact analysis, the process is likely to require upgrading to apply best international practices and move the system into compliance with those of major trading partners. One particular element of this task is the emphasis on *transparency*, which is central to successful regulatory reform efforts.

Subtask 1.3.1 *Assess the current status of regulatory impact analysis across different Ministries and agencies of the government.* This assessment will include a comparison of standards of regulatory impact analysis (RIA) relative to best practices. Special emphasis will be on the assessment of impacts on main population groups—women, young people—and regions.

Subtask 1.3.2: *Provide focused training to SGDG staff on principles and techniques of regulatory impact analysis.* Leading practitioners of rigorous regulatory impact analysis will be mobilized to deliver at least the keynote elements of this training program.

Subtask 1.3.3: *Work with SGDG staff, as needed, to promulgate standards for a more rigorous impact analysis to accompany all proposed regulations, new or amendments.*

Future tasks:

- Develop curriculum for a standardized training module for appropriate regulatory impact analysis for line Ministries and agencies.
- Conduct training sessions with staff from selected Ministries, evaluate the experience and modify training curriculum.
- Develop further the participatory elements of regulatory impact analysis, building on e-government channels.
- Evaluate the impact on volume and pattern of proposed regulations, including an assessment of the implications for the work load of the SGD.

Task 1.4: Encourage and support efforts to ensure a uniform business climate across regions

Initial assessments suggest that the business climate varies significantly across Morocco's regions. Internal learning and to some extent competition can accelerate the pace of regulatory and institutional reform. A number of countries have adopted programs to encourage competition among regions to lead to convergence. For example, Mexico has launched a program to promote regulatory reform and reduction of administrative barriers at the level of the country's regions. This task will work with other USAID-funded projects and other organizations to encourage a systematic assessment of business climate variations across regions, and to advance efforts to converge on best practices.

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- Subtask 1.4.1: *Explore options for initiating or supporting a sustainable procedure—that is, one that can be replicated periodically—for assessing regional variations in the business climate.*
- Subtask 1.4.2: *Conduct a pilot implementation of the selected procedure and analyze differences in the climate among regions.* This analysis will seek to identify better practices within the overall national framework.
- Subtask 1.4.3: *Using the results of the analysis, conduct seminars and carry out other outreach activities to promote convergence on best practices.*

Future tasks

- Refine and repeat survey or assessment procedure and associated outreach activities.
- Assess impact of regional "competition" on overall business environment.

Task 1.5: Assist in the implementation of competition policies

This task combines assistance to initiatives (a) to strengthen the internal competition, and (b) to develop Morocco's quality infrastructure with respect to norms and standards. The assessment of Morocco's compliance with the provisions of the US FTA indicates strongly that further changes in the entire quality infrastructure are needed. While the assessment focused primarily on the issue of Technical Barriers to Trade (TBT), the broader policy concern goes beyond that. The key agency in this area is of course the *Service de Normalisation Industrielle Marocaine* (SNIMA). We understand that SNIMA receives already technical assistance and training support, so some of the tasks may need to be revised to interface appropriately with these other efforts.

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- Subtask 1.5.1: *Develop with SNIMA a system for the electronic management of the development and promulgation of norms and standards that will result in greater transparency and*

participation. The present process is well-defined, with appropriate participation, and the framework for an improved management of the process through IT technology exists.

Subtask 1.5.2: *Support the installation of such a system, including the training of participants.*

Subtask 1.5.3: *Support programs aimed at the development of an effective consumer protection structure.*

Subtask 1.5.4: *Work with key agencies and other assistance providers in determining additional needs in the area of Technical Barriers to Trade.*

Future tasks

- Continuation of technical assistance and training efforts
- Support for developing institutional linkages

Component II: A more efficient and effective judiciary

Introduction

This Component of the Project supports various initiatives that augment the performance of the judiciary, in particular the commercial court system. These activities serve to raise the confidence of the foreign and domestic business community in the fairness and responsiveness of the rule of law in Morocco. The range of the activities in this Component are defined in terms of the three subobjectives: (1) improved consistency, transparency and predictability in judgments; (2) a rapid, effective, and coordinated enforcement of laws and judicial decisions; and (3) an a more effective organization system for commercial courts. The activities outlined here have been developed to a large extent in conjunction with key stakeholders, in particularly the Ministry of Justice, under the previous USAID-funded Project for *Modernization of Commercial Law and the Judiciary*. The structures and networks built under that project will support the implementation of the tasks outlined here.

