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Improving the Business
Climate in Morocco

Annual Workplan October 2007 – September 2008

September 2007

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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
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

Improving the Business Climate in Morocco Workplan October 2007 – September 2008

INTRODUCTION

Why should Morocco work to improve its business climate? After all, foreign direct investment is six times higher than it was in 2002, growth has been steady over the past few years at five percent¹, and unemployment seems to be waning. Morocco's leading exports are concentrated in markets that are growing, and an analysis of product categories shows signs of progress towards a knowledge-driven export sector. Undoubtedly, there is an argument to say that the "glass is half full."

On the other hand, Morocco still scores poorly on most assessments of its business climate relative to other countries. This means that competitors are moving as fast or faster to create a business-friendly environment. The huge increase in private investment, due mostly to inflows from Arab countries, may not be sustainable. Primary agriculture, and thus volatility due to weather, is still one of the most important variables that determine how the overall economy fares each year. And unemployment, particularly youth unemployment, remains a major concern. Entrepreneurs in Morocco² report that productivity is compromised by administrative inefficiency and that many transactions, whether business to business, business to government, or among government institutions, are lacking in transparency.

USAID/Morocco's Improving the Business Climate Program (IBCM) has been operating since October 2005. The Program was designed to help the Moroccan government comply with certain provisions of the bilateral Free Trade Agreement - for example those relating to technical barriers to trade, transparency, and intellectual property rights. IBCM has a mandate to create conditions that will allow all firms to benefit from the trade opening with the United States, whether foreign or Moroccan, large or small.

The Program implements a wide range of activities under three headings: regulatory reform and investment promotion, legal reform and strengthening the commercial courts, and expansion of financial markets. There is a steering committee composed of representatives from over a dozen Moroccan counterparts. Those that have worked most closely with the Program to date include: the Ministry of Justice, the Ministry of the Interior, the Moroccan industrial property office (OMPIC, an agency under the Ministry of Industry and Commerce), and the Investment Directorate (DI, under the Ministry of General Affairs).

Section II below introduces a new, simplified conceptual framework for the Program. Then in Sections III, IV and V a set of interrelated activities and tasks are presented. Descriptions of the activities include one or more of the following elements, as deemed appropriate: background information on why or how this activity originated and/or progress to date on this front; conditions or issues to be negotiated (i.e., counterpart resources expected from a partner institutions); key deliverables and milestones; the expected completion date, and indicators to measure success.

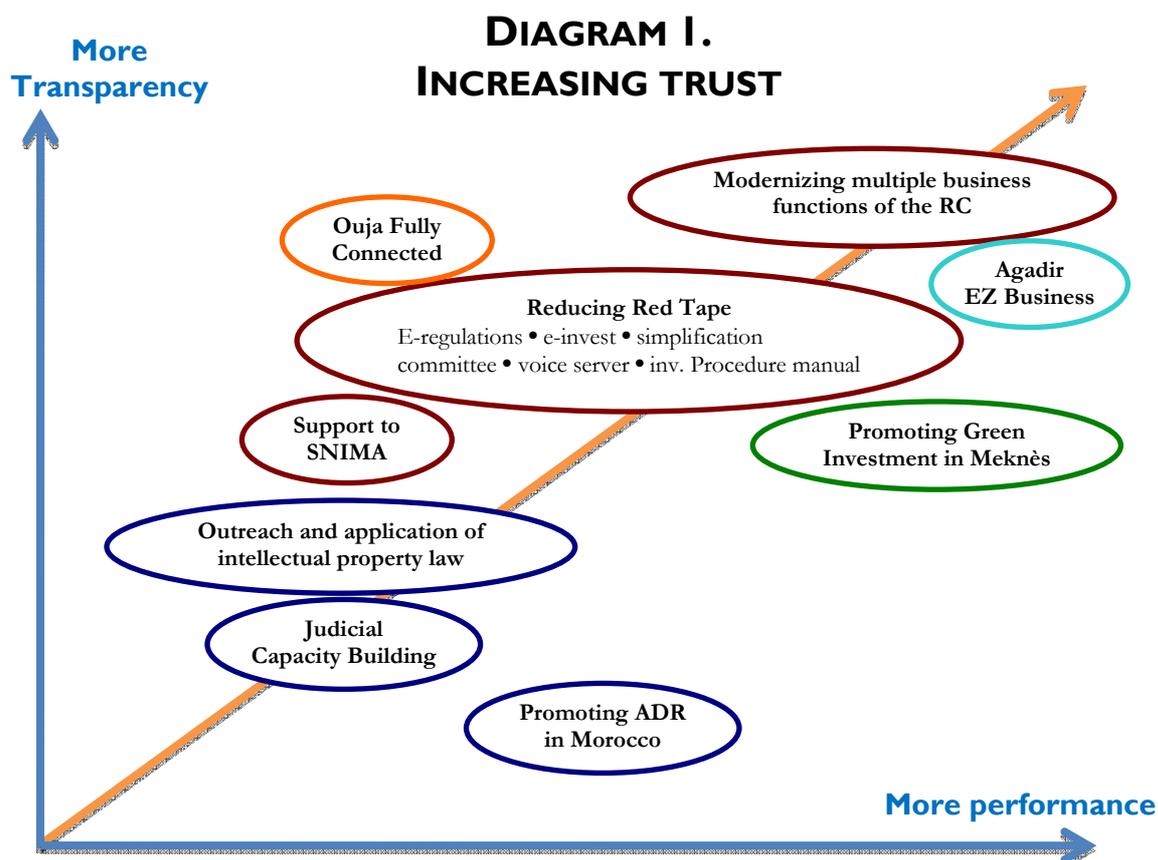
¹ Non-agricultural GDP from 2004-2006 has hovered between 4 and 5%.

