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## **Improving the business climate in Morocco Program, Annual report 2005-2006**

**November 2006**

This publication was produced for the United States Agency for International Development. It was prepared by the Improving the business climate in Morocco Program, implemented by Development Alternatives, Inc.

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## LIST OF ACRONYMS

ADR	Alternative Dispute Resolution
CGEM	<i>Confédération Générale des Entreprises du Maroc</i>
CLDP	Commercial Law Development Program
CLIN	Contract Line Item Number
CMS	Case Management System
CNC	<i>Conseil National de la Comptabilité</i>
CNPI	<i>Comité National des Procédures liées à l'Investissement</i>
COMAC	<i>Comité Marocain d'Accréditation</i>
CRI	Regional Investment Center ( <i>Centre Régional d'Investissement</i> )
DAI	Development Alternatives Inc.
DGI	<i>Direction Générale des Impôts</i>
EGAT	Economic Growth, Agriculture and Trade
FTA	Free Trade Agreement
GPBM	<i>Groupement Professionnel des Banques du Maroc</i>
IAS	International Accounting Standards
IFC	International Finance Corporation
IMANOR	<i>Institut Marocain de Normalisation</i>
IQC	Indefinite Quantity Contract
ISM	<i>Institut Supérieur de Magistrature</i>
LTTA	Long-Term Technical Assistance
MOJ	Ministry Of Justice
OEC	<i>Ordre des Experts Comptables</i>
OECD	Organization for Economic Co-operation and Development
OMPIC	<i>Office Marocain de la Propriété Industrielle et Commerciale</i>
PMP	Performance Management Plan
ROSC	Report on Standards and Codes
SME	Small and Medium Enterprises
SNIMA	<i>Service de Normalisation Industrielle Marocaine</i>
UNDP	United Nations Development Program
USAID	United States Agency for International Development
USPTO	US Patent and Trademark Office
WBI	World Bank Institute
WTO	World Trade Organization

## EXECUTIVE SUMMARY

This report covers the first year of activity of the Improving the business climate in Morocco Program, issued as a Task Order under the SEGIR Macroeconomic Policy II Indefinite Quantity Contract (IQC). The contract covered the period 2005 until September 2009. The original Scope of Work for the Task Order states the overall objective: the Program's purpose is

... to make government more responsive to the needs of business, so that the latter may more effectively contribute to Morocco's goals of expanded economic growth and job creation. The program will help to improve the overall business climate, facilitate access to finance for small businesses, and help Morocco meet its commitments under the recently negotiated Free Trade Agreement with the United States.

The linkages to the US FTA (and related obligations under Morocco's WTO membership as well as the Association Agreement with the European Union) are particularly significant, given Strategic Objective 11 of the USAID Mission to Morocco in the Economic Growth area, "Moroccan economy successfully responding to new opportunities and challenges of free trade."

The original components of the Program targeted the following results:

1. Improved policy, legal and regulatory environment;
2. More efficient and effective judiciary;
3. Improved support systems for financial markets expansion;
4. More growth-oriented tax policies, laws and regulations.

Following the news of a significant budget cut, which reduced the life-of-project funding by 40 percent, from \$14.7 million to \$8.7 million, some of the activities were curtailed; in particular, the tax component was merged with the improved policy environment.

Over the past year, the Program has followed a two-pronged strategy. It has continued selected efforts that were launched under previous USAID programs, and it has laid the groundwork for new initiatives through a series of assessments and planning assignments. The continuation from previous programs included:

- provision of continuing legal education activities for judges and court personnel on issues of banking law, corporate finance, accounting issues in bankruptcy, and two five-week courses on dealing with bankruptcy proceedings (in Rabat and Tangier); and
- support for the simplification of procedures for the treatment of investment dossiers by the Regional Investment Centers (CRI), and related follow-up activities.

New assessments and the preparation of action plans for new initiatives included the following:

- A comprehensive analysis of the prospects for and options of developing improved systems of credit information sharing made possible under new bank legislation. The absence of adequate coverage of credit information is one of the key factors that explain the low ranking of Morocco on the "Access to credit" indicator of the World Bank's *Doing Business*. The study included a careful analysis of access to relevant information permissible under existing laws and regulations, of the effective demand for credit information that would determine financial viability of a commercial credit bureau operation, and a review of operational design principles.

- A preliminary assessment of the systems of registry of liens against movable collateral to enable an expansion of collateral options for lending especially to small and medium enterprises, to be followed by activities aimed at modernizing existing systems at the same time as outlining legal reforms needed to bring Morocco's system up to international standards.
- An analysis of options for developing a typology for court cases as a basis for improved case management systems for commercial courts. The assessment concluded that next steps should wait for the completion of a new case management system for other components of the court system, under way with assistance from the European Union.
- An assessment of the state of alternative dispute resolution (ADR) mechanisms as a complement to the option of resolution in the courts to speed up the time and lower the cost of settling disputes.

On the regulatory policy front, the Program organized a one-day conference on "Achieving regulatory transparency," with key speakers from the US Federal government, the OECD, academia, and the US private sector. The event was attended by over 160 persons.

Finally, in preparation for initiatives to ensure a uniform investment climate across the regions of the country and lay the foundations for more effective investment promotion and support, the Program worked with USAID Washington, the World Economic Forum and the World Bank to launch surveys in selected regions of the Kingdom (Agadir, Marrakech, Kenitra, Tangier, Settat, Oujda, and Meknes). One survey used the Executive Opinion Survey that underlies the rankings in the Global Competitiveness Report to assess business perceptions of factors influencing competitiveness. The second survey used the questionnaires used for the World Bank's Doing Business series for selected indicators. The analysis of these surveys is currently under way and will examine any linkages between measures of the business climate (as measured by the Doing Business indicators) and investor satisfaction. The results of these comparisons will then be combined with a comprehensive assessment of current practices in investment promotion to target specific priorities and provide a better climate and services to both domestic and international investors.