Task 2.1: Enhance legal training systems for commercial courts

This task will be concerned with the implementation of a program of continuing legal education of judges and lawyers in advanced principles of commercial law. The task also includes the promotion of steps toward institutionalizing a *mandatory continuing legal education* (MCLE).

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- Subtask 2.1.1 Develop a program for judicial MCLE:* This task will build a standard commercial law curriculum that focuses on bankruptcy, accounting and banking law. In addition, it will address related topics such as intellectual property law and judicial ethics. The commercial court personnel MCLE training program will be delivered at five regional centers (provisionally, Casablanca/Tit Mellil, Tangiers, Oujda, Fes/Meknes (Ifrane), Marrakech and Agadir)
- Subtask 2.1.2 Develop a program of MCLE for attorneys.* In Morocco, each urban locale governs and licenses its own attorneys. There is no national authority for compelling or even speaking to the various bar associations on the subject of MCLE. The Project will therefore assess and recommend approaches to the training of the various bar associations. The MCLE curriculum for attorneys will be similar to that of judges, but will also cover court procedure, principles of evidence, use of experts and ethics. Activities in the first year will concentrate primarily on conducting the necessary assessments of the regional bar association educational capacities and on developing the pilot curriculum.
- Subtask 2.1.3 Promote the development of a framework for the institutional provision of MCLE.* Effective participation of corresponding counterpart institutions, in particular the *Institut Supérieur de Magistrature* (ISM) in Rabat, the institution responsible for training and certifying practicing judges in Morocco, will be essential for proceeding to mandatory status. Local bar authorities will play a similar role in the implementation of the attorney MCLE program, and eventually assume training duties.

Future tasks

- Provide further rounds of training
- Initiate and extend MCLE training program for attorneys
- Develop tiered-levels of MCLE curriculums (beginning, intermediary and high levels)

- Support the development of training capacities of appropriate legal training institutions (ISM, bar associations...)

Task 2.2: Create a system to improve the diffusion of important judicial opinions and guidelines

The Moroccan judiciary has long complained of the restrictive and anemic faults of a strict application of black-letter law to every day, real life circumstances that arise in the Moroccan courts. As their counterparts in many European civil law countries, Moroccan judges, including commercial court judges, have therefore integrated *de facto* the common law practice of applying precedent based on prior case law, and apply common law discretion to their decisions. This task is designed to support efforts to publish decisions as precedent to allow jurists and practitioners to work from a common understanding of the law. This approach will ensure more consistency in judgments. The major means of publication will be the MOJ's current Web site at www.ejustice.gov.ma.

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Subtask 2.2.1 *Assess technical IT requirements for publication system.*

Subtask 2.2.2 *Consult with MOJ and appropriate stakeholders to develop guidelines on selection of opinions/decisions for publication and full official diffusion.*

Future tasks

- Contract with IT developer
- Support for database development and system launch

Task 2.3: Train court personnel and experts in bankruptcy

This task represents a follow-on to the previous USAID-funded *Project for Modernization of Commercial Law and the Judiciary*. The Project will use an approach of on-the-job training (OJT) which combines classroom style instruction in the commercial courts during evening hours, with observation and advice while clerks process bankruptcy cases on the job. This program has been certified by USAID.

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Subtask 2.3.1 *Develop and test a shortened version of existing bankruptcy training course.* The program will start with the development of a shortened version of the bankruptcy training course already delivered in the Commercial Court of Casablanca (CCC). The pilot course will begin in November with a new group of trainees from the CCC and end in the first quarter of 2006.

