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EVALUATION OF THE IMPROVING BUSINESS CLIMATE IN MOROCCO (IBCM) PROGRAM AND ASSESSMENT OF THE BUSINESS-ENABLING ENVIRONMENT IN MOROCCO

January 9, 2012

This publication was produced for review by the United States Agency for International Development. It was prepared by Mendez England and Associates.



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**Evaluation of the Improving the Business Climate in Morocco
(IBCM) Program and
Assessment of the Business-Enabling Environment in Morocco**

Final Report

Prepared under RFTOP No. 608-11-011

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USAID/Morocco

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LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
AMDI	Moroccan Investment Development Agency
CBI	Common Business Identifier
CDER	Center for the Development of Renewable Energies
CDM	Clean Development Mechanism
CGEM	Confédération Générale des Entreprises du Maroc
CIMAR	Rabat International Center for Mediation and Arbitration
CNEA	National Business Climate Commission
CNIP	National Committee on Investment Procedures
COP	Chief of Party
CRI	Regional Investment Center
COTR	Contracting Officer's Technical Representative
DAI	Development Alternatives Inc.
DCOP	Deputy Chief of Party
EU	European Union
FDI	Foreign Direct Investment
FOMAP	Fund for the Modernization of Public Administration
GoM	Government of Morocco
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
IBCM	Improving the Business Climate in Morocco
IMF	International Monetary Fund
ISM	Institut Supérieur de la Magistrature
M E&A	Mendez England & Associates
MGEA	Ministry of General and Economic Affairs
MoJ	Ministry of Justice
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
OMPIC	Office Marocaine de la Propriété Industrielle
PMP	Performance Management Plan
RADEM	Régie Autonome d'Electricité de Meknès
RC	Commercial Registry
ST	Short Term
SME	Small and Medium Enterprise
SNIMA	Service de Normalisation Industrielle Marocaine
SOW	Statement of Work
TOR	Terms of Reference
UN	United Nations
USAID	United States Agency for International Development
WB	World Bank
WTO	World Trade Organization

1.0 EXECUTIVE SUMMARY

The following report is the result of the findings of a mission to Morocco by the independent external Evaluation Team commissioned by Mendez England & Associates (ME&A) on behalf of USAID/Morocco, pursuant to the RFTOP 608-11-011. The report is a review and analysis of the USAID-funded Improving the Business Climate in Morocco (IBCM) Program, implemented between July 25, 2005 and September 30th, 2009.

The primary focus of the evaluation is to determine the extent to which IBCM, implemented by Development Alternatives, Inc. (DAI), accomplished the terms and objectives of the Program in line with the Mission's Strategic Objective SO11, Moroccan Economy Successfully Responding to New Opportunities and Challenges to Free Trade, and result area IR 11.3, Business Environment Improved.

The IBCM Program was designed to make the Government of Morocco (GoM) more responsive to the needs of business with a view to contributing towards the country's goals of expanded economic growth and job creation. The underlying theme was for IBCM to help improve Morocco's overall business climate and, more specifically, help it meet its commitment under the Free Trade Agreement (FTA) negotiated with the United States, which entered into force on January 1, 2006.

Following a realignment of activities in response to a USAID budget reduction within six months of the start of the Program, it was agreed that two components would be implemented: 1) Regulatory Reform and Investment Promotion; and 2) Legal Reform and Improved Commercial Court System. With regard to Regulatory Reform and Investment Promotion, the ultimate goal was to make it easier doing business in Morocco through simplifying the entire administrative procedural processes regarding starting and operating a business and creating a business enabling environment that allowed free and fair competition. In addition, the Program would focus on addressing the concerns of the international community in terms of protecting the interests of foreign investors locally, regionally, and nationally.

