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Improving the Business
Climate in Morocco

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LIST OF ACRONYMS

ADR	Alternative Dispute Resolution
CCN	Cooperating Country National (a labor category – Moroccan citizens)
CLDP	Commercial Law Department
CLIN	Contract Line Item Number (refers to the budget of each Component)
CNIP	<i>Comité National des Procédures liées à l'Investissement</i>
DI	Investment Directorate (<i>Direction des Investissements</i>)
IBCM	Improving the Business Climate in Morocco
IFC	International Finance Corporation
IMANOR	Institut Marocain de Normalisation
ISM	<i>Institut Supérieur de Magistrature</i>
IT	Information Technology
LOE	Level of Effort
MAEG	Ministry of Economical and General Affairs
MEPI	Middle East Partnership Initiative
MOJ	Ministry of Justice
MoU	Memorandum of Understanding
OMPIC	<i>Office Marocain de la Propriété Industrielle et Commerciale</i>
RIC	Regional Investment Centers (<i>Centre Régionaux d'Investissement</i>)
SNIMA	<i>Service de Normalisation Industrielle Marocaine</i>
STTA	Short Term Technical Assistance
TBD	To be determined
TCN	Third Country National (a labor category – from a country other than the US or Morocco)
UNCTAD	United Nations Conference on Trade and Development
USAID	United States Agency for International Development
USPTO	US Patent and Trademark Office

ACCOMPLISHMENTS DURING THE LAST YEAR

(OCTOBER 1ST, 2007 TO JULY 31ST, 2008)

TECHNICAL PERFORMANCE OVERVIEW

The year 2007-2008 was a busy one for the improving the business climate in Morocco program. On the regulatory reform side, a number of related activities have begun to come together in a synergistic way, leading to the expectation that there will be major advances during the final year of the program. On the commercial dispute resolution side, the program was able to bring together a range of different actors to work together towards promoting mediation, and also advanced its work to strengthen the commercial courts.

COMPONENT I: REGULATORY REFORM AND INVESTMENT PROMOTION

- On November 29-30, the Program held a widely publicized national conference entitled “Doing Business: Best Regional Practices”. The conference drew attention to the potential for Morocco to improve its performance *vis-à-vis* key business climate rankings, with special focus on four Doing Business indicators. In all cases, Morocco’s secondary cities performed better than the most populous city used to gather data for the international ranking (Casablanca). Since the conference, efforts have been undertaken by local authorities to improve performance in some of the less well-ranked regions (Casablanca and Tangiers).
- In response to a request from the Ministry of Economic and General Affairs (MAEG), the Program conducted a customized analysis of the Doing Business “Employing workers” indicator. Given the context, namely a widely publicized debate between labor leaders, the national Moroccan business association -- *Confédération Générale des Entreprises du Maroc* (CGEM), and the government that intensified in the spring (referred to as the “Social Dialogue”), the Program formulated its analysis to take into account both the recent reforms and current proposals by each party. The report, entitled “*Social Dialogue, From a Doing Business Perspective*”, reviews each actor’s main proposals, analyzes their impact on the Morocco’s *Doing Business* ranking, and offers recommendations on how to improve the ranking based on an analysis of Moroccan laws and inputs from international experts who provided comments on how to reform Morocco’s labor policies.
- The regional investment center (RIC) in Settat is now using e-invest, a software designed to speed the process of reviewing investment applications and granting the necessary permits and licenses. The software is shared between the RIC and the other local government agencies involved in the granting of approvals. Work to spread the utilization of e-invest to other regions has begun.
- During March and April, the National Investment Procedures Committee held weekly meetings under the leadership of the Investment Directorate (ID). During this spring session, 26 investment-related procedures were discussed and proposals were made for simplification. During the summer, consultant Zineb Gaouane finalized a report that prioritizes the most urgent, and the most viable, simplifications suggested by the CNPI. In September, the Program began a dialogue with various partners which may result in merging the CNPI effort with the national and regional ‘Doing Business’ committees.

- Work has begun to develop a common business identifier (CBI), a number that will allow government agencies to exchange, process, and analyze reliable information about Moroccan enterprises.
- The Program assisted the CDER in designing a regional strategy for sustainable development in Meknès-Tafilalet. Draft Convention for regional collaboration between the CDER and the Meknès-Tafilalet regional government. Two prefeasibility studies have been carried out to evaluate the viability of obtaining clean development mechanism (CDM) financing, one for the municipal public landfill and the other for a wastewater treatment plant.

COMPONENT 2: LEGAL REFORM AND IMPROVED COMMERCIAL COURT SYSTEM

- IBCM's legal reform expert Remy Kormos finalized a report offering a new approach to Moroccan bankruptcy law reform. The report prioritizes issues for reform, provides a comparative legal analysis of the Anglo-Saxon versus French solutions that have been put in place in other countries, and recommends adopting a more incremental and participatory in-country dialogue.
- The Program successfully developed and piloted a new approach to judicial training activities, the "four judges model". Training of trainers and training of commercial court judges focused on trademark law.
- The Program provided institutional support to the Rabat International Center for Mediation and Arbitration (CIMAR), including the organization of two training sessions for commercial mediators in December 2007 and January 2008. The Program has hired a local consultant to work with CIMAR to update its business plan, prioritize upcoming activities, and outline a detailed financial sustainability and investment strategy. A website for CIMAR is also under development, which will provide information on services offered, the mediator and arbitrator lists, outreach activities and other resources such as an electronic library.
- USAID/IBCM entered into a Memorandum of Understanding (MOU) with the IFC on October 30, 2007. The Program and IFC co-organized a round table and two mediation training sessions (one in Rabat and one in Casablanca), and have worked with local partners towards the establishment of a national public/private commission to promote mediation in Morocco.
- In September, the Program finalized a report summarizing the conclusions of a series of consultations and studies (two roundtables, an IT pre-feasibility study, and a legal analysis) related to the modernization of Morocco's collateral registry system. A decision was taken not to proceed forward with the development of a software or other information technology system focused on collateral registry until (1) Morocco has developed a system for allocating a national business identifier that is common – meaning known - to all government actors; (2) additional work has been conducted on the harmonization of operating procedures for the commercial register, and (3) a champion has come forward to lead the efforts to reform the country's secured lending framework.

COMPONENT I REGULATORY REFORM AND INVESTMENT PROMOTION

CONCEPT I BUILDING AWARENESS OF BUSINESS CLIMATE ISSUES

On November 29-30, the Program held a widely publicized national conference entitled “Doing Business: Best Regional Practices”. There were around 200 participants, including Moroccan government officials, private sector representatives, and journalists, and the conference received a good deal of publicity (twenty press articles and four television spots).