² Those surveyed for two studies recently conducted by IBCM: the Executive Opinion Survey and the Regional Economic Profiles.

CONCEPTUAL FRAMEWORK

Trust is at the heart of economic exchange. When you go to the butcher to buy meat, you are trusting that the meat is fresh, that the butcher's equipment is clean, and that when you ask for a kilo you indeed receive a kilo. In today's global economy where it is rare to actually know your butcher, there are a series of rules, regulations, procedures and norms that governments establish and enforce and businesses follow. Whereas consumers who don't like the services they are getting can "vote with their feet" (i.e., go to another butcher), it is harder for businesses to avoid dealing with the government (i.e., to obtain permits and authorizations), or to abandon business relationships in which they have already invested resources (i.e., dispute resolution).

The Improving the business climate in Morocco program works to create an environment of trust between businesses, between business and government and among government institutions. Diagram 1. below shows on the horizontal and vertical axes two key levers that the Program uses to create an environment of trust: enhanced transparency, via training, the dissemination of information and by creating a space for dialogue; and improved performance, via the provision of tools that allow government agencies to interact with businesses –or with each other in order to better service businesses - with greater speed, efficiency, reliability, and flexibility.



One advantage of using this transparency-performance framework is that both are relatively measurable characteristics. The availability of information, and its use, can be verified easily. Performance of public institutions vis-à-vis the business environment can be quantified in terms of time, cost, or number of procedures. Performance can also be evaluated via a simple yes-no question (i.e., is it possible to do X, does the administration offer Y service?) Measurability, while not an end in itself, can help IBCM assess progress towards its many objectives, and prioritize those activities most likely to yield major impact.

In addition to presenting and viewing its activities in this new simplified framework, the Program proposes to work towards tangible improvements in the local business climate in three pilot regions, with the goal of showcasing innovative practices and promoting their replication throughout Morocco. The pilot projects are detailed in the next section and activities associated with each can be found throughout the workplan. In addition to multiplying impacts at the local level (the simple idea of “making something happen” in a specific region), the pilots will serve as conductor wires through which the multiple activities of IBCM can be linked in order to yield synergies and accelerate progress on diverse fronts.

COMPONENT I REGULATORY REFORM AND INVESTMENT PROMOTION

Some of the activities under this component – namely, those that are part of the “cutting red tape” concept and some of the investment promotion work – were begun under previous USAID projects and have continued to yield fertile ground for collaboration and advances. Others – such as the work on transparency, and activities related to the “building awareness of business climate issues” concept are new. IBCM has been lucky enough to collaborate with consultants from earlier projects who bring a wealth of knowledge to the table, yet to benefit also from fresh intellectual inputs in the form of three wide-ranging diagnostic studies conducted in seven regions of Morocco.

Deliverables and timeframe

Deliverables under this component are organized into four “concepts”. The concepts are meant to be simple, easy to communicate and to understand. Each concept links together a set of related activities and tasks.

CONCEPT I BUILDING AWARENESS OF BUSINESS CLIMATE ISSUES

The Program has recently completed a series of diagnostic studies on Morocco’s business climate, partnering with several well-known international ranking groups such as the World Bank’s *Doing Business* team, and the World Economic Forum’s Executive Opinion Survey network. The original purpose of the studies was to draw attention to business climate issues where there is room for improvement, identify good and innovative practices that could be shared among regions, and stimulate a “positive” competition.

Following stakeholder presentations in the seven regions where the surveys were conducted, the Program has worked with regional counterparts to develop a set of “demonstration projects” which will address weaknesses in the business climate and/or harness opportunities for investment promotion.

These three projects are still being discussed and vetted with local partners, thus the descriptions below are preliminary. The concepts are meant to be simple and understandable, and the idea is to concentrate a cluster of activities focused on the same problem or opportunity in a given region. Note that the pilot activities are not unique, i.e., all of the activities described as part of the pilots are linked to broader workplan activities such as investment promotion, cutting red tape via the use of information technology, and strengthening the commercial courts. The expected result: visible, tangible results and impact at the regional level, which will link to – and accelerate – the national work the Program has already been doing.