Subtask 2.3.2 *Extend shortened course to other commercial court jurisdictions.* The program envisions the development of core expertise that will be passed on to neophytes by a designated "mentor" in each jurisdiction to other bankruptcy trustees in that jurisdiction on a certified basis.

Future tasks

- Creation and implementation of standardized courses on court procedures for processing bankruptcy cases.

Task 2.4: Support the development of a system of case typology for the commercial courts

This task supports efforts to improve the usability of the current Ministry of Justice Case Management System (CMS). The development a typology will allow any CMS application to retrieve, measure and

manipulate data on many levels. Examples of case types or fields include: Nature of party entities (individual, corporate, etc.), amount in controversy, kind of relief sought, number of parties, date of initiation, degree of complexity, required use of court experts, duration of case, final disposition, and status of execution of judgment. The typology will use an American style “civil cover sheet” at the initiation of a case that asks the initiating attorney to fill out a checklist that profiles the case. Incremental data entry is then made by in-court clerks and judges themselves who update the profile as the case progresses.

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Subtask 2.4.1 *Define a model typology.* The Project will assess the current system, draft the specifications for necessary IT work in the commercial courts, and work with a CMS working group to develop the necessary coversheet.

Subtask 2.4.2 *Carry out a trial testing of typology.* The Project will ensure adequate supervision of the necessary IT work, and prepare an actual beta test site that can be extended for full use by the MOJ.

Future tasks

- Full-scale implementation of typology within framework of MOJ’s CMS.

Task 2.5: Review and recommend improvements to the current system of court-appointed experts

Currently, judges rely on expert opinions, submitted only in written reports, from experts they appoint from the court’s list of designees. This system raises issues of competency, conflict of interest, and lack of adversarial scrutiny. Experts are allowed a low, flat fee for their services which opens the door to corruption. Experts are not certified or regulated. Under this task, the project will seek to develop a set of workable reforms to improve the system in collaboration with its major stakeholders.

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Subtask 2.5.1: *Assess the current court expert system.* A consultant will be engaged to conduct an in-depth review of the existing system focusing on rules of procedure, certification of experts and remuneration.

Subtask 2.5.2: *Consult with stakeholder working group to consider recommendations for reform.* Following the report from the above consultancy, the project will organize a series of working-group meetings to facilitate discussion and the development of a consensus on the proposed reform recommendations.

Task 2.6: Suggest improvements in the current system of levy and execution of judgments

Currently, the commercial courts employ an antiquated system calling for the court’s bailiff, under the direction of the trial judge, to levy and execute judgments issued by the particular court. Generally, though a commercial court judge should be charged with enforcement (which is the role of a criminal court judge). In a civil suit, it is the prevailing party who is more appropriately responsible for recovering money owed. Through a process that includes an assessment by an outside expert and consideration of recommendation with stakeholders in a working-group setting, the project will seek to introduce reforms and offer institutional solutions that will increase the effectiveness of the current system.

The creation of a plan for improvement of the current system of execution of judgments in cooperation with stakeholders will include: (1) Revision of authority and procedures for levying execution of judgments in general, (2) training of administrative and levying officers in procedures for levy, and use of case management

information systems to assist in levy and execution of judgments, and (3) advocacy and implementation of regulatory changes to require licensing of private levying officers.]

Subtask 2.6.1: *Conduct an assessment of the institutional and regulatory environment affecting the execution of judgments.* A short-term expert in judicial enforcement will conduct an examination of the current system for judicial enforcement of commercial cases.

Subtask 2.6.2: *Consult with stakeholder working group to consider possible reforms.* Following the report from the above consultancy, the project will organize a series of working-group meetings to facilitate discussion and the development of a consensus on the proposed reform recommendations.