The objective of the event was to transmit a positive message: if Morocco wants to, the country can improve its business climate...especially certain aspects measured in the annual “Doing Business” survey published by the World Bank. Around the world, national “Doing Business” rankings are based on data from each country’s most populous city. In the case of Morocco, the Program conducted a regional “Doing Business” study which looked beyond Casablanca, to identify practices in seven cities¹ that work better - under the current laws and within Morocco’s borders. Highlighted practices included the most efficient regulatory, administrative and judicial procedures. These best regional practices, if adopted nationally, would lead to a significantly higher ranking for Morocco.

A comprehensive report of the conference has been published both in English and French, giving an in-depth account of the two-day events including an overview of the presentations, debates, workshops, and the recommendations and conclusions which the conference generated.

It is fair to say that the effects of the conference are still being felt. The Program has become the “go-to” team, of sorts, for questions about the Doing Business ranking, fielding multiple requests from partners to conduct analysis around specific indicators or proposed policy reforms and their potential impact on the ranking. Conference follow-up activities have now taken on a life of their own, and include the following:

1. **Regional and National Doing Business Committees.** Following the national conference, three regional ‘Doing Business’ committees were established spontaneously and independently last spring, led by the regional investment centers of Casablanca, Tangiers and Agadir. A national ‘Doing Business’ committee is expected to be organized this fall. While the regional committees look for opportunities within the current legal framework to implement immediate changes leading to improved performance, they will need to channel most reform proposals to the national level, for example in cases where changes to the law or to ministerial decrees are necessary.
2. **In-Depth Analysis on the “Employing Workers” Indicator.** In response to a request from the MAEG, the Program has conducted a customized analysis of the Doing Business “Employing workers” indicator. The Minister had expressed his frustration last quarter that recent reforms to the labor code had not seemed to produce an improvement in the Doing Business ranking, and asked the Program for an explanation. Given the context, namely a widely publicized debate between labor leaders, the national Moroccan business association -- *Confédération Générale des Entreprises du Maroc* (CGEM), and the government that intensified in the spring (referred to as the “Social Dialogue”), the Program formulated its analysis to take into account both the recent reforms and current proposals by each party. The report, entitled “*Social Dialogue, From a Doing Business Perspective*”, reviews each actor’s main proposals, analyzes their impact on the

¹ As with the national “Doing Business” ranking, each of the seven regions studied is represented by its largest city. The regional study covered Meknes, Tangiers/Tetouan, Agadir, Marrakech, Oujda/Nador, Kenitra and Settat.

Morocco's *Doing Business* ranking, and offers recommendations on how to improve the ranking based on an analysis of Moroccan laws and inputs from international experts who provided comments on how to reform Morocco's labor policies. The report is available in French on the Program's website, and is currently being translated into English.

3. **Re-engineering of the business start-up process.** In collaboration with the International Finance Corporation (IFC), the Program is working with the Wilaya of Casablanca with the aim of simplifying the business registration process in Morocco. This pilot project focuses on Casablanca, which records 90% of the country's yearly business start-ups, while taking into account other regions' specific characteristics. The goal is to develop a 'model' in Casablanca, which can be replicated in Morocco's other 15 administrative regions. The project consists of three distinct phases: (1) A diagnostic exercise (mapping of business start up procedures and a benchmark survey); (2) process evaluation and re-engineering; and (3) the implementation of new administrative processes. The Program hired a consulting firm this year to carry out the mapping, which will describe and analyze the regulatory process of registering companies by mapping out all the steps for each procedure, including forms, time and cost requirements. The mapping also provides a comprehensive overview of the sequencing and connection between all the various regulatory processes, providing a complete inventory of all procedures and their steps (costs and duration), which investors and government authorities would have to go through. A preliminary presentation was made to RIC of Casablanca at the end of September. The benchmark study will be financed by IFC and will begin in early October. This quantitative and qualitative study will seek to incorporate the perspective of entrepreneurs (and their lawyers and notaries) with regard to the business registration process.
4. **"Follow-up of Doing Business Regional Conference" Report.** In June 2008, Program intern Yousra El Hatib carried out a follow-up study to the regional *Doing Business* conference by visiting each of the seven participating regions. She interviewed regional actors to look for signs of business climate improvement due to cross-regional exchanges that took place during or after the conference. Ms. El Hatib drafted a preliminary report from her field work in June which presents evidence of a few minor process-based improvements due to intra-regional exchanges. More promising, however, was a heightened awareness of the need for reform, and motivation to generate reform proposals at the regional level (see above, formation of regional committees). Some of these reform proposals were first discussed at workshops organized during the Regional Doing Business Conference (on business registration, investment services, availability of land and recovering debt via the courts). After discussions with regional stakeholders, Ms. El Hatib identifies her draft report which of these propositions merit attention at the national level.
5. **Regional 'Doing Business' Mini-Surveys.** As part of the Program's data gathering effort for the Performance Monitoring Plan (PMP), a "mini-survey" is being undertaken in order to measure changes in regional performance (this will be done by approximating an updated 'Doing Business' score for selected procedures in selected regions). Three indicators, one in three cities and two others in one of the three cities, will be assessed (see Table 1). The number of interviewees will be less than those consulted for the 2007 study, however the interviewees will be carefully selected in order to yield reliable responses. The result, for selected procedures in selected regions, will allow for a comparison with the previous year's ranking.

Table 1. Regions and indicators chosen for the mini-survey

Regional sample	Indicators
<ul style="list-style-type: none"> ▪ Gharb-Chrarda-Bni Hssain region (represented by Kénitra) ▪ Souss-Massa-Draâ region (represented by Agadir) ▪ Tanger-Tétouan region (represented by Tangiers) 	Business registration Business registration Business registration Registering property Dealing with licenses (for construction)

CONCEPT 2 REDUCING RED TAPE...WITH JUST ONE CLICK

Activity 1 Support to Regional Investment Centers (RICs)

Task 1.1. Ensuring access to and utilization of the e-invest software

The implementation schedule for the e-invest software changed a bit during this year. Due to the complexity of harmonizing procedures across sites, and following a request made by the Ministry of Interior and the *Wali* of Settat, a decision was taken to focus first on Settat instead of implementing the software simultaneously in several pilot sites.

Working under this new framework, the Program concentrated its effort on fully developing the software in Settat. New functionalities were added to the system and Program consultant Kjartan Sorensen worked closely with the developers to integrate the twenty-eight procedures that are already approved by the CNPI into e-invest software. Several simulations and trainings were conducted with actual investment projects. An e-invest steering committee, presided by the *Wali* of the region, met every six weeks. Participants included the *Wali*, RIC staff, Ministry of the Interior representatives, as well as regional government representatives involved in processing and approving investor applications, i.e. regional investment commission members. A number of upgrades to the system were requested by users in Settat and put in place under the supervision of Kjartan Sorensen. The new version is much more user-friendly and can accommodate the needs of users with very basic computer skills. A user guide has been developed and is available to all.