- **“Oujda fully Connected.”** This demonstration project will use information technology to facilitate administrative simplification and regulatory transparency. Examples of activities included in this pilot are: the development of e-regulations, a user friendly “front office” to

accompany the e-invest software already in use in two regional investment centers; pooling of local resources (such as shared broad band access and IT troubleshooting capacity) to upgrade the regional government's IT capacity, introducing videoconferences for administrative committee meetings so that some distant members can avoid attend meetings without driving eight hours, and a shared database between the relevant government agencies which would offer investors information about available land.

- **“Agadir EZ Business”:** This pilot will focus on improving access to finance and the performance of the commercial courts. Agadir's commercial court is currently the most efficient in the country. An initiative to put the *Registre de Commerce* online, and to offer banks information about liens on moveable collateral, will debut in this region. There are also other workplan activities which might focus on, or include, activities in this region: judicial capacity building, support for alternative dispute resolution, and the development of an on-line service for business registration.
- **“Meknès Vert”:** This demonstration project will support an emerging initiative in the Meknès-Tafilalet region to attract environmentally sensitive investment, from private, public, and mixed sources. Sectors with potential investment projects include tourism, agribusiness, natural resource management, energy efficient technologies, recycling and renewable energy.

The deliverables associated with each pilot project are presented below, following the thematic organization or the Program's activities which has been used since the beginning of the Program (i.e., administrative simplification, investment promotion, collateral registry, etc.)

There is one deliverable specific to the “building awareness” concept, however, and that is a national conference to present the results of the regional diagnostic studies, host a debate about the FTA, and bring together staff from the sixteen regional investment centers in Morocco.

Deliverables and key milestones

- Finalizing written reports – Doing Business report published by the World Bank and regional economic profiles published by IBCM/USAID.
- National conference on improving the business climate in Morocco – mid- to end-November

Completion date and indicators for success

This activity, including follow up, will be complete by the end of the year. Indicators for success include a high attendance ration, the presence of decision-makers in the audience, and feedback in the form of spontaneous contacts for months afterwards from participants.

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

These activities are designed to simplify administrative procedures for investors (and for new businesses), to disseminate information about those procedures, and to provide government officials (especially those who provide investment services) with tools that enhance their performance. “Tools” refer to tangible outputs such as a guide (i.e., the Investment Procedures Manual), a software (i.e., the e-invest software developed under a previous USAID project and tested by IBCM in two regional investment centers), or – less tangible but just as important - a new way of working (i.e., an approach to facilitating interagency meetings).

Activity 1 Treating small investors as well as large ones

In Morocco, large investment projects (over the 200 million dirham threshold) benefit from a red-carpet treatment at the central government level, regardless of where in the country they are physically implemented. Meanwhile, investors with projects below this amount must deal with regional investment commissions which demonstrate varying levels of receptiveness, and directly with regional representatives of government agencies. In collaboration with the Ministry of the Interior, IBCM is putting tools in place which allow the Regional Investment Centers to serve as a focal point for the handling of investment applications and. The result: better coordination among multiple government agencies at the regional level and improved services to investors.

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

This tool has been tested and is currently being deployed in Kenitra and Settat. The Ministry of the Interior has bought into this project and is planning to expand use of the software to all sixteen RICs. At this point the Program could take the decision to step back, simply handing over the initiative to the Ministry. However, there is a set of next logical steps which are necessary to ensure the sustainability of this initiative: adding new procedures to the software, meeting with staff of other government agencies besides the RIC to confirm the agreed-on parameters of each procedure, linking this work to the investment procedures committee chaired by the Ministry of Modernization (see Activity 2), and via training events and outreach, working towards a set of paperless investment procedures. In addition the Program can play an important role in helping to identify resources (from other donors) in cases where the current IT resources (i.e., computers or internet connections) are insufficient.

Some of the procedures to be added to the software relate to business creation, as opposed to handling of investors. It is likely that these procedures will be added first in a pilot region, such as Agadir, and then rolled out to other regions. The degree to which this activity is included will depend on counterpart commitment and coordination with other donors.

The Program will co-sponsor and co-organize, with the Ministry of the Interior, three workshops* with participation from +/- 5 RICs each: one in Agadir, one in Meknès, and one in Oujda. Organized in collaboration with the Ministry of the Interior, these workshops will serve two purposes (i) to train users in the RICs and (ii) to advance the dialogue with future users – staff of government agencies responsible for providing authorizations and licenses to investors.

Deliverables and key milestones

The deliverable is access to the software, containing all of the updated procedures as agreed with the relevant government agencies, on the part of all RIC staff in Morocco, by the end of 2008.