Task 2.7: Contribute to improved organization systems in commercial courts

A study commissioned under a previous USAID program, *Commercial Courts and Law Modernization*, suggested a number of institutional modifications that were implemented in the Marrakech and Agadir jurisdictions. The project will, in this last component undertake to assist in a review of this earlier study and assist the MOJ in implementation of key recommendations beyond the two initially targeted jurisdictions.

Subtask 2.7.1: *Review the court reorganization study* funded by USAID under the program Commercial Courts and Law Modernization in order to adapt it to the needs of other commercial jurisdictions.

Subtask 2.7.2: *Assist the MOJ in implementing study outside the Marrakech and Agadir jurisdictions.*

Component III: Improved support systems for financial markets expansion

This Component of the Project will support efforts to improve access to finance through strengthening relevant information structures and the elimination of constraints that limit the availability of credit and other financial services to micro, small and medium sized enterprises. The activities contained within this component have important relationships to the activities of other components of this project, i.e. regulatory reform, bankruptcy law reform, and commercial court reform.

The depth of the problem faced by individual and enterprises seeking credit in Morocco is indicated by Morocco's ranking as 146th out of 155 countries with respect to the "access to credit" indicator of the World Bank's *Doing business in 2006*, primarily as a result of very low coverage by either public or private registries. A broad series of measures are needed to improve access to financial services. By targeting a number of support systems, including an improved data sharing system for credit information and an improved approach to guarantees and an accompanying collateral registration system, the project will address gaps in the Moroccan financial infrastructure to support the granting of credit by a broad range of financial institutions. This Component will also continue effort to improve accounting standards and governance to improve the quality and reliability of financial information which should improve access to credit, as well as supporting improved corporate governance standards in Morocco. Work to develop the evolution of microfinance in Morocco and transitioning it to sustainability will expand the outreach of a broader range of services to an increasing percentage of the targeted population.

Task 3.1 Improve systems for accessing data on creditworthiness

The development of a nationwide central credit reporting system is essential to providing low cost and efficient access by all financial sector institutions to the type of information needed to make credit decisions. A real-time private sector system providing both positive and negative payment data on individual and business creditworthiness would help to improve access to credit in Morocco.

While there are multiple causes of restrictions to credit access, the percentage of population on which credit information is available is certainly a critical element. In the previously referenced "access to credit indicator" of the World Bank's *Doing business in 2006*, that ratio in Morocco currently stands at 2.0 percent of adults for public registries and zero percent for private registries, compared to 7.8 percent and 58.0 percent respectively for OECD countries. The legal rights index is the other component of the access to credit indicator, where Morocco scores a 2 on a scale of 10.

The development of a nationwide integrated central credit reporting system or bureau is essential to providing low cost and efficient access by all financial sector institutions to the type of information needed to make credit decisions; however, data on creditworthiness is not the sole barrier to access to credit and thus other activities of this component are needed to address some of the other constraints.

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- Subtask 3.1.1: *Conduct assessment of existing and planned credit information systems with stakeholders and other interested parties.* The stakeholders working group to be constituted to support this activity will draw on the expertise of representatives of existing credit information systems (APSF, FNAM, GPBM, BaM), as well as various types of financial institutions, relevant sector federations, consumer interest groups, potential private sector participants, and other interested government agencies.)
- Subtask 3.1.2: *Conduct technical review of obstacles to wider dissemination of credit information among financial institutions in Morocco.* The activities of these first two subtasks will be closely

coordinated with the IFC and BAM to build on the extensive work previously undertaken and ongoing.

Subtask 3.1.3: *Review legal-regulatory constraints to a wider dissemination of credit information.*

Subtask 3.1.4: *Examine systems/experiences in other countries and relevant research to identify critical success factors in credit information systems.*

Subtask 3.1.5: *Present workshops to all potential stakeholders on results of assessments and reviews.*

Future tasks

- Develop stakeholder coalition to advance credit information sharing among different types of institutions.
- Support legal-regulatory changes needed to facilitate credit data sharing
- Conduct technical assistance/provide support for appropriate technical and institutional solutions to sharing data on creditworthiness.
- Support for appropriate legal-institutional model of data sharing among interested stakeholders

Task 3.2: Support efforts underway to improve the quality of the preparation, audit and publication of financial information.