The Program organized training sessions with the regional investment commission members, which included 1) a review of the e-invest concept, principles and objectives; 2) an explanation of how the system works; 3) distribution of the user guide; and 4) question and answer sessions in which problems were addressed. As of the end of September, 14 training sessions had been held; approximately 50 persons were trained across 30 service areas from regional public agencies and administrations. At the beginning, Program staff and Ministry of Interior representatives traveled to the RIC of Settat to train members of the regional investment commission. As the RIC staff became more familiar with the system, RIC representatives themselves implemented several trainings at the Wilaya of Chaouia Ouardigha.

The project also benefited from public press. The RIC of Settat organized a press conference on the modernization of public and private enterprises in the Chaouia-Ourdigha region on July 17th, 2008. Mr Aqri, the RIC Director, mentioned the e-invest project as “a key initiative to improve communication between the public and private sectors”. The Settat RIC is planning a formal launch event for the system on October 30, 2008. From November-January there will be a

transition period, after which the RIC will rely solely on the e-invest tool to manage the investment application process. This means: all investment projects received at the Settat RIC are digitally uploaded into the system by the RIC agents; the regional investment committee meeting is convened with the help of the planning module, and regional state authorities are invited to view projects in the system instead of receiving a paper portfolio.

The Program will now focus on replicating this experience in other regions. In July, in consultation with the Ministry of the Interior and in response to repeated requests, the Program went ahead and initiated support to the RIC of Casablanca in adopting e-invest. On August 7, the first training session on e-invest was offered to the Casablanca center's investment promotion staff. Participants identified as the main obstacle the generalization of the use of e-invest to the other regional authorities. To tackle this issue, the program decided to create a core group of users that will encourage, bit by bit, its use in other organizations. Training sessions continued in September and have been extended to regional authorities involved in authorizing investment projects. In order to expand the use of e-invest to remaining regional investment centers in a transparent manner, the program wrote to the remaining RICs in mid-September. A selection process of the RICs is underway.

Lastly, the Program started addressing the issue of the sustainability of the project and met with Mr. Maelainin, Director of the Education and Social Responsibility for North Africa at Microsoft Corporation. Mr. Maelainin expressed his enthusiasm about the initiative, recognizing its potential to benefit both the administration and investors. Mr. Maelainin presented three components that make up Microsoft's corporate social responsibility program in North Africa: (i) education – promoting novel ways to increase IT knowledge in all cycles of education; (ii) innovation – encouraging innovative businesses in IT, and (iii) employment – use of IT in microenterprises and to spur entrepreneurship. Opportunities for collaboration between Microsoft, USAID, and the Moroccan government are under discussion.

Task 1.2. Customization of the e-regulations website for the Oriental region

The United Nations Conference on Trade and Development, UNCTAD, has developed and launched an “investor gateway” in several Latin American and African Countries (Bolivia, El Salvador, Mali). The website is an electronic one-stop shop for entrepreneurs who want to (a) know what procedures they will need to follow, (b) access information and forms, and (c) see pictures, get tips, and otherwise be assisted in their quest to navigate the bureaucracy. In essence, the e-regulations website represents a front office option for handling investment procedures; meanwhile the e-invest software developed by the Program covers the back office functions. The two softwares are compatible and could easily be merged. Rather than developing their portal in isolation, UNCTAD approached IBCM to request (1) technical input to the development of the e-regulations portal for the Oriental region, and (2) eventually merging the two softwares to form one package which would be available to regional investment centers throughout Morocco. Along these lines, several rounds of discussions took place in fall 2007 between the Program, UNCTAD and the *Agence de l'Oriental*. An MOU was drawn up between the three parties (but has not been signed yet) which details the responsibilities of each partner with regards to developing the e-regulations investment portal. Two technical consultants, Julien Bornon and Khaddouj Benkhadra, were hired by UNCTAD to work on this activity, under the supervision and guidance of IBCM consultant Jean Michel Mas.

Representatives from USAID and the Program traveled to Oujda on February 26 to sign the MOU as had previously been agreed. Initially, USAID, UNCTAD and the *Agence de l'Oriental* were to be the three parties signing the MOU, with the RIC collaborating as had been discussed with the Ministry of the Interior. However, at a meeting with the Wali that morning it appeared

that the Wilaya and the RIC were hesitant to see the MOU signed due to some outstanding issues. Under these circumstances it was decided to delay the MOU signing until these issues had been resolved and all partners were fully on board.

Despite the institutional delay, technical work has continued. The two consultants hired by UNCTAD systematized information about the procedure “registering a business” and have created a prototype of the portal which can be viewed at www.e-admin.org/maroc. Going forward, discussion is underway about whether it would make sense to deploy the e-regulation website in another region, for example, one where e-invest is already being used.

Task 1.3. Creation of an extranet for shared services among the sixteen regional investment centers

This activity, which had been conditional upon counterpart interest and contributions, was not implemented.

Activity 2 Support to the Ministry of Modernization to oversee a dynamic and continuous simplification process for investment procedures

Task 2.1. Institutionalize the Committee on Investment Procedures

The Ministry of Modernization serves as the official secretariat for administrative simplification committees related to every topic imaginable (i.e., from getting a driver’s license, to standardizing government forms, to allowing for electronic signature). In spring 2007, with support from the Investment Directorate (DI), the Program met with representatives of the ministry and reached an agreement that the National Committee on Investment Procedures (CNPI) - formerly an ad-hoc committee organized under the leadership of the DI - would be taken over as one of the ministry’s official simplification committees. The Program committed to support the work of this committee to simplify investment-related procedures. However, after a long period with no follow-up from the Ministry of Modernization, followed by a change in government in fall 2007, the DI agreed to continue acting as secretariat for the committee.

Throughout the year, the Program supported the DI’s efforts to organize CNPI meetings. The first one was held on December 11th, 2007, and after a long hiatus, regular (weekly) meetings were held between March 5th and April 30th, 2008. During these sessions, recommendations were generated regarding 26 new procedures (this is in addition to the 28 procedures originally simplified by the CNPI in 2006). The simplification status of these procedures varies depending on their nature.

During the summer, consultant Zineb Gaouane finalized a report that prioritizes the most urgent procedures to be simplified by the CNPI according to their feasibility and the impact they would have on investment in Morocco. The identified procedures are as follows: (1) limit the documents required to prove the existence of a corporate entity; (2) collection of payments and fees by the RICs; (3) reduce (or remove if possible) the instances in which investors must legalize their signature; (4) reduce delays in handling requests to cede state land, and (5) empower the departments of health and education to cede state land in their possession to investors.

Recently, the Program identified an opportunity that could strengthen the simplification process for investment procedures by exploiting synergies with other Program activities. The National Committee on Investment Procedures (CNPI) and the regional (and soon-to-be formed national) ‘Doing Business’ committees are similar in that they both have a mandate to work towards the simplification (and harmonization across regions) of administrative procedures that

affect business operations. In September the Program began discussing with counterpart institutions the idea of merging these two efforts into one, specifically by including follow-up work to the CNPI sessions held in April 2008 into the operations and reform proposals generated by the Casablanca regional 'Doing Business' committee in fall 2008.