- First workshop: Agadir, mid-October
- Second workshop: Meknes early November (and/or possibly Settat or Kenitra)
- Third workshop: Oujda, mid-January

- Guide to facilitating administrative simplification: June

*The exact workshop schedule is to be determined in consultation with the Ministry of the Interior and will depend on the availability of regional government officials including the *Wali*.

Completion date and indicators for success

This activity will continue through the 2007-2008 period. There are clear indicators for success: by the end of 2007, all sixteen RICs should be using the software, at least for the first procedure

“handling new investors.” By the same deadline, the RICs in Settat and Kenitra should be using the software for all 28 procedures. And by the September 2008, all sixteen RICs should be using the software for all 28 procedures and the software should contain additional procedures, being used by at least four RICs (for example: such as Oujda, Agadir, Kenitra, and Settat).

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 the front office of the investment procedures process; while the e-invest software developed by the Program represents the back office. The softwares are compatible, and rather than developing their site in isolation, UNCTAD approach IBCM about (1) technical cooperation to develop the front office 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.

Oujda Fully Connected

The Oriental region doesn't receive many investment projects (less than 1% of FDI to Morocco). Nor can the region claim superior infrastructure (no highway, minimal air routes)

L'Oriental is relatively isolated from Morocco's major decision centers, and its vast expanse means that its own cities and towns are remote from each other.

However...the Oriental region could become in a short time, for a ridiculously low cost*, the best-connected region in Morocco.

New technologies available in Oujda – as in Paris, Tokyo or Los Angeles - can be used to eliminate the distance between towns in the region...between *L'Oriental* and the Rabat-Casablanca axis...and between *L'Oriental* and its large population of Moroccans living abroad.

*Compared to the investments needed to improve its physical infrastructure Via shared broad band access, among other solutions

As a first step, IBCM will collaborate with UNCTAD and the *Agence de L'Oriental* to develop the e-regulations interface for users in the Oriental region. The Program will work with the *Agence de L'Oriental* to draft a scope of work and hire two local consultants who will work with local government agencies in the Oriental region to agree on the procedure parameters (similar to the case of e-invest); compile the necessary information for the website; develop mechanisms to make sure that the information can be kept up to date; release a demo at the *Les Intégrales* investment conference, and launch the website for public use in the Oriental region.

This activity is likely to become part of a broader collaboration between the Program, UNCTAD, and the *Agence de L'Oriental*. In the specific case of the work with e-regulations, UNCTAD and the *Agence de L'Oriental* will be providing the financial resources needed to carry out the activity. The Program's contribution will be in the form of technical oversight and expertise, based on previous work to develop the e-invest software.

Deliverables and key milestones

The final deliverable is a fully operational investor gateway, customized according to the requirements for doing business in the Oriental region.

- Signed memorandum of understanding between the Program and the *Agence de L'Oriental*: end September
- Consultants begin work (working group meeting in Oujda): early October

- E-regulations demo launch at *Les Intégrales*, early December³
- E-regulations launch in Oujda, mid-January

Completion date and indicators for success

This activity should be complete by March 2008. Indicators for success will be collected once the site has been launched, and could consist of utilization statistics. Two other indicators of success - and of sustainability - are how well the site is maintained, and the adoption of the site in other regions.

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

This activity is subject to further discussion with the Ministry of the Interior and the RICs, and will be conditional on two things: the successful completion (or at least the meeting of key milestones) of the e-invest and e-regulations work; and a commitment by the Moroccan counterparts (Ministry, RICs) to invest in a full-time *network facilitator*. The idea is to create an electronic platform which can be used for everyday services such as an answering machine, and standardized replies to investment queries in different languages, as well as the development of more sophisticated functions like sharing news, information on investment trends, publications, events calendars, etc. The extranet is just one tool which would contribute to a broader initiative on the part of the Ministry of the Interior to link the RICs together into a functioning network.

Milestones, completion date

To be confirmed with partners in January 2008.

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 on every topic imaginable (i.e., from getting a driver's license to standardizing forms to allowing for electronic signature). Between February and June, with support from the Investment Directorate (DI), the Program met with representatives of the ministry and an agreement has been reached that the National Committee on Investment Procedures, formerly an ad-hoc committee organized under the leadership of the DI, would now become an official simplification committee. The benefit of this new arrangement is that there is now an official and regular channel by which simplification proposals can be vetted and approved. In addition, in cases where changes in the law are required, these recommendations are passed directly to the Prime Minister. IBCM will accompany the ministry in the fall of 2007 in organizing a set of regular meetings for the committee. It will be necessary to contribute technically to the development of several new simplification proposals, as well as ensuring that the ministry allocates a person to coordinate and manage the continued work.

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

³ Note: to meet this deadline, it will be necessary for *L'Agence de L'Oriental* to issue the consultant contracts relatively quickly. IBCM will not be held responsible if there is a delay; from the Program's perspective, the most important thing is the quality of the site, its utilization by investors, and its maintenance.