## INTRODUCTION

### Background

This report summarizes the experience and accomplishments of the Improving the business climate in Morocco Program (the Program) during its first year. Its principal mandate is to support efforts to build a better environment for investment and growth by addressing weaknesses in the legal and regulatory framework and administrative procedures that undermine the country's competitiveness. The relevant frame of reference for that mandate is therefore Morocco's macroeconomic performance and underlying microeconomic conditions, discussed briefly below.

Morocco's recent economic performance is showing some encouraging signs. Growth of non-agricultural GDP has averaged roughly 5 percent per year over the last few years. Some recent data even suggest that the economy may have made some headway in tackling the country's major economic and social problem, high youth unemployment, especially in urban areas. However, there are also indications that red tape, cumbersome administrative procedures and market distortions prevent the economy from reaching its full potential.

The provisions of the Free Trade Agreement with the US (US FTA) spell out clearly many of the reforms needed to improve Morocco's business climate, although most of them also constitute obligations under Morocco's membership in the WTO and the Association Agreement with the European Union. The Economic Growth strategy for the USAID Mission to Morocco combines direct support to the Moroccan private sector to respond to new opportunities and challenges with targeted assistance for building efficient market institutions and improving the overall business climate. Thus, our Program is directly dedicated to helping the country meet key provisions of the US FTA and comply with related trade obligations.

The contract for the Program was issued as a Task Order under the Support for Economic Growth and Institutional Reform (SEGIR) Macroeconomic Policy II Indefinite Quantity Contract (IQC), Contract number GEG-I-00-04-00001 (Task Order number: GEG-I-02-04-00001).

### Principal objectives and approach

The original Scope of Work for the Task Order stated the following objective:

“The purpose of the Improved Business Environment Program<sup>1</sup> is to make government more responsive to the needs of business, so that the latter may more effectively contribute to Morocco's goals of expanded economic growth and job creation. The program will help to improve the overall business climate, facilitate access to finance for small business, and help Morocco meet its commitments under the recently negotiated Free Trade Agreement with the United States [which became effective on January 1, 2006].”

Specifically, the original Scope of Work called for the following results:

1. Improved, policy, legal and regulatory environment;
2. More efficient and effective judiciary;
3. Improved support systems for financial markets expansion;
4. More growth-oriented tax policies, laws and regulations.

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<sup>1</sup> The name was subsequently changed to Improving the business climate in Morocco Program.

The broad mandate for the Program required interaction with a vast range of public and private sector institutions. On the public sector side, the counterparts included the Ministry of Justice, the commercial courts, the institutions of legal education, the Ministry of Commerce, Industry and Modernization, the Ministry of Economic and General Affairs, in particular the Investment Directorate, the *Comité National des Procédures liées à l'Investissement* (CNPI), the Bank Al-Maghrib, the Ministry of Foreign Affairs and Cooperation, the Ministry of the Interior, the Regional Investment Centers (CRI), potentially the *Secrétariat Général du Gouvernement*, private sector associations, and the Ministry of Finance (the “official” counterpart for the Program), in particular the *Direction Générale des Impôts*. On the private sector side, our counterparts included individual banks and microfinance institutions, the *Fédération des Petites et Moyennes Entreprises/Petites et Moyennes Industries*, the employer association, CGEM, the banking association, GPBM, and other professional associations.

The original idea was to have an Oversight Committee (*Comité de Pilotage*) that included representatives of all key counterparts to provide guidance largely through quarterly meetings. The Committee would review the Program’s Quarterly Reports, and at every other meetings (every six months) review and comment on a revised annual workplan. In practice, this format proved unwieldy. Since the mandate for the Program implied that its resources of had to spread among a large number of counterparts, the result is the lack of a counterpart agency that has a sense of “owning” it. As a result, it was decided that decisionmaking should take place in smaller, technical committees or between the Program and each counterpart directly.

### **Linkages to the Mission Performance Management Plan for USAID|Morocco**

The economic growth portion of the Performance Management Plan (PMP) for USAID|Morocco states as its Strategic Objective 11:

Moroccan economy successfully responding to new opportunities and challenges of free trade

The Program is designed to contribute to Intermediate Result 11.3, Business environment improved. The indicators for that Intermediate Result cover in effect the range of activities of the Program:

- Index of regulatory quality (World Bank Institute, originally biannual, now annual);
- days required to enforce a contract (Doing Business indicator);
- improved access to credit (Doing Business indicator); and
- Improved business perceptions of the effectiveness of selected government institutions (survey).

Morocco’s performance in recent years with respect to these indicators is examined in further detail below.

### **Trends in regulatory quality**

International comparisons using indicators of the prevailing business climate suggest that while there may have been steps forward, Morocco’s competitors are moving as fast or faster.

According to the World Bank Institute (WBI), a composite measure of regulatory quality (using ratings from around ten different sources) shows a progressive worsening of Morocco’s position. The trend is the same for other selected indicators—government effectiveness, rule of law, and control of corruption—but it is most pronounced for regulatory quality.

In terms of the World Bank's Doing Business indicators, Morocco's overall rating has slightly improved, from rank 117 to rank 115 (out of 175 countries ranked), but essentially as a result of a single change in one of the subindicators, the minimum capital required to start a business. Most of the other indicators have remained the same, and since other countries are moving forward, Morocco's position has declined slightly.

Between 2004 and 2005, Morocco experienced the worst slide of all countries in its ranking in the Global Competitiveness Report, published by the World Economic Forum in Davos. It fell from the 43<sup>rd</sup> to the 65<sup>th</sup> percentile in the Global Competitiveness Index. The principal reason for that slide was a perceived worsening in corruption. By 2006, Morocco regained some lost ground, but still not back to the level of 2004; in terms of the Global Competitiveness Index, it was ranked at the 56<sup>th</sup> percentile.