The Evaluation Team found that:

1. IBCM became a key player in influencing both policy makers and the public and private sectors of the need to embrace reforms and participate in initiatives aimed at ensuring their implementation. Notable accomplishments included the move towards streamlining administrative procedures through the introduction of e-governance technology, which enabled speeding up application processes by businesses and investors. E-invest and the Common Business Identifier were further developed by the Program for implementation by the relevant parties including, in particular, the Regional Investment Centers throughout the country. Assistance was provided to those who would be responsible for the smooth operation of electronic processes via advice and training.
2. A further achievement towards the end of IBCM was its influence with the GoM in setting up a high-level body that would be responsible for driving the reform process forward. The National Business Climate Commission was the result of this effort and is now, two years after the end of the Program, fully operational.
3. IBCM left a positive mark with regard to its training activities, its assistance and capacity building of the Office Marocaine de la Propriété Industrielle (OMPIC), and with the resource materials it left behind such as the trademark and patent guides, which are still being used today. While other donors participated in this effort, Rabat International Center for Mediation and Arbitration (CIMAR) is unequivocal in its belief that it is self-sustainable

because of the business plans and related training that the IBCM Program provided.

4. IBCM has been instrumental in helping raise the awareness of the need for reform among those parties that play an active role in ensuring that a level playing field for the conduct of business is created and is sustainable.
5. IBCM's role in the Common Business Identifier (CBI) initiative was instrumental in galvanizing the relevant bodies to discuss the issue and to, ultimately, help draft the decree which would legally require all government agencies to become electronically connected to the CBI database.
6. IBCM conducted a number of very successful trainings in strengthening the judiciary in intellectual property (IP). It also developed and provided useful trademark and patent guides that are still being used two years after the Program ended. OMPIC has been continuing the work that IBCM started and is building on it. OMPIC's on-going activities include creating a training center to train IP judges based on IBCM's model. According to the agency, IBCM's assistance was "influential" in leading the way and setting the ground work for OMPIC to carry out its current plans for IP implementing and training activities.
7. IBCM is credited by the Rabat International Center for Mediation and Arbitration (CIMAR) as an instrumental program in helping CIMAR to build capacity and become a sustainable organization. CIMAR indicated to the Evaluator Team that it is now self-sustaining and that it has been noticing a gradual increase in the number of cases as well as the amount of the settlement. In addition, CIMAR is growing and developing specialized divisions of mediation and has entered into memberships with a number of mediation centers worldwide.
8. IBCM provided some valuable work on bankruptcy legal reform; however, two years later, the Morocco's 1996 bankruptcy law is still in effect. The Evaluation Team does not necessarily fault the Program for the lack of success in bankruptcy reform as legislative successes demand a strong buy-in and support from the country's government.
9. As the IBCM Program ended in 2009, the only recommendations that the Evaluation Team could offer would be with regard to any potential USAID-funded programs in Morocco. With regard to possible considerations for the future, the Evaluation Team would draw attention to the need for a more robust correlation between Work Plans and Performance Management Plans (PMPs) in order to avoid the possibility of confusion when attempting to track actual against planned results on a year-on-year basis. This would enable Program-related strengths and weaknesses to be identified in a timely manner and for corrective action to be taken where deviations or non-accomplishment of objectives have occurred. It would also facilitate more informed decision-making by Program management, especially with regard to the allocation of human and budgetary resources.
10. In terms of what USAID might wish to consider as possible follow-on interventions, this has been addressed in Part 2 of the report with suggestions and recommendations. In short, this would most certainly include considering further assistance in the field of access to finance for Small Medium Enterprises (SMEs) and working towards the possibility of creating a vehicle to encourage entrepreneurship such as business incubators and/or support centers. There is also a strong argument in favor of developing proposals to start this process in the education system including schools, colleges and universities, in order to foster the notion that starting a business is not only for the privileged few.

2.0 INTRODUCTION AND BACKGROUND

2.1 Purpose of the Evaluation

This evaluation report represents the findings of an external and independent assessment of the IBCM Program implemented by DAI. The evaluation mission had two main tasks: 1) Provide an objective assessment of the IBCM Program as well as identify key lessons learned; and 2) Provide USAID staff with an analysis on the current business enabling environment in Morocco. The results of the evaluation would subsequently “inform current and future programmatic and strategic decisions within the Economic Growth Officeand, where appropriate, be used to recalibrate ongoing activities in the business enabling arena.” The Evaluation Team reviewed activities from IBCM’s inception on July 25, 2005 through its completion on September 30, 2009.