The availability of correct and transparent financial information prepared in accordance with international financial reporting standards is a critical part of sound business decision making. Weaknesses in the education and regulation of accounting professionals prevent both internal managers and external business partners from having access to the quality of information necessary for economically efficient decision making. This has a particularly severe impact on business access to credit. Morocco's ranking of 44th overall in the Global Competitiveness Ranking is encouraging, but it ranks substantially lower on some indicators including "strength of auditing and accounting standards" where it ranks 62nd.

A lack of expertise among non-certified accountants, as well as a lack of accessible accounting professionals in many regions, present challenges to small and medium size enterprises. In addition, the lack of a governance structure which facilitates the development of a well regulated accounting profession that is accessible to a broad range of business sizes and forms is a major obstacle in the Moroccan business environment. Technical assistance and training provided by the project can assist the Moroccan accounting profession to better serve a wider range of clients and the Moroccan government to build appropriate governance systems.

Improved accounting governance and standards have a relevance that cuts across all activities of the project and that impact a broad group of stakeholders. Thus, specific activities under this Component will also be designed to reinforce the work in other areas of the Project, as well as the general goal of improved corporate governance in Morocco.

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Subtask 3.2.1: *Assess current efforts underway to improve financial reporting and auditing.* This assessment will include a review of the recommendations of the World Bank's Rapport sur le Respect des Normes et des Codes (RRNC) "*Comptabilité et Audit*" de 2003 and the status of implementation of its recommendations to help identify appropriate areas for the project's interventions. The project will be aided in its work by a working group constituted from a broad group of stakeholders.

Task 3.2.2 *Prepare a report of the working group on proposed areas of intervention.*

Task 3.2.3 *Provide technical assistance and training to appropriate accounting professionals and other stakeholders.* Technical assistance and training will be designed to maximize the

development of local capacity to provide sustainable training expertise and to reinforce other activities of this project.

Future tasks

- Continue technical assistance and training
- Provide institutional support to appropriate accounting industry training body.
- Reinforcement of accounting components of other project activities.

Task 3.3: Establish an efficient, transparent and equitable moveable and real property lien systems

Property in a developed modern economy plays a critical role in facilitating access to finance by providing the security for credit without which financial institutions may not be willing to extend credit. Both movable and fixed property can be adequate to secure credit if the existing legal environment is supported by functioning public institutions in providing an efficient means of realizing a second or “back up” source of recovering the credit granted in case the borrower is unable or unwilling to repay the credit. Laws that facilitate the expansion of access to credit and the recovery of debt will also be benefited by the ability to use a wide variety of movable assets as collateral.

The use of movable property as security, where the recovery of such property is protected and facilitated, can play a significant role in encouraging financial institutions in Morocco to extend credit to a larger pool of debtors. Real estate ownership in Morocco is limited to a smaller number of individual and small and medium businesses; however, a much larger number own movable property. The potential for growth in lending is larger if access to movable property as security is facilitated.

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Subtask 3.3.1 *Complete diagnostic review of current system of fixed and moveable property lien registration.* A review of the existing framework of legislative and regulatory coverage of such areas as creditors’ rights and enforcement, secured financing law, bankruptcy law, contract law will be included along with technical reviews of existing registries and their performance.

Subtask 3.3.2 *Initiate participative process with key stakeholders to assess adequacy of legal and institutional framework governing property lien registration and enforcement.* Efficiency, transparency, cost, and consistency of court decisions/results will be determining criteria of adequacy.

Future tasks

- Support for legal, regulatory and institutional changes
- Technical assistance and institutional support for implementation of new system for property registration
- Monitoring and assessment process developed to provide input for revisions and further changes to system.