Government policies aim at a greater role of units of local administration, the regions. Established by the constitutional reform of 1992, and designated as the socioeconomic space for development. To obtain a better appreciation of the views of business representatives about factors that are expected to shape competitiveness, the Improving the business climate in Morocco Program cooperated with the World Economic Forum and its local partner in conducting a study using the Executive Opinion Survey.<sup>2</sup> The survey was administered in seven regions, as identified by their central cities: Agadir, Kenitra, Settat, Marrakech, Oujda, Meknes, and Tangier. In each region, the survey sought to achieve a sample of 100 business representatives; we ended up with a total of 644 usable responses, fairly evenly distributed across the regions.

Then, the Program conducted an assessment of the competitiveness rankings of regions, using a modified version of the three competitiveness indices used in the Global Competitiveness Report. In effect, the "hard data" used to construct the Global Competitiveness Index are not available on a regional basis. Clearly, the regions are much closer than different countries in their overall ratings, but certain patterns emerge that show that Tangier leads in terms of competitiveness factors, which goes with the dynamic character of that region.

One of the main expectations was that the geographic distribution and sample sizes would allow for a more detailed analysis of relationships among the individual questions. At the level of regional averages, we found that there are correlations between the perceived decentralization of economic policy making, satisfaction with infrastructure development, higher public trust in politicians, and the depth of economic development, as measure by the perceived status of cluster development.

The Improving the business climate in Morocco Program has also worked with the World Bank team in charge of the Doing Business surveys to conduct a survey for the same seven regions to determine selected indicators. Current plans call for the completion of this survey in late February.

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<sup>2</sup> The questionnaire for the Executive Opinion Survey is copyrighted by the World Economic Forum, which reserves the right to review and approve any analysis done with these data. This paper has not yet been reviewed by the World Economic Forum, and its findings and conclusions should therefore not be cited until approval has been granted.



## PROGRAM OVERVIEW

### The Program components

#### Overview

During the conception of the project that became the Improving the business climate in Morocco Program, the USAID Mission to Morocco sought to develop a flexible response mechanism. The overall aim was to assist the Moroccan authorities in advancing regulatory reform across the entire range of priorities, with special consideration given to judicial and financial reform.

The design for the Program established four major components (which also translated into Contract Line Item Numbers—CLINs):

- Legal and regulatory reform;
- judicial reform;
- financial sector strengthening; and,
- tax reform, a component added to reflect priorities from the private sector representatives consulted during the project design.

Each of these components was to be led by a senior long-term technical assistance (LTTA) expert. The overall Scope of Work for the Task Order outlined general areas of potential intervention. An initial workplan developed right after startup of the Program identified specific tasks and intervention strategies. While the implementation of the Program has since moved away from these original tasks, as discussed in the next subsection, they still provide a useful framework for the discussion of targets and accomplishments.

Under an agreement with USAID, the Program adopted a “rolling” workplan approach. Every six months, a new annual workplan—covering the next twelve months—was to be prepared to build on insights and relationships, and to provide the needed flexibility to cope with an evolving regulatory reform framework. In September 2006, Development Alternatives, Inc. proposed a new Scope of Work for the Task Order that responded to the lower budget for the contract. This Annual Report references only the broad outlines of this new Scope of Work for the Program as a whole.

#### Legal and regulatory reform

The initial workplan outlined five broad tasks under this component. Two of these tasks focused on legal and judicial reform. First, the Program was charged with promoting the revision of the existing bankruptcy legislation. The approach outlined suggested a survey of judges and other experts in the field to identify priorities. The results of that survey would then guide a drafting committee to prepare the required amendments. These amendments to Book V of the Commercial Code would then be submitted to the *circuit d'adoption* for incorporation into the existing legislation.

The second task under this component built on work in the area of intellectual property protection under the prior USAID Modernization of Commercial Law and the Judiciary Project. It focused on support for the establishment and operation of a more effective trademark registration (and opposition system), and to promote a more active role of the Customs services in enforcing intellectual property rights.

The other three tasks under this component targeted regulatory policy and market support institutions to promote competitiveness. The third task focused on regulatory transparency and

regulatory impact analysis. Under the provisions of the US FTA, as well as under WTO rules and the EU Association Agreement, Morocco needs to take steps to ensure transparency in rulemaking, allowing the domestic private sector as well as the country's trade partners to track proposed and promulgated rules across all areas. Ultimately, the objective is to generate feedback that will ensure a better appreciation of the economic and social impacts of regulations.

The fourth task responded to the increased emphasis on decentralization in economic policy making and investor support. It sought to reinforce measures to ensure a uniform business climate across regions, and to promote "competition" among the regions in efforts to streamline regulatory and administrative procedures.

The final task under this component aimed at direct support for raising the competitiveness of the country's economy, largely by helping in the transition of Morocco's quality infrastructure. The approach was to work with the principal organization in this field, the *Service de Normalisation Industrielle Marocaine* (SNIMA) to streamline the process of proposing, vetting and promulgating technical regulations, and to allow that organization to provide improved access to standards and technical regulations needed for improved trade across borders.

## Judicial reform

Under the judicial reform activity, the initial workplan outlined seven key tasks:

- Strengthen legal training systems for commercial courts with a particular focus on developing a system for mandatory continuing legal education;
- support efforts to create a system to improve the diffusion of important judicial opinions and guidelines;
- train court personnel and experts in financial analysis and related procedures to ensure accelerated processing of bankruptcy cases;
- assist in the development of a system of case typology for the commercial courts, on the basis of an improved case management system (CMS);
- review and recommend improvements to the current system of court-appointed experts to improve competency, avoid conflict of interest, and facilitate a process of adversarial scrutiny;
- develop and suggest improvements in the current system of levy and execution of judgments; and
- contribute to improvements in the organizational systems of commercial courts, a potential follow-on to a study carried out under a previous project, a Review of court organization, that suggested a number of institutional modifications for the Marrakech and Agadir jurisdictions.