Task 2.2. Outreach on services available to those without internet access

In 2006 the Program developed a 'Procedures Manual' specifying what administrative formalities needed to be carried out by potential investors, clarifying the legal basis for these procedures, and offering standardized forms to be filled out. Since then, the program has worked to make the Procedures Manual more accessible to remote areas. Since July 2007, entrepreneurs without access to the Internet also have the possibility of phoning a voice server for this information, either in the Arabic or French language: Arabic 090200100 and French 090200101. Necessary forms can also be received by fax. The voice server is essentially an oral version of the investment procedures manual. There has to date been no publicity around these telephone numbers because the publicity should normally be shared by the Moroccan counterpart organization who takes 'ownership' of these tools. Ownership of the procedures manual website and the associated voice server is linked to management of the investment procedures committee (discussed above).

CONCEPT 3 INVESTMENT PROMOTION

Activity 1 Completion of the Report on Investment Trends in Morocco

The Program finalized and disseminated the English version of the report "*Investment Trends 2003-2007: Morocco is in the Race*" which is available in both French and English in hard copy and on the website. Representatives of the Investment Directorate presented and distributed the English version at an international conference in July.

Activity 2 Promoting “green” investment in Meknès

Activity in this area relates directly to the Program’s “Meknès-Tafilalet for a sustainable investment” pilot project. In October 2007, IBCM received a request from the regional investment center (RIC) of the Meknès-Tafilalet region to assist it in attracting investors with an environmentally conscious approach. In order to meet this objective, the Program has been working to identify potential ‘green’ projects, and once identified, helping to fully develop them to the stage that they will attract private investors.

At the request of the region’s *Wali*, the Program organized a ‘*Day of Reflection on a Regional Strategy to Mobilize Investment for Sustainable Development and Promote Renewable Energy*’ on February 20, 2008, with the aim of mobilizing support from local actors and international donors for a regional sustainable development strategy.

Following this event, the Program assisted the CDER in developing a draft agreement for regional collaboration between the CDER and the Meknès-Tafilalet government. The Program, in collaboration with the Meknes regional investment center, has contributed early support to the strategy in four areas:

1. *Energy self-production*: exploiting the region’s renewable energy sources -- i.e. mainly biomass, wind-based and biogas, promoting energy self-promotion by large energy consumers (wind) and the Meknes municipality (biomass), and identifying opportunities for Clean Development Mechanism² (CDM) financing.
2. *Renewable energy sector development*: characterizing both existing and potential markets for renewable energy in order to build partnerships between international producers and local service providers.
3. *Energy Efficiency*: attracting new technological solutions and know-how related to energy efficiency and improve the competitiveness of existing enterprises.
4. *Policy and Regional Promotion*: developing a unique brand in order to position the Meknès-Tafilalet Region as a preferred choice for foreign direct investment -- particularly in the field of renewable energy, and decentralize the evaluation of environmental impact studies.

Energy self-production. An assessment conducted in collaboration with carbon asset management company South Pole Carbon (SPC) identified major potential for renewable energy and Clean Development Mechanism (CDM)³ projects in the Meknès-Tafilalet region. The South Pole Carbon report highlighted Meknès-Tafilalet’s untapped CDM potential in the fields of biomass, wastewater treatment (lagoons), landfills and energy substitution and recommended that sustainable investment focus on these areas. Consequently, one of the pilot’s strategic priorities is to promote CDM contributions to sustainable investment projects in the region. The Program sponsored two feasibility studies, one for Meknès’ landfill and the other for the wastewater treatment plant. The findings were that both projects are viable and eligible for CDM financing. The municipality and the RADEM are now preparing to hand over the project to private investors (CDM developers). Wind is also proving to be one of Morocco’s most viable sources of energy. While measurements are currently underway to certify the Meknès region as a national provider of wind energy, the Program is identifying candidates (large industries) to

² CDM is an arrangement under the Kyoto Protocol, which encourages industrialized countries with a greenhouse gas reduction commitment to invest in projects to reduce emissions in developing countries.

³ CDM is an arrangement under the Kyoto Protocol, which encourages industrialized countries with a greenhouse gas reduction commitment to invest in projects to reduce emissions in developing countries.

produce for their own energy needs, by linking them to wind park developers and carbon credit buyers (provided that the substitution of fossil fuel allows for emissions reduction and carbon credit generation).

Renewable Energy Sector Development. The Program has been focusing on the solar energy sector. International manufacturers (and their outreach partner companies) look for solid partners on the ground who can help them market new technology and generate increasing demand for it. In exchange, several have said to be willing to invest in their local partners' (distributors, installers and maintainers) professional capacity, marketing skills and improved quality of services provided to end markets. IBCM is collaborating with the founders of the *Energy Houses* program (a UNDP/CDER sponsored program providing assistance to distributors, installers and maintainers of solar energy generating technology) to conduct a value chain analysis of the solar energy sector. The study aims to identify upgrading needs and opportunities for building international linkages, and the Program will support local organizations to develop these partnerships in Meknès. The Moroccan market assessment and value chain analysis have been conducted over the summer and a group of students from Columbia University's Business School are currently helping identify potential foreign investors and opportunities for partnerships on a voluntary basis during the fall semester.

Energy Efficiency. IBCM has identified two sectors with potential to reduce energy consumption and attract green technology and know-how: construction and industry. Regarding the construction sector, the Program has helped pull together stakeholders around the development of an *ecovillage* attached to Ifrane's National Park, at the initiative of the Ifrane governor and in collaboration with the Meknes Regional Agency for Urban Planning and the CDER. Along with the CDER, the Program helped recruit an Italian institute to conduct a technical prefeasibility study, which was finalized over the summer. IBCM has also coordinated with a GTZ-led training initiative to improve industry competitiveness by promoting approaches to energy efficiency and clean production. The idea is to have Meknès-based firms participate in the GTZ-sponsored six-month training seminar on profitable environmental management. A representative of a local firm began the training in July, which will continue for six months.

Policy and Promotion. Environmental impact studies (EIS), required for many investment projects, are currently evaluated at a central level in Rabat, where an overloaded national committee cannot deal with the steadily increasing amount of submitted reports. As a result, many investment projects are blocked for several months, while others get away without or with low quality studies. Recently, a law was passed to decentralize the evaluation of EIS. In an effort to help the regions implement the new law, GTZ has taken the initiative to build regional capacity. Following the Volubilis Conference in February 2008, GTZ invited Meknès-Tafilalet to be one of four pilot regions. Depending on how soon the regional capacity-building begins, IBCM will help mobilize all relevant players at the regional level to be included in the training and may support the development of the syllabus. In addition IBCM plans to support the development of a regional brand, around the sustainable investment concept.