The voice server is essentially an oral version of the investment procedures manual. IBCM will coordinate with the ministry to launch this service, which allows those without internet access (or literacy) to dial into an automated service and request the desired forms by fax.

Deliverables and key milestones

The deliverable is the existence of functioning investment procedures committee, as well as a series of events designed to raise awareness about the procedures manual (in both written and oral form).

- Launch the voice server (October)
- Hold monthly meetings of the committee on investment procedures through September 2008

Completion date and indicators for success

This activity will be ongoing throughout the year. Indicators of success for the committee and are the frequency of meetings, the number of procedures treated, and the number of modifications to the law that originate in this forum. Indicators for the procedures manual and the voice server are the utilization statistics and the care with which the services are maintained.

CONCEPT 3 INVESTMENT PROMOTION

Sine the program's inception, IBCM has had a mandate to support the Government of Morocco's investment promotion efforts. In 2006-7, some of this work was conducted under the "cutting red tape" rubric, in collaboration with the *Direction des Investissements* (DI); namely, the investment procedures manual and the national committee on investment procedures. From April-June 2007, the Program supported the DI in researching and writing a high-profile report on trends in investment in Morocco. Presented in France and to the Parliament by Prime Minister Driss Jettou, this report was the first version of a publication slated for release at the annual investment conference in December, *Les Intégrales*.

Looking to the future, IBCM proposes to support investment promotion efforts as part of a coordinated strategy including participation from the DI and the regional investment centers (see Activity 1c above which involves support to an information-sharing and service-providing network among Morocco's sixteen regional investment centers). In addition, a new investment promotion activity, linked to the pilot initiative in Meknès, is included below. This idea came out of discussions around the Doing Business and other diagnostic studies presented in seven regions in June-July 2007.

Activity 1 Completion of the Report on Investment Trends in Morocco

IBCM will complete the revisions to the Trends in Investment report as per the comments provided by the DI. Additional activities are subject to further discussion and pending confirmation of counterpart resources.

Deliverables and key milestones

Revised Trends in Investment report launched at *Les Intégrales*

Completion date and indicators for success

This activity will be complete by year-end 2007.

Activity 2 Promoting “green” investment in Meknès

IBCM has received a request from the regional investment center (RIC) in the Meknès-Tafilalet region to assist it in attracting investors with an environmentally conscious approach. Sectors with investment potential under this rubric include agribusiness, eco-tourism, natural resource management, energy efficient technology, recycling and renewable energy. The decision by Meknès to turn “green” appears to have been stimulated, among other things, by a recent participatory stakeholder planning process organized by the United Nations Development Program as part of the Local 21 Agenda. According to the RIC, however, this process unfortunately appears not to have generated concrete results or activities beyond the dialogue that was facilitated over a period of 12 months based on which a number of strategic issues were identified. Meknès’ investment strategy aimed to attract environmentally sensitive investors is able to build and follow up on these prior efforts towards the matching and linking of regional investment opportunities with a broad range of internationally available “green” investment funds.

Meknès Vert

Depending largely on its natural resources, the region of Meknès-Tafilalet commonly referred to as the “Château d’eau du Maroc,” finds itself today rethinking its development and investment promotion strategy and opting for a sustainable approach. The growing pollution of key resources such as water and the soil was referred to by entrepreneurs as a major obstacle to future investment. A *key source of productivity* for regional investors and locally established firms, natural resources and their sustainable use and valorization are also increasingly considered as *investment opportunities* by a growing number of international investors. Meknès-Tafilalet avails itself of the opportunity to attract such investments towards a sustainable development of the regional economy.

In responding to this request, IBCM is seizing an opportunity to make its investment promotion work more tangible. At the same time, partners in the Meknes region understand that they are expected to provide counterpart resources not just for this initiative (which would aim to develop linkages with one or two specific “green” investors resulting in real projects) but for work related to the broader business climate mandate. This commitment is under discussion and is likely to involve participation in the administrative simplification activities under the “cutting red tape” concept.

Deliverables and milestones

- Technical assistance to identify and vet potential investment projects - October
- Workshop in Meknes following the doing Business study to include a discussion of investment projects end October
- Support to CRI and project developers in developing one to two investment proposals to receive funding from public private funds
- In consultation with CRI, developing additional local partnerships to leverage funding and know how.

CONCEPT 4 TRANSPARENCY

Transparency is a term with multiple meanings. At times it is simply a euphemism to replace the term “corruption.” In other cases it refers in a general way to the ease with which an outside actor (i.e., private businesses or individuals) are able to access information about a particular process undertaken by another actor (i.e., the government). Transparency, as the term is used in the text of the Free Trade Agreement, refers generally to the concept of dialogue between private firms and the Moroccan government, and specifically to the development and regulation of product standards and norms. 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.