2.2 Background on Morocco’s Economy and Involvement of IBCM

In recent years, Morocco has made significant progress towards improving its business environment starting with structural reform in the 1980s and followed by a program of privatization and infrastructure investment. Regulatory reform has been driven by membership of the World Trade Organization (WTO), the Association Agreement with the European Union (EU), and FTA with the United States (US). However, by the early 2000s, it was clear that more needed to be done to make the business climate more efficient, predictable, and transparent in order to stimulate economic growth and generate jobs. To improve its competitiveness and attract more investors, Morocco needed to improve its institutional co-ordination and dialogue with non-governmental players as well as step up its efforts to ensure integrity and combat corruption. It also needed to address a range of issues concerning justice, and land titling and ownership.

Against this background, in July 2005, USAID and DAI executed the USAID/ Morocco Task Order for the IBCM Program, which was designed to contribute to the achievement of USAID/Morocco’s Strategic Objective (SO) 11, “Moroccan Economy Successfully Responding to New Opportunities and Challenges of Free Trade.” Specifically, the Program was to address Intermediate Result (IR) 11.3, “Business Environment Improved.” The initial scope of work highlighted four main components:

- improved policy, legal and regulatory environment;
- a more efficient and effective judiciary;
- improved support systems for financial markets expansion;
- more growth-oriented tax policies, laws and regulations.

However, as the Program evolved it was required to take account of changing circumstances on the ground and respond to a USAID reduction in the ceiling price of the Task Order, which led ultimately to two main components being implemented: 1) regulatory reform and investment promotion; and 2) legal reform and improved commercial court system.

2.3 Methodology of the Project Evaluation

In line with the requirements of the Statement of Work (SOW), the Evaluation Team convened in Rabat on October 31, 2011, and remained in Morocco until November 25, 2011. A Work Plan (see Annex A) for the evaluation mission was submitted to USAID/Morocco shortly after the Team’s arrival in Rabat. As indicated in the Work Plan, the emphasis of the Team’s activities was on conducting a comprehensive review of available project-related documentation, and arranging interviews with key stakeholders, government departments and agencies, and industry associations

and enterprises. As the IBCM Program had already ended in 2009, it was agreed that USAID/Morocco would provide the Evaluation Team with the contact details of the Chief of Party (COP) to arrange a meeting in the US between her and the US-based Evaluation Team member. This meeting took place in Bethesda, MD, on October 28, 2011 and was most productive. In addition, the Evaluation Team was advised that several members of the IBCM team were currently involved in another USAID ongoing project in Morocco and that they would be available to meet in their offices. This meeting took place on November 2, 2011.

In specific terms, the review was to encompass two distinct aspects for investigation – quantitative and qualitative – in terms of how IBCM was to be evaluated. The quantitative aspect would focus on those activities against which actual performance could be measured over time against pre-determined targets, i.e. the number of actions carried out (procedures implemented, concept papers prepared, draft laws introduced) within the main project components. In preparing the final report, the Evaluation Team was mindful of the specific review questions that needed to be addressed; these are charted in Sections 6 and 9 below.

Following analysis of the data and information collected as outlined above, a pre-departure out-briefing was held with USAID in Rabat on November 23, 2011. During this briefing, the Evaluation Team presented its preliminary findings and recommendations. In agreement with USAID, an initial draft report, which took account of comments and suggestions made during the out-briefing, was subsequently submitted on November 29, 2011.

2.4 IBCM and its Activities

As mentioned in IBCM’s “Summary of Final Report,” October 2009, the original intention of the Program was to help Morocco comply with recently signed FTAs in particular with the US, although this was to change following requests from Moroccan partner ministries to broaden its focus. This resulted in the Program pursuing the two main components referred to in 2.2 above. The Program was also required to revise its activities following USAID’s downsizing of the available funding from \$14.71m to \$9.25m, as specified in the Amendment of Solicitation/Modification of Contract signed in August 2008. In short, there was a realigning of focus towards making it easier to do business in Morocco. Accordingly, as the Program evolved, some tasks, activities and deliverables were adjusted, revised or removed altogether while others were introduced to the Program. In most cases, any such adjustments were recorded in Annual Work Plans, PMPs, or in correspondence between USAID and DAI.