CONCEPT 4 TRANSPARENCY

Activity 1 Support to SNIMA in the conception, production, and utilization of its upgraded website

Since 2006 IBCM has been working with SNIMA, the Moroccan standards agency, to support its effort to communicate with the private sector about current and proposed standards and norms.

Following the approval of the website specifications by the Ministry of Industry and Commerce during the winter, the Program conducted a selection process in spring and identified a service provider that will produce the website for the SNIMA. This tool will allow both Moroccan and international businesses to access current standards and norms, promote SNIMA's role as the Moroccan standard agency, and facilitate its communication with the private sector. The SNIMA website should be fully operational by March 2009.

COMPONENT II JUDICIAL REFORM AND STRENGTHENING THE COMMERCIAL COURTS

CONCEPT 1 RECOMMENDED REFORMS TO THE BANKRUPTCY LAW

Activity 1 Workshop and introduction to circuit d'adoption

The Program and earlier USAID commercial law reform programs have worked on bankruptcy law for a number of years. Although many activities have been undertaken, such as the organization of a national workshop on bankruptcy law reform (2005) and the development of a set of detailed proposed amendments (2007), the reform process has not yet gained rapid momentum. In order to boost the process and at the request of partners, the Program undertook consultations in April-May 2008 with a number of private sector representatives, including individual bank executives, the GPBM (national association of banks), judges and ministry officials. Building on past work -- mainly the contributions of two previous consultants, the 2004 Kelly and 2007 Hajjami reports, the Program's legal reform expert Remy Kormos finalized a report outlining a new approach to the Moroccan bankruptcy law reform process. The report has been circulated in draft form to partners and is being finalized for publication in both English and French.

Previous approaches focused on trying to change the law by proposing amendments. However, laws are always very complex and politically charged. Kormos recommends, therefore, adopting a more incremental and participatory approach by "support(ing) the institutions and individuals tasked to prepare the amendments" rather than "going straight to proposed legislative amendments." The new approach also envisions providing resources and expertise to private and public sector participants in the reform process. Kormos looks at the reform process as a *whole*, by identifying needed regulatory (e.g. implementing decrees) and institutional reforms (e.g. strengthening judicial capacity to handle bankruptcy cases) as well legislative amendments. Based on a comparative analysis including both the French/civil and Anglo-Saxon/common law systems, the report prioritizes key issues, provides bibliographical references for each issue analyzed, and outlines possible solutions and next steps. Over the summer, the Program distributed binders with up-to-date international and comparative law resources to key participants in the reform. The ball now is in the court of the Moroccan partners. If the reform process is to move forward it will be necessary to establish some sort of public-private dialogue in which both the justice system and the Ministry of Industry and Commerce are represented.

Activity 2 Practical improvements in the day-to-day handling of bankruptcy cases

Due to uncertainty about the outcome of the reform process, this activity has been suspended, with the rationale that it makes sense to invest in clarifying operational procedures once there is agreement on the higher-level framework.

CONCEPT 2 JUDICIAL CAPACITY BUILDING IN COMMERCIAL LAW

Activity 1 Building ISM's capacity to educate judges on commercial law topics

Based on IBCM consultant Mr. Fisser's recommendations regarding the *Institut Supérieur de la Magistrature* (ISM)'s capacity, needs, and activities, and following discussions with ISM, the Program designed and implemented throughout the year a new approach to judicial training activities, called the 'four judges' model. In this model a senior expert worked closely with a

group of four judges to develop a practical training program on trademark law. These same four judges and the senior expert then served as trainers in the training programs for judges held in two cities – Rabat and Agadir. Training outreach was much larger, however, with magistrates attending from Fez, Meknes, Oujda, Tangier, Marrakech and Agadir. In addition, each of the four judges received a request from their court president to organize internal learning sessions with their colleagues and are being tapped regularly for advice within their jurisdictions. The two-day intensive training workshops included the use of a Trademark Guide produced by the Program as well as a sophisticated case study and role play. The training materials have also been adapted to the needs of student-judges undergoing initial training at the ISM and included in the 2008 training program at the ISM.

Activity 2 Support to OMPIC to improve the application of Morocco's new intellectual property laws

As mentioned in Activity 1 above, the Program worked with OMPIC throughout the year to build the capacity of four judges to become trainers of other judges. These four judges have recently delivered training to judges from the northern (Tangiers, Fes, Oujda) jurisdictions as well as from southern Morocco (Marrakech, Agadir).

In addition, the Program continued working on the development of a patent guide in close collaboration with the Director of OMPIC Adil El Maliki, Judge Zaoug, Professor Tijani Bounahmidi, and Alain Souchard of INPI – the French intellectual property agency. Similar to the trademark guide, this work is meant to serve as a reference not only for judges and lawyers, but also for university researchers. The guide can also serve as a “textbook,” the basis for developing a training curriculum. The guide is scheduled to be completed by the end of next quarter.

CONCEPT 3 PROMOTING ALTERNATIVE DISPUTE RESOLUTION IN MOROCCO

USAID's Improving the Business Climate in Morocco Program has been working since late 2006 to build partnerships with interested groups and individuals, with the goal of supporting the nascent field of alternative dispute resolution (ADR) in Morocco.

Activity 1 Assistance to CIMAR

Over the year, the Program has helped the Rabat International Center for Mediation and Arbitration (CIMAR) develop its capacity to offer mediation services to the business community, gain visibility and increase its volume of activities.

The program supported CIMAR in the organization and delivery of two training sessions on commercial mediation held in December 2007 and January 2008 in Rabat. These events were organized by IBCM and CIMAR in collaboration with the international organization Search for Common Ground.

Over the summer, the Program hired a local consultant to work with CIMAR to update its business plan, prioritize upcoming activities, and outline a detailed financial sustainability and investment strategy. In addition Program staff met one-on-one with Rafael Bernal, a Colombian presenter from the ADR workshop (see Activity 2 below). Mr. Bernal has worked tirelessly for 25 years to build the largest and most respected ADR center in Colombia. He shared a model of its business plan to help orient CIMAR in the preparation of its document.

A website for CIMAR is also under development, which will provide information on services offered, the mediator and arbitrator lists, outreach activities and other resources such as an ADR

library. The Program selected the service provider for the development and implementation of CIMAR's website in August, and work has already begun.