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

Deliverables and key milestones

The deliverable is a fully functioning and utilized website that allows businesses access to current norms, both Moroccan and international.

- Request for proposals for production of the website published early October
- Production firm hired by end-October
- Demo version ready by early January
- Launch of website in February

Completion date and indicators for success

This activity should be complete by March 2008. Indicators for success include the utilization rate of SNIMA's website, and greater awareness among businesses as to SNIMA's role and the resources it offers.

Additional activities may be considered under the rubric of transparency, at the request of SNIMA or other IBCM partners. It is worth noting here that the Commercial Law Department (CLDP) of the United States Department of Commerce, in conjunction with their funder, the Middle East Partnership Initiative (MEPI), has indicated an interest in supporting efforts to enhance transparency related to product standards.

COMPONENT II JUDICIAL REFORM AND STRENGTHENING THE COMMERCIAL COURTS

This has been one of the Program's most active components since its inception. Spring 2007 saw a flurry of training and other events related to judicial capacity building and the promotion of alternative dispute resolution in Morocco. The activities proposed here follow naturally from the work begun thus far. Making a real difference, however, will admittedly be a challenge – current perceptions of the Moroccan justice system on the part of the private sector are not flattering.

Deliverables and timeframe

Deliverables under this component are organized into four "concepts". The concepts are meant to be simple, easy to communicate and to understand. Each concept links together a set of related activities and tasks.

CONCEPT I RECOMMENDED REFORMS TO THE BANKRUPTCY LAW

Activity I Workshop and introduction to circuit d'adoption

IBCM has inherited some work begun by a former USAID project, related to the treatment of business insolvency by the courts. Based on a broad consultative process, a legislative committee of experts led by Dr. Ahmed El Hajjami has finished drafting a report with proposed amendments to Book V of the commercial code. The Ministry of Justice has drawn up a matrix comparing the results of an internal consultation process they carried out with judges in the commercial courts with the recommendations in the report. A joint workshop is planned for October 20, the result of which should be one integrated proposal which would then be introduced to the *circuit d'adoption*.

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

There are a number of practices, such as those related to: notification, disclosure of assets, and the role of experts which often pose problems during insolvency proceedings. The presiding judge of a commercial court has a certain leeway (or administrative prerogative) to find the most efficient and effective solutions to recurring problems. Conditional to interest on the part of Program partners (in this case, the Ministry of Justice, a commercial court such as that in Agadir or Casablanca, and possibly ISM) the Program could identify effective practices adopted in certain commercial courts, document them, and promote them for use in others (through training workshops and other means). IBCM has received an indirect request to work with the commercial courts in Settat on such an issue – though not restricted to bankruptcy proceedings. This activity, if developed in the general sense could be linked to the follow-up to the Doing Business study, since it could address the “enforcing contracts” indicator.

Deliverables, milestones, and completion date: TBD.

CONCEPT 2 JUDICIAL CAPACITY BUILDING IN COMMERCIAL LAW

IBCM supported the *Institut Supérieur de la Magistrature* (ISM) to offer a two-day education and training program in Rabat on May 11-12, 2007. The course represents the first in a series of activities aimed at strengthening ISM’s training capacity on topics related to commercial law. In addition to developing and delivering the training course, IBCM consultant Tony Fisser conducted a brief review of the ISM’s training needs, operations, and activities. He also commented on the current institutional relationship between the ISM and the Ministry of Justice (MOJ). Based on Mr. Fisser’s recommendations, and following further discussions with ISM, IBCM has undertaken to develop a year-long judge training-of-trainers program which will involve small working groups, the participation of commercial law experts, and practice teaching sessions. This initiative will be carried out in coordination with the intellectual property trainings (See Activity 2 below).

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

Currently, IBCM has a commercial law specialist working with ISM to develop a detailed workplan for these small judge training modules. The workplan will include a preliminary list of judges to be targeted, a shortlist of focused commercial law topics that IBCM can provide support to ISM in building its curriculum, dates and deliverables, and indicators for success. Once the workplan is jointly agreed upon by ISM and IBCM/USAID, it will be submitted to ISM’s Board of Directors for approval.

Deliverable and key milestones

To be specified in joint ISM/IBCM workplan.

Expected completion date and indicators for success

This activity will be ongoing through summer 2008; to be re-evaluated in August.

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

Last spring, IBCM worked with the *Office Marocain de la Propriété Industrielle et Commerciale* (OMPIC) to design and offer a multi-faceted training and awareness program consisting of a guide, three two-day training sessions for commercial court judges, an information session for lawyers, and a study tour for judges and officials from the Ministry of Justice (MOJ). This fall, OMPIC has

requested to continue the training on trademark law, this time by analyzing practical cases, decisions which have been rendered by OMPIC and published on the agency's website. A Moroccan expert would analyze these cases, and then an American, a French, and possibly a Spanish expert would comment on such decisions. The training would be organized in a more participatory format than the last one, with presentations and comments from judges selected by ISM to strengthen their training skills and their knowledge in commercial law.