## Financial sector reform

The financial sector component of the project originally comprised four major areas of activity. The first task focused on efforts to improve systems for accessing data on creditworthiness of borrowers. Morocco ranks low in the international comparisons of the World Bank's *Doing Business* series with respect to "Getting Credit," where it ranks 143<sup>rd</sup> out of 175 countries in 2006 (that is, in the 82<sup>nd</sup> percentile). A major factor in this low ranking is the very limited coverage of a public registry, and none by a private credit bureau. The Program expected to work with the Bank Al-Maghrib and other stakeholders in developing systems that would broaden coverage and provide adequate access. One additional element is similar support for regularizing the system of trade bills (*effets*).

The second task under this activity focused on support for improving the quality of the preparation, audit and publication of financial information. While a major World Bank-supported activity is expected to address the transition to international financial reporting standards for large enterprises, very little support has been provided for the vast majority of enterprises and their financial information needs. In fact, improved accounting governance and standards were seen as being relevant across all activities of the Program.

The third task under this activity aimed at supporting efforts to establish an efficient, transparent and equitable registry of liens, primarily for movable property. Existing systems in Morocco have limited coverage and do not operate on a national level. The use of movable property as security, where the recovery of that property is protected and facilitated, can play a significant role in encouraging financial institutions in Morocco to extend credit to a larger pool of enterprises and individuals.

The final task under the financial reform component of the Program addressed efforts to facilitate the development of an institutional infrastructure for the sustainable growth of microfinance. While Morocco has emerged as the regional leader in the development of microfinance, the sector is currently estimated to serve only 15 percent of the target market of somewhere around 3.2 million people. The task here sought to expand the availability of sustainable services to the other 85 percent of the existing market. It included provisions for the review of legal and regulatory constraints on the ability of well-managed microfinance institutions to expand their coverage, and on supporting efforts by established banks to “downscale” to reach new borrowers.

### **Tax policy reform**

While the Program resources were somewhat limited with respect to the major challenges in tax reform, there had been an insistence from the private sector interlocutors to include it as one of the targets for improving the business climate in Morocco. In the Executive Opinion Survey conducted for the 2005-2006 edition of the Global Competitiveness Survey, Moroccan business leaders identified tax regulations and tax levels as two of the most critical factors impeding private sector growth.<sup>3</sup>

The initial approach in this area was to identify specific issues that could be addressed within the budgetary constraints of the Program. That step would provide the basis for further activities.

### **Program-level developments over the past year**

The original budget for the Improving the business climate in Morocco Program had been set at around \$14.7 million for the period of July 2005 until September 2009. However, this level was based on expectations about funding levels for the USAID Mission in Morocco that proved somewhat optimistic. In March 2006, USAID informed DAI that the expected level of funding over the life of the project would be reduced to approximately \$8.7 million, equivalent to a cut of roughly 40 percent.

The impact of these cuts was to some extent reflected in the second annual workplan presented in April 2006, covering the period through March 2007. Certain activities were scaled back (for example tax reform activities were merged into the regulatory reform component). In addition, USAID directed the Program to drop activities in the microfinance area.

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<sup>3</sup> The list was topped by “access to financing” and “corruption.”

In terms of staffing, the Program underwent a major restructuring. Expatriate advisors Tom Lenaghan, Greta Greathouse, and Shelley Liberto departed the project between August and December 2006; as did three local administrative employees. In addition, the home office of Development Alternatives, Inc. asked the Chief of Party to step down.

In November and December of 2006, DAI worked to recruit and restructure the Program team.

## HIGHLIGHTS OF PROGRAM ACCOMPLISHMENTS

### LEGAL AND REGULATORY REFORM

#### Bankruptcy law reform

Over the past year, the Program has laid the foundations for the drafting of amendments to Book V of the Commercial Code to bring bankruptcy legislation closer to international standards. An eminent legal scholar, Professor El Hajjami, canvassed practitioners and judges to identify priorities and develop initial recommendations.

His report forms the basis for a small drafting committee that will prepare the amendments for submission to the Ministry of Justice. The MOJ will sponsor the proposed legislation as a *projet de loi* before the Moroccan Parliament by entry into the *circuit d'adoption*. The result of these activities will be a bankruptcy law that meets global standards. With the bankruptcy training discussed below, these efforts will make it easier to “close a business,” as defined in the World Bank’s Doing Business series.<sup>4</sup>

#### Intellectual property rights and trademark opposition

On January 1, 2006, new laws entered into force that regulated the process of opposing trademark registration by trademark holders, and assigned greater ex officio powers to Customs to seize pirated goods at the border. The legislative amendments had been prepared under a previous USAID project, Commercial Courts and Law Modernization, to bring Moroccan

legislation into compliance with provisions under the USA FTA and to meet WTO obligations.

##### The WTO dimension

The transparency requirements found throughout the WTO agreement are aimed at both providing clarity for other WTO Members and predictability for economic actors. WTO agreements typically mandate at least four levels of transparency: a) publication of laws and regulations; b) notification of new measures to trading partners; c) enquiry points for trading partners; and d) independent administration and adjudication.

Robert Wolfe, “Regulatory transparency, developing countries, and the fate of the WTO. March 2003.”

Some training for both the *Office Marocain de la Propriété Industrielle et Commerciale* (OMPIC) and Customs has been provided by the US Patent and Trademark Office (USPTO), operating under a MEPI grant. To avoid duplication of effort, the Program coordinated with USPTO and will provide targeted training at some future point.

To facilitate access to the provisions of the new laws, the Program produced a CD ROM on new trademark law in cooperation with American Chamber of Commerce and OMPIC.