The Program also contributed to a number of conferences, seminars and informational events throughout the year:

- **March 13th**: the Program supported a regional forum entitled "Mediation - arbitration, lever of development for SMEs," organized in Settat by CGEM's commission on small and medium enterprise. Speakers included arbitration expert Raed Fathallah, who spoke about the benefits of arbitration services for small and medium-sized enterprises and Sami Huerbi, representative of the International Chamber of Commerce for the MENA region, who presented the Chamber's approach and services. In addition COP Lara Goldmark gave a presentation outlining the activities of the Program in the field of ADR, as well as lessons learned.
- **March 14th**: a seminar on commercial arbitration was held in Rabat, organized by CIMAR in collaboration with the Program. National and international experts discussed the new legal framework for arbitration in Morocco and shared their expertise in the field of arbitration (including a practical case study exercise offered to a small group in the afternoon).
- **May 26th, 27th and 28th**: an international conference on "Alternative Dispute Resolution Mechanisms for labor disputes" was organized by CIMAR, the Ministry of Labor and Vocational Training, the Tunisian Center for Mediation and Arbitration, the Abu Dhabi Center for Commercial Conciliation and Arbitration and the Moroccan National Chamber of Notaries. At this event CIMAR signed two cooperation agreements, the first with the Abu Dhabi Center for Commercial Conciliation and Arbitration, and the second with the Maghreb centers for mediation and arbitration. The conference was an opportunity to discuss the relevance, opportunities and limitations of ADR with regard to labor dispute resolution.
- **June 3rd**: the Program supported an awareness event, "Mediation Day," organized by CIMAR in collaboration with the Moroccan national mediators association (IMAM). Key local players participated, such as CMAT (the mediation and arbitration center in Tangiers), the IFC, the Ministry of Justice, and CIMAR's other institutional partners.

CIMAR is now the best known and most active ADR center in Morocco, with the highest volume of cases reported anywhere in the country (still only a few per month). Since June 2007, several cases have been concluded. Cases include but are not limited to the following sectors: insurance, real estate, and foreign investment in manufacturing. Others underway involve banks, insurance and transportation companies.

IBCM has incorporated a clear exit strategy in its approach to supporting CIMAR. Events programmed for 2008-2009 will be aimed at preparing local trainers to offer high-quality training, followed by the organization and delivery of training using a fee-for-service approach.

Activity 2 Collaboration with the International Finance Corporation (IFC) on public awareness, support for a pilot mediation center, and training and certification for mediators

USAID/IBCM entered into a Memorandum of Understanding (MOU) with the IFC on October 30, 2007. This MOU involves a commitment for parallel financing of specific tasks as part of an integrated strategy to promote commercial mediation in Morocco with three components: public

awareness, support of a pilot mediation center, and training and certification for mediators.

After a number of meetings over the year, the Program and the IFC were happy to obtain a common agreement from partners on the establishment of a national public-private commission to promote ADR. The commission, which met for the first time on September 18th, is made up of the Ministry of Industry and Commerce, the national Moroccan business association (CGEM) and the national Moroccan banking association (GPBM). Both IFC and USAID are members with observer status. During the meeting the commission agreed on the workplan that IFC-USAID had shared earlier with Mrs. Boucetta of the Ministry of Industry and Commerce.

The public-private commission oversees four main activities: (i) providing an overall framework for mediation in Morocco, (ii) offering institutional support to mediation centers, including incentives and mechanisms for quality control, (iii) offering mediation training (both continuing education for professionals and introducing mediation into the curriculum of law and business universities); and (iv) an association to promote mediation which will sponsor and organize awareness raising events.

Training and certification for mediators. As part of the IFC/USAID collaboration and in parallel to the establishment of the public-private commission, the Program co-organized the following events:

- **Roundtable on July 8th.** This event gathered about 75 mediators, lawyers, accountants and other professionals and government officials interested in ADR, to listen to presentations on best practices and practical experience from three countries: Colombia, Pakistan and Italy. The presentations were particularly useful in that they focused on the real-world challenges faced by mediation centers and provided a comparative perspective. The sophistication of the questions coming from the Moroccan participants demonstrated the progress that the local ADR community has made over the last couple of years. Senior Moroccan business lawyers and arbitrators also participated.
- **Advanced training in mediation, July 9-11.** A three-day advanced-level training in mediation skills and practice was held in Rabat. The trainees had all received prior training, with the majority having attended USAID/IBCM-sponsored trainings organized in collaboration with the International Center for Mediation and Arbitration in Rabat (CIMAR) and Search for Common Ground in 2007-2008. The training was delivered by consultants affiliated with the ADR Center in Rome, Italy and, for participants who pass the final evaluation, offers an international certification as a mediator.
- **Basic and intermediate training in mediation, July 14-18.** A five-day training was held in Casablanca. Participants were drawn from the Casablanca bar, the accounting and notary professions, and included a number of new faces.

COMPONENT III EXPANSION OF FINANCIAL MARKETS

CONCEPT I MODERNIZING MULTIPLE BUSINESS FUNCTIONS THAT ARE HANDLED BY THE REGISTRE DE COMMERCE

Activity I Putting the Registre de Commerce on line

The original goal of this activity had been to increase access to credit, via the modernization of the Moroccan collateral registry system (as applicable to moveable collateral only). Indeed, SMEs constitute 90% of the private sector in Morocco, and are often excluded from the banking sector because they lack the guarantees that Moroccan banks require in order to provide access to credit. Under Moroccan law, the *Registres de Commerce* (commercial registries), part of the court system, are responsible for documenting all information related to the life cycle of an enterprise, including tracking movable property used as collaterals. In other words, modernizing the collateral registry system necessitates reforming and/or upgrading the commercial registry system.

Today, most collateral reporting is done by hand, in the physical bound books that legally constitute the commercial registry. This information is not consolidated at the central level or in electronic form, which means that, *de facto*, an enterprise could obtain multiple liens on the same equipment in different regions. In order to obtain the true collateral status of an enterprise, one would need to visit all clerks in their respective courts.

Task 1.1. Feasibility study

In spring 2007, the Program completed an information technology pre-feasibility study analyzing the current functioning of the commercial registry and identifying four scenarios under which it would be possible to build a centralized national database with real-time information. The pre-feasibility research also included a legal assessment, which indicated that without major reforms to the legal framework for secured transactions, modernizing the commercial registry would **not** make it easier for Moroccan businesses to get credit (or for creditors to recover their loans). Reform of the secured transactions framework, according to partners, is not on the high priority list right now.

Despite these findings, the Program has not given up altogether working to modernize the *Registre de Commerce*. Indeed, the diagnostic work conducted regarding collateral registry and for the common business identifier initiative has shown that, now more than ever, it will be critical to address the weaknesses posed by the commercial registry if Morocco is to improve its business environment.

In September, the Program finalized a report that summarizes the analytical work mentioned above as well as the outcome of stakeholder consultations (see below), which took place in Casablanca and Agadir during February.

Task 1.2. Development and testing of electronic solution

As mentioned above, the legal assessment's main conclusion was that significant reform to the secured lending framework is necessary to accompany the modernization of the commercial registry. In addition, consultation with current collateral information users took place through two round tables, one with private partners in Casablanca, essentially the banking sector, on February 13th 2008 and the other with banks and representatives of the public sector (i.e. the Ministry of Justice and the tax authorities) in Agadir on February 14th 2008. These round tables

concluded that even the best technological solution, such as real-time information available electronically on a 24-hour basis, would increase only marginally access to credit. Bankers were clear that the current law (and the reality of the court system) does not provide sufficient incentives to lend or mechanisms to recover debt.