In addition, IBCM will develop and publish a guide on patents. This guide may be accompanied by additional trainings, subject to further discussions with OMPIC.

Deliverables and key milestones

- Written case studies and analysis by experts prepared; based on OMPIC and other decisions. Early November
- One week seminar in Casablanca/Rabat on trademark opposition decisions, early December.
- Joint workshop on trademark law in Morocco, with the American Chamber of Commerce, December 11
- Launch of guide on patents, early March

Expected completion date and indicators for success

This activity should be complete by June 2008. Indicators for success will include positive evaluations by participating judges, and less questioning of OMPIC's decisions on the part of private firms in Morocco (to be measured by the number of complaints OMPIC receives).

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). The activities below are organized in support of local efforts and in collaboration with several other donors active in this area. IBCM also had input into the law on arbitration and mediation that was just passed, and expects to continue this dialogue with multiple partners. Although the Program plans to organize at least one event to stimulate dialogue about the law (such as a "four" debate on the law during Ramadan) this and other initiatives focused on improving the law will be folded into the three activities listed below as appropriate.⁴

Activity 1 Assistance to CIMAR

One of the commitments made by IBCM in early 2007 was to provide institutional capacity building support for the Rabat International Center for Mediation and Arbitration (CIMAR). Important first steps were taken in May and June towards helping CIMAR gain visibility and increase its volume of activities, such as the organization of Morocco's first commercially-focused mediation training and technical input on CIMAR's marketing strategy, ethics code and procedures. Currently the Program is supporting CIMAR to develop its own vision and strategy through the elaboration of a business plan.

The list of specific tasks in support of CIMAR will be refined and prioritized once the business plan exercise is complete (October 1). Below is a matrix showing the list of the activities that have been requested by CIMAR, with an illustrative set of activities that likely to be prioritized.

⁴ For example, CIMAR has its own lobbying group which has accepted and will continue to accept input from IBCM. IFC is planning to form a high-level committee to discuss continued advancements in the ADR law, and IBCM/USAID will participate. Last, the Moroccan ADR network would be the ideal forum for drafting the proposed application regulations, or *textes d'application* which are needed now that the ADR law has been passed.

Table I. Comparison matrix with priority activities in support of CIMAR

Support Requested to date	Likely set of Priority Activities
Travel funds to attend arbitration training in Paris Support to publish CIMAR quarterly journal Support to develop electronic library Support for second cycle of mediator training (in collaboration with Search for Common Ground) Support in lobbying for continued amendments to the law Support in elaborating proposal for African Development Bank Support for outreach activities (<i>discussions thématiques</i> , others) Support in conducting market research Training on intellectual property and ADR Training for arbitrators on financial topics Research on performance of commercial courts in Settat	Continued technical assistance to support to the center's financial planning and governance functions Support for second cycle of mediator training (in collaboration with Search for Common Ground) Basic market research in form of questionnaire administered to past trainees Access via IBCM website to electronic ADR library Focused outreach activities Finance training for arbitrators/mediators

Key deliverables, milestones, completion date

Assistance to CIMAR will be ongoing through the end of 2008. As the business planning exercise comes to a conclusion and the priority activities are confirmed, a finalized deliverables list, timetable and indicators will be agreed upon with CIMAR.

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

IBCM has negotiated a preliminary, "in principle" agreement with IFC which involves a commitment for parallel financing of specific tasks as part of an integrated strategy to promote ADR in Morocco. Below is a table detailing the elements of the program as agreed upon to date. Note that only Phase I is relevant to the 2007-2008 workplan; Phase II is likely to fall within the 2008-2009 period. Both are presented below, however, in order to give the most complete picture possible of the integrated program. More descriptions of each deliverable will be developed jointly with IFC once the memorandum of understanding is signed (or as an annex to the document).

Table 2. Joint IFC/USAID program to promote ADR in Morocco

Activity and partner directly responsible for funding and implementation	
Phase I	
Assessment	IFC
Public awareness campaign (the main element is a conference)	IBCM/USAID
Study tour (place TBD)	IBCM/USAID
Phase II	
Mediation training	IFC
Case management training	IBCM/USAID
Establishment of pilot mediation center	IFC
Public awareness campaign	IBCM/USAID
Study tour (place TBD)	IBCM/USAID

Key deliverables, milestones, completion date

- Signing of agreement between IFC and USAID mid-October
- Study tour for Moroccan mediators and justice officials in mid-February
- Launch ADR public awareness campaign via conference in mid-March

Completion date and indicators for success

This activity will continue through the life of the Program. Indicators for success include: an increase in the volume of mediations and a corresponding reduction of the caseload in the commercial courts; awareness (can be measured by surveys) of the availability of mediation services in Morocco, and increased acceptance on the part of the justice system (can be confirmed through policy measures such as amendments to the law or administrative orders issued to the courts) of mediation as a credible and respectable method of solving business disputes.