3.0 EVALUATION OF COMPONENT 1: REGULATORY REFORM AND INVESTMENT PROMOTION

In order to conduct a comprehensive evaluation of IBCM, an understanding of the Program’s performance in relation to its specific quantitative metrics is vital. The main reference points for the quantitative evaluation were the IBCM Annual Work Plans, PMP and data collection reports¹, annual reports, quarterly reports and the final reports completed after the end of the Program in July 2009.

3.1 Quantitative Data Evaluation

The activities in this section reflect how IBCM performed in terms of delivering results against a set

¹ PMP Data Collection Reports also include a Policy Index which measures progress along a set of chronologically order steps towards achievement of a specific goal.

of pre-determined and/or revised targets throughout the implementation of the Program. However, it should be noted that many of the Program's activities, concerned processes implemented over time rather than specific events that could be quantitatively tracked and recorded in purely numeric terms as per the final year's PMP Data Collection reports summarizing the Program's performance. It should further be noted that work under this component followed a revision of Component 1 outlined in the IBCM Work Plan October 2006 – September 2007². Three specific activities were identified in pursuit of Regulatory Reform and Investment Promotion and these are outlined below together with other initiatives that were also developed within the scope of the component.

3.1.1 Consolidate and strengthen systems to monitor and improve business climate at national and regional level

Background

Morocco's international standing with regard to how it is perceived in terms of economic competitiveness and ease of doing business is scrutinized annually by such organizations as the World Bank³ and the World Economic Forum, among others. A basket of indicators is employed to assess performance at a particular point in time (annually), which can either be measured against previous years' performances and/or against other countries for comparative purposes. The rationale for inclusion of this activity was, therefore, to establish baseline performance measures that would help identify those business climate indicators most in need of support and strengthening in Morocco. This would then be followed by an analysis of those areas judged to be levers in improving the ease and cost of doing business. Having data on both national and regional indicators, would serve to help the GoM identify policies that would lead to an improved business climate.

IBCM's Performance

In order to obtain a clearer understanding of the business climate in Morocco, the IBCM Program first elected to conduct a regional Doing Business Survey aimed at highlighting differences in regional practices, with a view to identifying the extent of competition between the Regional Investment Centers (CRI's) established in 2002. Four indicators were selected to measure those differences:

- Registering a Business
- Construction Permits
- Transferring a Property Title
- Enforcing Contracts

The survey identified areas of improvement *vis-à-vis* the four indicators.

With respect to *Registering a Business*, IBCM worked closely with the International Finance Corporation (IFC) to facilitate a public-private dialogue to identify 12 recommendations that would permit Morocco to offer future on-line business registrations. Three of these recommendations were subsequently introduced into the *circuit d'adoption* and are worth mentioning here due to their importance and impact:

1. Proposal to amend the law to eliminate the minimum capital requirement

² IBCM's Work Plan October 2005 – September 2006 refers to Comment1: An Improved Policy, Legal & Regulatory Environment

³ The World Bank publishes its Annual Doing Business Surveys comparing one country's rankings relative to 183 other countries.

2. Proposal to amend a decree in order to eliminate the requirement to publish registration of one's business in a private legal journal
3. Proposal to introduce a standardized form for business registration no matter the point of entry

The Evaluation Team determined from interviewees that the minimum capital requirement law amendment had been adopted and that the anticipated effect of this would be an increase in business registrations. However, as the CRIs in particular do not record which new registrations result from businesses being registered following the abolition of the minimum capital requirement, it has not been possible to realistically assess the true nature of its impact on business start-ups. Nevertheless, most interviewees on the subject agreed that potential entrepreneurs would now have greater incentive to start a business, given that the minimum capital requirement would no longer be a disincentive.