One decision that has been taken in light of these findings was not to proceed forward with the development of a software or other information technology system focused on collateral registry until (1) Morocco has developed a system for allocating a national business identifier that is common – meaning known - to all government actors; (2) additional work has been conducted on the harmonization of operating procedures for the commercial register, and (3) a champion has come forward to lead the efforts to reform the country's secured lending framework. As work progresses on these and other fronts, USAID/Morocco's Improving the Business Climate Program will welcome the opportunity to support Morocco in moving toward the implementation of a modernized collateral registry system.

Task 1.3. Training for users

Following the recommendations and conclusions outlined above, trainings will take place only if there is a request to this effect from the Ministry of Justice and other counterparts (such as OMPIC). The scope of the training will be redefined since it has been agreed that it does not make sense at this point to develop an information technology system for collateral registry. It should be noted however that work aimed at upgrading of the commercial registry will go in hands with the development of a common business identifier.

Task 1.4. Common business identifier working group

There is a consensus among Moroccan government agencies that interact with enterprises on the need for a common business identifier (CBI). The CBI will allow government agencies to exchange, process, and analyze reliable information about Moroccan enterprises. Over time (though not immediately) the existence of the CBI should make it simpler for Moroccan businesses to interact with the government. The CBI will be associated with an enterprise's name and correct address.

Over the year, the Program provided support to an inter-ministerial commission presided by Minister Baraka of the Ministry of General and Economic Affairs (MAEG). The commission's mandate is to develop and propose a CBI implementation scenario. The commission, which met twice during the spring, is composed of the tax authorities (DGI), the social security agency (CNSS), the commercial registry (RC), the Moroccan industrial property office (OMPIC) and the department of statistics (HCP). Following each plenary meeting of the inter-ministerial commission, the Program organized several subcommittee meetings: a technical sub-committee is in charge of the IT questions while a legal subcommittee is dedicated to legal issues related to the CBI. These subcommittees led to important outcomes: a technical platform has been developed from which a demonstration of the CBI can be generated; a circular that will give a legal basis to the CBI has been drafted, and the management of past data has begun.

ADMINISTRATION AND MANAGEMENT

Quarterly Steering Committees -- This year's first quarter saw the successful implementation of the first phase of the Program's new annual workplan, which was shared with the Steering Committee on October 23rd. Attendance at the Steering Committee meeting was high. Also due to the recent change in government we were joined by several new members. There was less debate than usual; but in the words of Ms Bahia Omari: "We have nothing to say...you have done an excellent job in the last quarter!" with the transition in government, Steering Committee members were quite active this quarter in soliciting detailed information about our Program's activities; we took this as an excellent sign since it usually meant they were incorporating these activities into the agenda of their new Minister or explaining our Program to their new colleagues.

The second quarterly Steering Committee meeting (February 21st) was marked by a presentation from Mrs. Boucetta of the Ministry of Commerce and Industry on the Ministry's activities to develop the private sector. COP Lara Goldmark divided her presentation into two parts: activities that were moving fast and those that were facing constraints. This approach worked well as the Committee members instantly suggested ways of overcoming the obstacles and getting things moving again. To this effect, it was good to hear Mr. Tazi of the Ministry of General and Economic Affairs reiterate the support both of his Minister and the Prime Minister's office for the Common Business Identifier activity.

Being a year from the Program's closure, the Spring Steering Committee meeting addressed the question of the Program's sustainability, which fostered a lively debate on the coordination of donors' initiatives and was an opportunity for members to highlight existing projects that could overlap or complement the Program. Marwane Mansouri of the Investment Directorate (DI) gave a presentation on investment promotion.

Program Management -- At the beginning of October, Lisa Lynn of DAI Bethesda traveled to Morocco to assist in finalizing the Performance Monitoring Plan (PMP) and to supervise collection of the Operating Plan (OP) data, in time to meet USAID's October 12 deadline. Mariam Swift of MSI also offered valuable support during the process. Later, in early December, a meeting was held at USAID with the assistance of Michelle Adams-Matson to work through some last issues and ensure that the Program's new PMP is fully in line with USAID/Morocco's results framework.

In November Helle Weeke arrived in Rabat for 2 weeks to provide technical input on the pre-feasibility study for the *Registre de Commerce* online, looking specifically at different models for collateral registry. She also made a presentation to Program staff on the Vietnam Provincial Competitiveness Index, a business climate measurement tool, which was custom-designed for Vietnam and has been used for three years now with well-regarded results. As of January 2008 Helle has been our new Project Quality Manager (PQM), taking over from Catherine Johnston.

In February, the Program welcomed Helle Weeke back again to Morocco to orient the international presenters at the trademark training and provide technical input to the pre-feasibility study for the Commercial Registry initiative. During her two-week visit, Helle attended the trademark training and worked with consultant Daniel Benay and the Program to prepare for the Collateral Registry roundtables held in Casablanca and Agadir.

Also, the Program has made progress on the Performance Monitoring Plan (PMP) over the spring period. M. Tim Sparkman visited the Program from April 15th to April 26th to work on the PMP. Following his visit, the Program finalized and submitted the PMP to USAID for approval.

Finally, the Program hosted an internal DAI audit from July 1st to July 8th 2008, led by Emad Sayegh from the company's Palestine office.

Human Resources -- Over the year, the Program saw a few new additions to the team: Julie Shakespeare worked as a Regulatory component's intern until May 2008. Mohammed Ouzeroual started as a Legal component's intern in the fall before being hired as a full-time consultant in the spring. Over the year, Yousra El Hatib worked on the *Doing Business* follow-up activities. For the month of January, consultant Roman Schibli took over Caroline Huwiler's activities in the regulatory reform component while she was on leave. In May, Helene Kiremidjian replaced Julie Shakespeare as a Regulatory Reform and Investment Promotion intern. In June, the Program welcomed Mr. Remy Kormos as the new Coordinator of the Judicial Reform and Strengthening the Commercial Court Component of the Program. The Program also hosted Nicolas Toitot as an intern under the Regulatory and Investment Promotion component from August 11th to September 10th 2008. Lastly, the Program also welcomed Yousra El Hatib again in September as a Regulatory Reform and Investment Promotion intern.

Communications and outreach – These activities saw important advances this year. During the fall semester 2007, the Program co-organized a press conference on investment in Morocco with the *Direction des Investissements* (DI) and UNCTAD (United Nations Conference on Trade and Development), to mark the occasion of the launch of UNCTAD's annual World Report on Investment. The national "Doing Business" conference generated significant publicity as well. During the winter, the judicial component generated media coverage; especially activities linked to alternative dispute resolution (ADR) while during the Spring, the focus was on activities linked to the creation of Doing Business Committee in Casablanca (May 2, 2008), and to the CRI of Souss-Massa-Drâa (May 19, 2008). Over the year, several success stories have been developed (See Annexes 2): in the winter, the team wrote on the launching of the first Professional Association of Mediators in Morocco; the spring's success story focused on how mediation saved a Moroccan property beach investment; although media coverage was limited this summer due to the holiday period, the team developed a success story based on the "four judges" training model.