#### Regulatory transparency and impact analysis

In conjunction with the MEPI-funded Commercial Law Development Program (CLDP) at the US Department of Commerce, the Program provided support for efforts to meet the January 1, 2007 deadline for improved systems for regulatory transparency. Specifically, following a CLDP-organized study tour to the US of officials in various Moroccan government agencies involved in efforts to improve regulatory transparency, the Program conducted a one-day conference on approaches to achieving regulatory transparency as practiced in the US and in OECD countries.

<sup>4</sup> According to the Doing Business in 2007 indicators, Morocco is actually close to the OECD country average for the time it takes to close a business (1.8 vs. 1.4 years for the OECD). The cost as percent of the estate, however, is more than double (18.0 vs. 7.1), and the recovery rate is less than half of the OECD average (35.1 vs. 74.0 cents on the dollar).

Over 160 participants from the public and private sectors attended the conference, organized together with the Ministry of Foreign Affairs and Cooperation.

The conference presenters examined in some detail the legal and administrative procedures for opening the process of rulemaking, ensuring adequate consideration of the people who will be affected by it, and to explore the economic and social implications of proposed rules. While the US system is of course structured quite differently, the basic lessons apply in the Moroccan context.

**Table 1: Presenters at the Regulatory Transparency conference**

<b>Name</b>	<b>Affiliation</b>
Duncan L. Brown	Secretary of the Interior, Executive Secretariat
Jeffrey S. Lubbers	Fellow in Law and Government, American University Washington College of Law
Thomas Susman	Partner, Ropes & Gray (Washington, DC)
Nicole Owens	Director, Regulatory Management Division, US Environmental Protection Agency
Alexander T. Hunt	Office of Information and Regulatory Affairs, Office of Management and Budget
Katherine Cooper	Associate Chief Counsel for International Affairs in the Food and Drug Division of the Office of the General Counsel in, Department of Health and Human Services.
Delia Rodrigo	Administrator, Regulatory Policy Division, Organization for Economic Co-operation and Development

### **Improved business climate across regions**

The Program pursued a three-pronged approach to assist in improving investment procedures and investment promotion across the regions of the Kingdom. First, we fielded a consultant to continue his work with the *Comité National des Procédures liées à l'Investissement* (CNPI) to simplify the procedures for the treatment of investment dossiers by the Regional Investment Centers (CRI). The effort has resulted in an updated *Manuel des Procédures* (Procedures Manual) that attracted media attention when it was officially released in July. The Manual and the necessary forms for submission can be accessed via Internet ([www.manueldesprocedures.com](http://www.manueldesprocedures.com)).

The Program plans to continue its support for this effort. In particular, it is sponsoring the translation of the Manual into Arabic and English. It may also sponsor the installation and operation of a voice server to provide access to the information and forms for investors who may not have access to the Internet and therefore have to rely on telephone and fax.

The Program also interacted with a specialized local company, Argaze, to prepare the installation of an interactive software on a pilot basis in a selected Regional Investment Center. The basic idea is to structure the process of investment approvals on-line, using the simplified procedures of the Manual to identify and facilitate approvals by the various government departments concerned. We expect to complete this process over the next few months.

Other activities under this task include the organization of a focused data gathering activity in with a view toward identifying variations in the business climate across the regions of the country, and the impact on investor perceptions. While there are several approaches for gathering this kind of information,<sup>5</sup> we felt it preferable to link the domestic surveys conducted at the level of (selected) regions to internationally established assessments of business climates and competitiveness.

Specifically, we were thinking of two international surveys or comparisons, the annual Global Competitiveness Report published by the Davos-based World Economic Forum which is largely, though not exclusively, based on an Executive Opinion Survey, and the World Bank's annual Doing Business comparisons. The Program therefore worked with USAID Mission to Morocco, USAID Washington's Economic Growth, Agriculture and Trade (EGAT) Office, the World Bank, and the World Economic Forum to organize and conduct surveys at the level of Morocco's regions based on these two widely respected international comparisons. While we learned some lessons about using (and ultimately adapting) these survey instruments at the "sub-national" level, the underlying experience with these surveys and their growing application at the level of regions of a country provide well-tested framework and appropriate guidance. Moreover, the linkage to the annual surveys at the national level makes tracking and reporting easier. Thus, in addition to providing information on regional differences and regional patterns, the surveys also offer a deeper contextual analysis which makes it easier to interpret and use the results of the international comparisons.

**Figure 1: The regions (cities) covered in the Doing Business survey**



<sup>5</sup> For example, in Vietnam, DAI, together with its subcontractor The Asia Foundation, developed its own survey to calculate a Provincial Competitiveness Index.

For these surveys, we selected seven regions with different economic, social and geographic structures: Souss–Massa–Draâ (Agadir), Gharb–Chrarda–Béni Hssen Kenitra), Marrakech–Tensift–Al Haouz (Marrakech), Oriental (Oujda), Meknès–Tafilalet (Meknes), Chaouia–Ouardigha (Settat), and Tanger–Tétouan (Tangier). In addition, the national survey for the international comparisons in Doing Business in 2007 in effect provides information on the situation in Casablanca. The schematic in Figure 1 illustrates the coverage of the surveys.

The competitiveness survey using the World Economic Forum’s Executive Opinion Survey instrument was completed in early August 2006. Data collection was paid for out of a grant from USAID Washington to the World Economic Forum, with the analysis being handled by the Program. The major data gathering for the Doing Business survey was conducted in September 2006, and some additional data gathering continues, as the World Bank team is analyzing the results. The Program paid for the survey costs, with the World Bank providing the questionnaires in French, and being primarily responsible for the analysis.

The current plan is to present the results of the analysis of these two surveys along with an economic profile of each region. The findings and resulting discussion, to be conducted with partners and stakeholders, will serve as the basis for the Program’s continued activities.