COMPONENT III EXPANSION OF FINANCIAL MARKETS

Activities under this component were always conceived as investments in financial infrastructure, rather than any sort of direct intervention related to retail finance. During the 2007-2008 period, IBCM has opted to concentrate its efforts on one major activity, in an effort to make the best use of available resources and to operate strategically, i.e., reduce the number of objectives the Program is trying to address at one time.

Deliverables and timeframe

This component contains only one concept. The activities are linked to the “Agadir EZ Business” pilot, and are complementary to activities in the Legal Reform and Strengthening the Commercial courts component.

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

Activity I Putting the Registre de Commerce on line

Since early 2007, IBCM has been exploring the best approach to modernizing Morocco’s system for moveable collateral registry, an activity that has been on the agenda since the inception of the Program, and indeed an activity for which there exists a real opportunity to achieve impact. During a steering committee meeting held in March and at individual meetings with counterparts, IBCM received multiple and repeated requests to look beyond simply the narrow function of how liens on moveable property are recorded, and to address related issues, such as the need for a single number by which businesses can be identified (common business identifier) and the need to improve the efficiency with which the central *Registre de Commerce* (RC), managed by OMPIC, receives and treats information. After a brief diagnostic conducted in-house by IBCM staff, a decision has been made to pursue “putting the RC on line,” i.e. making all of the information and functions that

Agadir EZ Business

Souss Massa Draâ is the largest region in the Kingdom, stretching from the Atlantic coast to the edge of the desert.

It was in Agadir that Morocco’s first one-stop-shop for business registry was created, just as the regional investment center began operating in 2002.

Souss Massa Draâ was the first region to invest seriously in a regional development strategy (the government spent close to a million dollars on a McKinsey study in 2005).

The dynamic leadership of the regional government (the Wali, regional investment center, regional council) reflects the hardworking ethic of a population that, historically, has always been oriented toward commerce and business.

Despite its smaller population base, the Agadir can claim higher volumes (and shorter processing times) than that of Casablanca, despite a much smaller population base.

In short, Agadir has traditionally - and will continue to - set an important example for Morocco...

are handled by the RC available electronically, immediately, to users with the proper access.

Task 1.1. Feasibility study

The design of the technological solution will need to take into account the needs of future users such as OMPIC and private banks, as well as interface with other Ministry of Justice software that is in the works. In addition the design will need to consider potential obstacles related to the legal framework, and organizational and human resource issues internal to the court system. Three consultants will participate in this study: an IT expert who in principle would be the best person to implement the recommendations of the feasibility study; a local legal specialist, and an international collateral registry expert. The feasibility study will include meetings with the relevant officials at the Ministry of Justice and the commercial court of Agadir, the site recommended by OMPIC as the most appropriate to conduct the development and testing of the electronic solution.

Task 1.2. Development and testing of electronic solution

The software will be developed and tested in the commercial court of Agadir and also in the regular courts (*tribunaux de première instance*) in the Agadir region. This is important to ensure that the software is appropriate to both settings (specialized commercial and regular courts). Testing will also include ultimate users such as OMPIC and banks.

Task 1.3. Training for users

Training will be focused primarily on two target groups: clerks in the courts who actually input the data into the RC system; and banks who will be a client for a paid service. OMPIC will be a key partner and OMPIC staff will be invited to accompany all of the different training seminars – eventually, OMPIC will need to have internal capacity to offer such training to new users and/or in order to keep users up to date on modifications to the system.

Task 1.4. Common business identifier working group

In parallel with the *Registre de Commerce* work, IBCM will organize one or more meetings of the common business identifier working group formed in the spring of 2007. A detailed proposal of the technical, organizational, and legal implications of different scenarios will be developed. If the group can agree on one solution, IBCM can work to implement this solution. Another option is to submit the proposal to a higher authority (such as the office of the Prime Minister) for a decision about which solution to pursue.

Deliverables and key milestones

- Feasibility report - Early November
- Software specifications written –December
- Meeting of working group and detailed common business identifier proposal - January
- Testing of electronic solution with multiple users –March
- Training users in the commercial courts (clerks) and in partner institutions –April and ongoing
- Launch of pilot system in Agadir –May
- Testing and improving the system, preparation for implementation in other Moroccan regions – June-July
- Meetings with partners to launch second stage (going national) – September

Expected completion date and indicators for success

This activity should be complete at the pilot level by September 2008. The best indicator for success will be its utilization – by private and public users – and the commitment on the part of Moroccan partners to adopt the system nationally. A higher-level impact which will take time to emerge and which may require additional, complementary, activities, will be increased access to finance on the part of Moroccan businesses with moveable collateral.