ANNEX 2: SUCCESS STORIES

MEDIATION SUCCESS STORIES

Morocco's First Professional Association Of Mediators Takes Off

Mediation is nothing new to Morocco. As in other Islamic cultures, the tradition of using a neutral third party to settle a dispute between two people or groups has been around for centuries. What is new, however, is that for the first time ever in Morocco, mediation has become an institutionalized alternative to the court system. A new law was passed in the Moroccan Parliament on 6 December 2007 (Law n° 08-05), giving legitimacy to private, out-of-court mediation and importantly, ensuring the whole process remains confidential. For a group of over fifty Moroccan professionals this new law came at exactly the right time, as it helped pave the way for Morocco's first Association of Mediators.

These fifty professionals were brought together for Morocco's first commercial mediation training held between June 2007 and January 2008, organized by the USAID's 'Improving the Business Climate in Morocco' program in collaboration with the NGO 'Search for Common Ground' and the Rabat International Center for Mediation and Arbitration (CIMAR). The need for this training was apparent. In Morocco, commercial mediation disputes can take over two years before an expensive in-court settlement is reached. However, cases can be settled in just one month through mediation. By January 2008, Morocco's first trained commercial mediators were ready to put their skills to good use, but they still faced a major challenge. As court-referred mediation is not yet institutionalized in Morocco, where would their clients come from? Individually they would struggle but by grouping together with other professional mediators and forming an association, they could expect referrals.



On 14 February 2008, Morocco's first Professional Association of Mediators held its first General Assembly in Rabat. Their mission: to promote mediation throughout Morocco and increase the number of disputes settled in this way. To achieve this, the association is working for the inclusion of a clause in contracts, recommending that mediation be used if a dispute should arise. In the meantime, members are busy marketing their mediation skills to make sure potential clients come to them. As Mohammed Belmahi, the president of the association, points out: "Our mediators are from all professions – from doctors to trade unionists – so we have the expertise to settle all types of disputes that are brought to us. Furthermore, we are from cities throughout Morocco, so potential clients won't have to look far." Also, this organization plans to offer training for aspiring mediators – continuing the work begun by USAID. Most importantly, thanks to the initiative of the members in creating this institution, potential clients all over Morocco will know where to go.



IMAM's President: Mr. Mohammed Belmahi

Mediation Saves Moroccan Beach Property Investment

It is not only the glitzy, Dubai-based construction companies that are attracted to the current property boom in Morocco. For ordinary Moroccans, investing in property is a means of financially securing an uncertain future. With this in mind, a group of 19 friends jointly purchased a large plot of coastal land to construct beach cottages. They could cover the purchase price but not the building costs, so they hired the services of real estate expert, Mr. Hassani *. His task was to identify possible investors and handle administrative procedures. After much negotiation, the owners of a successful construction company, the Alami family, agreed to come on board the project as investors. The group was thrilled that their project was going ahead.

With the signing of the purchase contract everything seemed to be going well: until the question of Mr. Hassani's payment. In lieu of paying Mr. Hassani his professional fees, the Alami family had agreed to give him a share of the land. However, they were now refusing to do so, alleging that he had not completed the administrative tasks. In response, Mr. Hassani began legal proceedings. A court injunction was issued halting all further construction on the land until the dispute was settled. The group knew that a court proceeding could take years, leaving their investment hanging in the balance. Frustrated, they sought advice from the notary who had originally put their sales contract together. He suggested using an 'out-of-court' technique to settle the dispute: mediation.



Mediation is a technique whereby a neutral third party helps two or more disputing parties negotiate a solution. Throughout 2007 and 2008, USAID's 'Improving the Business Climate in Morocco' program organized commercial mediation trainings in Rabat. The notary, Mr. Azzouzi, had successfully completed this training and was ready to take on his first case. Mr. Hassani and the Alami family agreed to give mediation a shot. As it was the Muslim holy month of Ramadan, negotiations were held in the evening, after the daylight fast was broken.

"It was a challenging first case," reflects Mr. Azzouzi. "Disputes are always multi-faceted and this case was further complicated by the fact that 19 people were indirectly implicated." Interestingly, the timing of the case helped. Whenever emotions became high, Mr. Azzouzi would get the disputing parties back on track with the simple words: "It's Ramadan." By the end of the sacred month a solution was found. The Alami family bought Mr. Hassani's share of the land and paid his services rendered; in return he withdrew his court petition and claim to the property. Part of a wave of the first commercial disputes to be successfully resolved through mediation, this case offers inspiration to Moroccans hoping to invest their savings for the future.



*Names of the disputing parties have been changed for legal reasons (wordcount: 475)

The “Four Judges” Model: More Autonomy for Magistrates

Moroccan commercial court judges are increasingly hearing cases involving trademark disputes, but until recently they had received little training in this area of the law. As a result, judges have often had to rely on the assistance of court-appointed experts in rendering decisions on trademark disputes.

In response to requests from Moroccan partners, including the Industrial Property Office, USAID’s “Improving the Business Climate in Morocco” program developed and implemented an innovative trademark law judicial training program. Donor-funded initiatives typically bring foreign and/or local trainers from outside the court system to train judges. Too often the impact of such one-off trainings is limited since the expertise and training techniques do not remain within the courts. In contrast, a more sustainable approach was taken by the Program.

First a retired judge and judicial trainer with expertise in trademark law prepared and published a 100 page “Guide to Trademark Law” with assistance from international experts. This senior trainer then worked closely with a team of four young judges interested in developing expertise in trademark law and learning training techniques.



Working with the Commercial Courts and other partners, the Program then organized intensive two-day trainings throughout the Kingdom, reaching judges from all eight commercial jurisdictions over the course of 2008. The four judges assisted the senior trainer in all of these trainings sessions,

gradually taking on a larger share of the presentations and leading the role plays and discussions. At the last training, held in Agadir in June 2008, the four judges demonstrated markedly improved training skills.

As a result, commercial court judges have improved their understanding of trademark law and are able to render judgments more promptly. *“Before these trainings, I always needed the help of an expert to address certain technical aspects of trademark law-related cases, but thanks to these trainings I consider myself much more independent today and do not need to contact any expert anymore”*, a judge who recently participated in the training.



Just as importantly, the four judges have continued to disseminate their trademark law expertise in their respective courts through small seminars with the support of court presidents. The training materials are being used to train new judges at the Judicial Training Institute in Rabat and the four judges should be giving follow on trainings for commercial court judges in the future. Given the proven track record of this “Four Judges” approach, the Program is discussing the possibility of implementing similar judicial training in other areas of commercial law.