Task 3.4: Facilitate the development of an institutional environment for sustainable growth of microfinance

Morocco has emerged as a regional leader in the development of microfinance, with approximately 42 percent of the active borrowers of the entire Middle East/North Africa region (MENA) at the end of 2003, as

reflected in *Microfinance in the Arab States*². Microfinance in Morocco has been characterized by rapid growth, with the number of clients now surpassing 500,000. Despite its exceptional growth, the sector is currently serving only 15% of the estimated potential target market of 3.2 million. Clearly, microfinance still has a significant contribution to make to the goal of poverty eradication and in the integration of its activities and those of its clients into the mainstream commercial and economic activities.

This activity focuses on policies and activities designed to expand the availability of sustainable financial services to the businesses and individuals not adequately served by the existing financial institutions of Morocco. Access to finance is difficult at all levels in Morocco, as indicated by their ranking in the Doing Business Survey of 2006 which places them 146th out of 155 countries. Another indication of the difficulty of access to financial services in general in Morocco is the percentage of the population which has access to bank services, a ratio which has been stuck at the 20% level for some time.

For the disadvantaged populations of Morocco, the lack of adequate financial services continues to be a constraint to development. Project activities in this component will work to ensure an enabling environment for microfinance in Morocco that supports policies, regulations and legal structures that will encourage responsive, sustainable microfinance. Policies that encourage and promote

- (1) the expansion of the availability of microfinance services and products that respond to the needs of the poorer section of the population;
- (2) the existence of a range of institutions and methodologies;
- (3) the financial sustainability of the institutions by assuring the institutional infrastructure needed for success;
- (4) integration of microfinance and its clients into the financial system.

Comments in the recent Arab Benchmarking Report from TheMIX are relevant for Morocco as well as for the rest of the region:

“Arab microfinance still faces the challenges and growing pains of its youth. Almost all Arab microfinance clients are served today by NGOs. Hamstrung by legislation or institutional form, these non profits often offer little more than credit to their clients. Savings, insurance and transfer services particularly important in a region with strong remittance flows are yet to reach most micro-finance clients. Similar funding constraints, sometimes resulting from institutional form or poor connections to the local banking sector, mean that Arab MFIs fund their growth through donations and equity. Improving linkages to formal financial sector actors will enable continued growth and could expand financial service offering.”

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Subtask 3.4.1 *Conduct participatory stakeholder programs to focus MFIs and other interested parties on appropriate models of institutional evolution for microfinance.* A number of project activities will be launched in the first few months of the project to create momentum and to try to benefit from the positive press and public opinion which the *Year of MicroCredit* has generated in Morocco. These will include an “Innovations in Microfinance” lectures on Strategic Growth Options for Microfinance Institutions, a policy forum on “Models that Work for Microfinance: Experiences from other Countries, and a seminar “Downscaling – The Role of Commercial Banks in Expanding Microfinance”

Subtask 3.4.2 *Review existing legal-regulatory framework governing MFIs and impacting their sustainability in an evolutionary context.* The results of this review will be presented to the

² Judith Brandsma and Deena Bujorjee, *Microfinance in the Arab States: Building inclusive financial sectors*, September, 2004.

Working Group constituted for this activity, the members of which will be drawn from key stakeholders (i.e., FNAM, individual Microfinance Associations, BAM, MOF, GPBM, APSF, as well as other interested parties, such as CGAP, SANABEL, IFC and others) and analysis issues and options for the proposed transformation.

Subtask 3.4.3 *Jointly with other stakeholders, assess the demand for other microfinance services, such as micro savings.* The role of this subtask is to contribute to a firm empirical basis for mapping out sustainable microfinance growth.

Subtask 3.4.4 *Develop a “Tool for Institutional Evolution” (jointly with WWB and local partner Al Amana) for use by sector participants.* The tool will provide a practical guide to helping MFIs to develop an action plan to prepare for growth and evolution, and it will help to identify needed institutional strengthening required.