Complementing these two surveys is a study of Morocco’s investment promotion efforts generally, in particular with respect to the efforts undertaken by its regional “competitors.” The study is actually organized into three components:

- a thorough analysis of the measures taken to attract and support foreign investors in direct comparison to similar efforts in countries like Algeria, Tunisia, Egypt and others, and in comparison to best international practices;
- a systematic assessment of the treatment of (actual or potential) foreign investors active in Morocco, as well as of the collection, publication and analysis of statistics on foreign direct investment; and
- an exploration of the net impact of investment promotion measures and incentives on the level and pattern of domestic and foreign direct investment.

The first two of these studies are expected to start in November 2006. The third will await the outcome of related efforts undertaken by the *Direction Générale des Impôts*.

### **Improved competitiveness for the Moroccan economy**

The efforts by the Program in this area have focused on support to the *Service de Normalisation Industrielle Marocaine* (SNIMA). Morocco’s quality assurance system is expected to undergo a transformation, with greater specialization, with standards and technical regulations to be handled by SNIMA’s successor organization, the *Institut Marocain de Normalisation* (IMANOR), while the mixed public-private *Comité Marocain d’Accréditation* (COMAC) will be in charge of accreditation of testing laboratories and compliance certification.<sup>6</sup> IMANOR will have greater independence as a separate government agency.

A DAI expert on quality infrastructure development, Mr. Sani Daher, visited Morocco in early 2006 to work with SNIMA on efforts to streamline its process of vetting and promulgating technical regulations, moving it from the paper-and-meetings approach to on-line consultations. The Program support, as outlined in a Memorandum of Understanding with SNIMA (expected

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<sup>6</sup> The restructuring of Morocco’s quality infrastructure is in part driven by agreement with the EU—the “Plan d’action de Palerme” regarding the free circulation of goods—but it is also aimed at meeting the requirements under the US FTA.



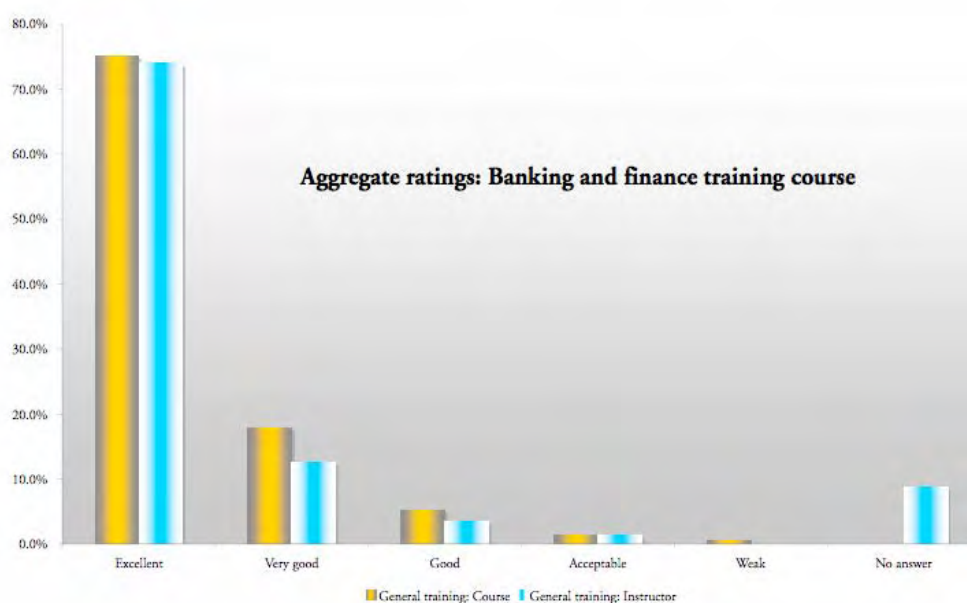
to be signed in November) covers support for setting up the required database and electronic document management systems on line to enable interested investors, both domestic and international, to interface with the process of issuing technical regulations. The Program will also support efforts to run the system on partially commercial basis by providing services to private enterprises on a fee basis.

## JUDICIAL REFORM

### Strengthen legal training systems for commercial courts

With a view toward developing the curriculum for mandatory continuing legal education, the Program worked with the Ministry of Justice as well as other stakeholder institutions, such as the *Institut Supérieur de Magistrature* (ISM), and key representatives of the commercial court system. These efforts continued the work begun under a previous USAID project in designing and implementing courses for court personnel. Three Moroccan trainers, Messrs. Lahbabi, Berrada, and Tabet, conducted courses on banking law, corporate finance, bankruptcy and accounting principles (48 participants) at the ISM and Tit Mellil Justice Center in April and June 2006. The courses were very well received by the participants, as Figure 2 illustrates. Overall, 75 percent of the training participants found both the courses and the instructors to be “excellent.”

Figure 2: Satisfaction with banking and finance training courses



### Diffusion of important judicial opinions and guidelines

Unquestionably, there is a growing commitment to making judicial opinions and guidelines more broadly available to judges, and shift more towards judicial decisions based on precedent. Several initiatives in that respect are under way, in particularly under the aegis of the Supreme Court. The Program has taken initial steps to assess these efforts, establish relations with key stakeholders, including the Supreme Court, and develop options for further assistance.