Future tasks

- Support and promote the development of new channels of microfinance service delivery that are consistent with evolutionary strategies of key institutions.
- Provide analysis and advocacy work in support of reforms to legal-regulatory framework to encourage the development of more sustainable microfinance service providers.
- Support specific institutions that seek to transform or to develop commercially oriented microfinance units
- Support new product development for the microfinance sector.

Component IV: More growth-oriented tax policies, laws, and regulations

Introduction

In line with international best practices in taxation, Morocco is now undergoing a major effort to revise its tax system to encourage more rapid economic growth. In general, growth-oriented tax regimes do not affect market outcomes, or the allocation of resources between sectors, enabling the economy to react swiftly to changing economic conditions. Moreover, growth-oriented taxes do not impose such high costs that firms and individuals are discouraged from investing, innovating and growing. While Morocco has made great strides in reducing the distortions present in its taxes on international trade, which have notably reduced distortions in markets for traded goods, the widespread use of special tax exemptions (fiscal expenditures) leads to continued distortions, whose overall impact on growth is not yet well understood. The investors surveyed in the 2003 conducted by the American Chamber of Commerce (AmCham) study in particular indicated that IGR withholding and related issues represent an obstacle to hiring workers. In fact, the presence of a strong informal sector raises pressures to tax formal sector firms and employees more heavily. Such patterns in fact represent a serious obstacle to the Kingdom's efforts to upgrade social and employment standards by discouraging migration to the formal sector. Helping the public and private sectors grapple with these issues will be at the heart of this Component of the Project.

Project activities under this Component represent a new start in an area of policy that is characterized by strong viewpoints and a diversity of motivations between the major stakeholders—private businesses, government fiscal authorities, trading partner, and the Bretton Woods institutions. As a result, the workplan for this Component will begin with an intensive period of information-gathering, consultations with relevant stakeholders and analysis to develop a proposed analytical agenda that is fully vetted with partners and the project steering committee. This process, is designed to produce a fully approved agenda for analysis and technical assistance for Project activities in the tax area by the beginning of the second quarter of 2006. Additional tasks outlined below also are indicative, since actual implementation strategies will be developed when the analytical agenda setting process in Task one is close to being finalized.

Task 4.1: Develop a Project agenda for supporting tax initiatives

Tax policy issues are becoming a major item of discussion in business circles as well as those government departments more normally concerned with fiscal policy. A number of contrasting developments are driving this concern:

- **The increasing pressure for higher tax revenues deriving from the macroeconomic situation.** In its Article IV consultations with the IMF, the Kingdom is committed to reducing its fiscal deficit below 2004 levels in the face of declining privatization receipts and lower trade taxes. Current plans call on closing many of the estimated 327 special exemptions or exonerations in the tax code (mainly in the VAT) along with improved administrative measures to reduce tax avoidance to achieve this goal.
- **Efforts to improve tax collection aimed at the formal sector aggravate legitimate concerns of businesses about unfair competition from the informal sector.** Business groups are concerned in particular about the effect that improved enforcement to ensure full collection of income tax on wages is having on their ability to hire and retain employees while remaining competitive with informal sector enterprises or grey economy firms whose payments to employees manage to escape such taxation. In addition, to avoid paying income taxes, firms and individuals often prefer to remain in the informal sector—compromising both economic growth and the adoption of modern labor and social standards.

- **Reduced taxes on trade are creating new competitive pressures for important sectors.** The reduction in trade barriers associated with the EU Association agreement, as well as those planned for the US FTA, have and will continue to reduce levels of protection for key Moroccan sectors such as textiles and agribusiness. Activity levels in these sectors—and therefore the associated tax revenue—may follow the familiar J-curve pattern: a shakeout before improved competitiveness propels these sectors forward. However, the built-in transition periods may provide an adequate cushion.