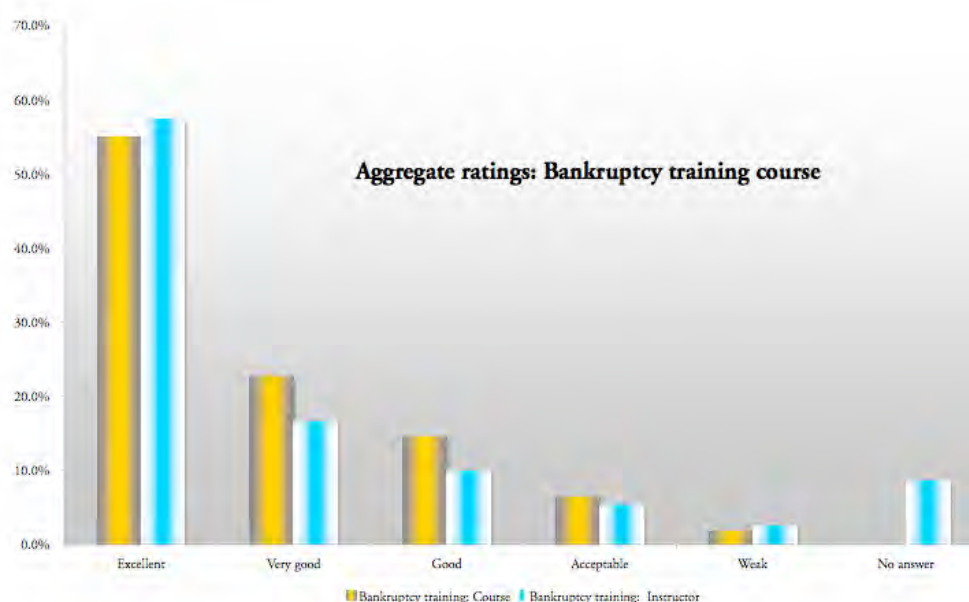
### Bankruptcy training

Over the past year, the Program has conducted two five-week training courses related to accounting principles specific to bankruptcy proceedings, for both judges and court clerks. The

courses, held at the Rabat and Tangier Commercial Courts, involved hands-on training in the interpretation of financial information and other issues related to bankruptcy proceedings by the instructor during the five-week period. The reported satisfaction with these training courses overall rivals that for the courses on banking law and corporate finance, as illustrated in Figure 3. While these evaluations are slightly more critical overall, over 55 percent of the participants thought the course and the instructor to be “excellent.”

The course materials developed for these courses will be refined further and will provide the basis for training of trainers and of participants in the future. These materials will support initiatives to integrate this kind of training more effectively into institutional continuing legal education programs as a precondition for moving toward mandatory continuing legal education.

**Figure 3: Satisfaction with bankruptcy courses**



### Case management system for commercial courts

In the spring of 2006, the Program brought a highly respected judge who had worked in Morocco before, Mr. John Sherman, to examine issues of case typologies as they relate to the improvement of case management systems for commercial courts. The Ministry of Justice suggested a broader area of investigation related to the establishment of effective case management systems for the commercial courts. Currently, under an EU-funded program, a comprehensive new case management system is being developed for the general courts. The conclusion of the assessment was that it would make considerable sense to link the development of a comprehensive case management system for the commercial courts to that under development for the general courts. The consensus was therefore to wait for adequate progress on the EU-funded assistance project.

### Assessment of options to develop Alternative Dispute Resolution mechanisms

This task emerged from interaction with private sector stakeholders who were interested in initiatives to develop existing Alternative Dispute Resolution (ADR) mechanisms into a more effective alternative to resolution by the courts. The Program fielded an expert in this field, Mr. Remy Kormos of our subcontractor, DPK Consulting, to conduct an assessment of options for technical assistance. Mr. Kormos examined existing ADR efforts in the country, and held

detailed discussions fledgling attempts to create a more comprehensive system. Based on that analysis, he proposed some options for technical assistance to be furnished by the Program.

Obviously, success in promoting ADR mechanisms will affect one of the indicators related to the Improving the business climate in Morocco Program, the time it takes for the enforcement of contracts (debt recovery). We therefore intend to follow up on these recommendations and explore ways to provide such support and technical assistance in a comprehensive manner.

## FINANCIAL SECTOR REFORM

### Improving access to information on creditworthiness

In April 2006, the Program fielded an assessment mission to explore opportunities and prospects for improved sharing of credit information. In general, the benefits of improving credit reporting systems affect disproportionately small enterprises in poor countries, according to a graphic presented by Michael Klein of the Private Sector Department of the World Bank, as illustrated in Figure 4.

**Figure 4: Impact of credit information bureaus on firms' access to finance**



Source: Michael Klein presentation, 2004.

The credit bureau assessment team comprised

- Ms. Maria Bahnini to examine the legal and regulatory environment for access to credit-relevant information,
- Mr. Andrew Iappini to conduct a preliminary assessment of market demand and the associated capacity to support a commercial credit information sharing system, and
- Mr. Miguel Llenas to assist the Bank Al-Maghrib in the development of a strategy to improve credit information sharing systems;

The assessment team worked in close cooperation with colleagues at the Bank Al-Maghrib to develop recommendations to respond to the new opportunities opened up by the provisions of amendments to the banking law that had just become effective. These amendments gave the Bank Al-Maghrib the mandate to develop more comprehensive credit information sharing systems, and authorized it to delegate the operation of such a system to another entity or entities. Those provisions in fact created the framework for the establishment of (a) private credit bureau(s). The team presented the results of the assessments and recommendations to a meeting of key stakeholders in the Bank Al-Maghrib. The Program also convened a meeting of the credit information working group to discuss findings and recommendations. The team left behind a comprehensive assessment report as well as a series of informative reports.

Following a meeting with the Bank Al-Maghrib and the IFC team, both the Program and the IFC prepared individual proposals for follow-up assistance, primarily at the insistence of the IFC. Given its long-standing relationship with the IFC in these matters, the Bank Al-Maghrib decided to accept the proposal put forward by the IFC team. The Program, however, stands ready to provide additional assistance, as requested.