In order to make sure that its proposed agenda for analysis and technical assistance takes full account of the varying motivations and needs of the principal stakeholders in both the public and private sectors, we propose to use the first six months of the project to hold consultations and conduct a tax policy assessment in order to present a fully developed tax strategy to the Project Steering Committee for its six-month work-plan review meeting. The major steps for this are outlined below:

Subtask 4.1.1: *Consult with key stakeholders.* Under the guidance of the Steering Committee, the Project Team will meet with representatives of the public and private sectors, and international donors. Expected interlocutors will include the DGI, other departments in the Ministry of Finance, and the Ministry of Economic Affairs. The views of private sector representatives from the major employers groups, in particular the CGEM, will also be sought as well as professionals working in the areas of business taxation—primarily from the *Ordre d'Experts-Comptables*. Consultations will also be held with donors involved in the fiscal policy dialogue—in particular the IMF and the World Bank. The goal of these meetings will be to assess each stakeholder's views on needed measures to promote more growth-oriented tax policies as well as collect information on reform and advocacy actions already under-way or planned. This appraisal may also include public (domestic) debt management issues.

Subtask 4.1.2: *Conduct growth-oriented tax policy assessment.* Following the initial consultations, the Project will conduct a rapid assessment of the major taxation issues raised during the preliminary consultations. The objectives of this assessment will be to: (1) develop a prioritized agenda of tax policy and tax administration reform measures that can be realistically addressed by the Project, together with its cooperating partners, and (2) propose appropriate analytical models that are needed to inform the tax policy debate and that have the potential to help advance the proposed reform measures within the timeframe of the Project.

Subtask 4.1.3: *Develop and vet the proposed growth-oriented tax policy agenda for the Project.* During the first quarter of 2006, the results of the tax policy assessment will be distributed and discussed with all the major stakeholders. Following these discussions the Project team will, with assistance from the short-term tax policy consultants, refine the Project tax agenda in order for submission to the project steering committee at the planned six-month workplan review session.

Subtask 4.1.4: *Examine/review extant models and approaches to analyzing tax policy issues used in Morocco.*

Task 4.2 : Conduct economic analysis to support stakeholders in advocating and implementing growth-oriented tax measures.

Depending on the outcome of the consultative process described above and the review of extant economic and tax models, the Project will propose and implement an agenda of analytical work that is required to help its Moroccan stakeholders advance their agenda for making the tax system more business and growth friendly. Although it would be presumptive to chart a course for such work before the prerequisite stock-taking of

existing work, consultation and analytical preparation has taken place, the analysis to be undertaken by the Project could address such questions as:

- How could the *Impôt Général sur le Revenu* (IGR) be modified to encourage higher levels of compliance without resulting in fiscal loss?
- What might be the effect of eliminating certain tax exemptions (*dépenses fiscales*) on business output, employment and investment in selected sectors, as well as economy-wide?
- What tax policies would be most effective in encouraging a voluntary growth in the tax base by encouraging the migration of small and micro businesses from the informal to the formal sector?
- What may be the net impact on government revenue collections of selected investment incentives?
- Are there specific taxes that could be simplified to reduce complexity and compliance costs to taxpayers as well as lower the costs of their administration?

The analysis will also look to the experiences of countries with a similar background and the impact of specific tax reforms in terms of efficiency and equity, as well as tax buoyancy.

Task 4.3: Work with stakeholders to identify and implement measures to Improve tax administration for businesses.

The Project will also devote technical assistance resources to working with its public and private sector partners to implement administrative changes or reforms that have the potential to improve the efficiency of the business tax system. The type of activity could include:

- Work with business groups and public revenue collecting agencies to suggest measures that could help streamline business tax and withholding payments systems;
- Develop cost-effective ways of increasing the yield of tax collection efforts on informal sector enterprises;
- Training events or exchange visits to explore alternative models of bringing informal sector activity into the formal sector.
- How are current regulations concerning transfer pricing shaping economic choices? Do they interfere with the development of a modern market architecture (addressed under Component I).

Timeline and illustrative resource allocation by task