### **Strengthening financial information systems**

The ROSC (Report on Standards and Codes) and the ROSC Action Plan developed under the auspices of the World Bank focus primarily on “high level” accounting issues in Morocco. They address the introduction of International Accounting Standards (IAS) and preparations for the industry and various sectors to apply and interpret these new standards. The ROSC identifies the *Ordre des Experts Comptables* (OEC) and the *Conseil National de la Comptabilité* (CNC) as the principal institutions for implementing the Action Plan.

However, the introduction and application of International Accounting Standards will target only a relatively small number of large companies and banks. It is likely to leave the need for improved financial information among the vast majority of companies untouched. Given its mandate in this area, the Program examined the issues of financial reporting across all sectors of the Moroccan economy and identified the following areas for potential intervention:

- (1) Supporting the implementation of and preparation for IAS;
- (2) improving the governance of the profession via a demand and supply assessment which would form the base of redefining levels of professional qualification, roles and responsibilities, focusing particularly on *Comptables Agréés*, fiduciaries, etc., and emphasis on quality control; or
- (3) addressing obstacles to expanded use of proper accounting by small and medium enterprises (SME), and devising incentives and policy changes needed to foster increased usage. Such an effort would involve the examination of such issues as *fiscalité/comptabilité*, experience with simplification of accounting requirements for small businesses, results of the experiment with the *Centres de Gestion*, encouragement of non-cash payments and others.

In all meetings with industry professionals, this third area of interest was singled out as a priority for the country. However, resource constraints and other emerging Program priorities have led to the decision to suspend further efforts in this area.

### **Registry systems for liens on movable property**

In preparation for this activity, the Program invited a leading expert in this field, Mr. Yair Baranes, to examine the current systems and offer recommendations for improving them. That

mission took place in the first part of May 2006. Mr. Baranes concluded that while some aspects of the existing collateral registration system are adequate, the system as a whole falls far short of emerging global standards. His report presented recommendations for implementation to address deficiencies. It also included a preliminary work plan for the implementation of the proposed changes.

The next steps will include the development of a final workplan, and its implementation. The Program will also engage the services of a local legal expert who will provide an overview of the legal and regulatory context of the changes which could allow for or reinforce the changes being proposed. The review will also identify other areas of legislation and regulation that may also have an impact on the development of a modern secured lending system.

### **Microfinance expansion**

Activities under this task were limited to the first few months of Program implementation. They took advantage of a number of activities in November 2005 targeting microfinance in Morocco and the region. In fact, November 2005 was a busy month for microfinance, both in Morocco and throughout the world. The end of the “Year of Microcredit” of the UNDP was celebrated in New York at the UN.

In Morocco, a number of conferences on microfinance were held in Marrakech during that month, including the Women’s World Banking Global Network Meeting and the annual conference of SANABEL, the microfinance association for the Middle East and North Africa. The Program’s Financial Adviser, Ms. Greta Greathouse, participated in these events; in addition, other Development Alternatives, Inc. staff also participated in the SANABEL conference.

The Program sought to support efforts to expand the reach of microfinance institutions, and to help any initiatives to “downscale” the operations of commercial banks to reach clients in the microenterprise and SME sectors. Taking advantage of the presence of a number of microfinance experts as a result of the meeting of Women’s World Banking in Marrakech, the Program organized two events in Rabat on November 10 and 11: an “Innovations in Microfinance” lecture series on “Growth Strategies for Microfinance” and a policy forum on “Models that Work for Microfinance: Experiences from Different Countries.” These two well-attended events succeeded in their objective to open a dialogue for the sector on how microfinance can evolve and achieve growth.

Once budgetary constraints became clear, USAID/Morocco directed the Program to drop further efforts in microfinance. All activities related to microfinance were therefore suspended in March 2006.

### **Tax issues**

Activities in this area focused primarily on the development of a plan of action. In discussions with the principal counterpart, the *Direction Générale des Impôts* (DGI), it became clear that much of the needed analysis had been done, often more than once, by the Ministry of Finance, the IMF, the World Bank, and other donors. Therefore, more analysis did not seem like a high priority, except in the area of assessing the actual impacts of incentives on investment patterns.

When the budget shortfalls for the Program became apparent, USAID/Morocco decided to suspend activities in this area, and merge an intended assessment of the net impact of tax incentives on the level and patterns of investment with the studies in support of investment promotion under the legal and regulatory policy component.

## **ASSESSING PROGRAM PERFORMANCE**

### **Measuring performance: USAID's Intermediate Result 11.3**

In the fall of 2005, the Program submitted a draft Performance Monitoring Plan (PMP). While the workplan was still under development, the PMP was treated as preliminary. Following the March 2006 budget cuts, there was an agreement that the final PMP for the Program should await the development of a new Scope of Work for the Task Order. Thus, a new PMP will be developed in early 2007.

It is worth noting, however, that the overall orientation and specific emphasis of the Program reflects the indicators used to track performance at the level of USAID's Economic Growth Strategic Objective 11, Moroccan economy successfully responding to new opportunities and challenges of free trade. The original Scope of Work for the Task Order under the SEGIR Macroeconomic Policy II IQC had placed particular emphasis on relevant indicators from the World Bank's *Doing Business* series.

As a result, Two *Doing Business* indicators (enforcing contracts and access to credit) and one World Economic Forum indicator, "business perceptions of the performance of public institutions", were suggested by the Program and included in the PMP for the Economic Growth Strategic Objective for USAID/Morocco.

### **Outlook**

The Improving the business climate in Morocco Program is now poised to concentrate more on specific actions to achieve regulatory reform and support investment promotion activities. Activities in the legal and financial arena will be handled increasingly to support the central thrust of the Program. The individual steps for each of these areas have been outlined in the discussion of performance highlights.

A new Chief of Party, Ms. Lara Goldmark, has just been approved to direct the activities for the remainder of the Program. She will be joined by newly recruited Moroccan coordinators for each of the three areas. We expect that the new structure will be fully in place and operational in January 2007.