In terms of dealing with construction permits (effectively an indicator considering all procedures required to build and operate a warehouse), the Program, in collaboration with the World Bank, conducted a Regional Doing Business in Morocco study with a view to using regional scores as a stimulus for positive competition among 8 regions. The findings of the study highlighted wide discrepancies between regions and the flexibility they have in implementing regulations. The Program then conducted a further study regarding construction permits following a request by the Ministry of Habitat, the Business Climate Committee in Tangiers, and the Urban Agency of Meknès, primarily to determine where improvements could be made in the procedures regarding the processing of requests. The study highlighted a number of reasons for delays in the processing of applications for construction permits resulting in several recommendations being made by IBCM to address them in the short to medium term.

Given the results, IBCM worked with local government agencies in Tangiers in a pilot scheme to re-engineer the approval process between the various agencies involved in order to make the process of obtaining a permit more efficient. Emphasis was on the development of a pre-screening tool for architects who present projects to the municipal government. The resulting pre-screening matrix was presented to the Ministry of Housing and Urban Development for possible consideration of national deployment. At the time of the evaluation mission, there was no evidence that this had taken place. An explanation offered was that for it to be implemented effectively it would need to happen electronically.

Thereafter, IBCM decided to pursue several regional initiatives based on their Doing Business scores relative to their history and economic development strategies. These included the deployment of the E-invest application and economic development strategy. Further to these particular pilot projects, and resulting from the National Doing Business Conference in Morocco in November 2007, three regions - Tangiers, Agadir and Casablanca - created regional committees consisting of both public and private sector partners with the aim of improving their respective business climates. These committees then requested assistance from IBCM to support their reform efforts.

In November 2007, IBCM held a national conference entitled "Doing Business: Best Regional Practices," with around 200 participants. One of the more important results of the conference was the setting up of three regional Doing Business Committees led by the CRIs in Casablanca, Tangiers and Agadir. In its Work Plan (October 2008 – July 2009), IBCM suggested that it had become the "go to team" for questions about the Doing Business rankings receiving requests from partners to carry out analysis of proposed policy reforms together with their likely impact on the relevant rankings.

Further inputs focused on follow-up work with the National Committee on Investment Procedures (CNPI)⁴) although its efforts on reform did not apparently have the same political support that the Doing Business Committees had. To overcome this, IBCM suggested that the CNPI merge its activities with other initiatives aimed at simplifying administrative procedures⁵ such as Casablanca's *Doing Business* Committee, which aims to improve Morocco's ranking in the World Bank report. In fact, the CNPI was subsequently replaced by the National Business Climate Commission (CNEA) with work on procedures simplification within that body led by the Ministry of Modernization. The Evaluation Team had planned to meet with the Moroccan Investment Development Agency (AMDI) for an update on all current investment activities in Morocco with a view to clarifying some of the above IBCM-related activities, but this proved not to be possible.

In summary, these Program initiatives have clearly helped raise the profile of the debate on improving business practices at local, regional and national level, providing the impetus for all involved stakeholders to recognize that reform is needed regarding regulations and the way in which the public and private sectors collaborate in pursuit of the same goal – increased foreign investment. However, in recognition of the fact that more needed to be done to attract foreign investment and, in spite of the fact that initiatives to simplify administrative procedures had been implemented, IBCM identified a number of strategies to address the most pressing issues related to Doing Business in Morocco⁶. The result of IBCM's contribution with respect to improving the business climate is that it has been instrumental in helping raise the awareness of the need for reform among those parties that play an active role in ensuring that a level playing field for the conduct of business is created and is sustainable.

National Business Climate Commission (CNEA)⁷

Towards the end of the Program, steps were taken by IBCM to lobby the GoM to establish a public/private mechanism charged with leading the reform effort through more effective monitoring and coordination of actions aimed at improving the framework for conditions for business and investment activity in Morocco. The end result of this initiative was the inclusion in the GoM's "National Pact for Industrial Emergence – Program Contract 2009-15" of Measure 69, which agreed to set up such a body within the Ministry of General and Economic Affairs (MGEA). Discussions held with key members of the Management Committee on behalf of the Ministry and acting in a secretarial capacity, advised that the NBCC was fully functioning with public/private sector working groups established to develop proposals for reform based on surveys conducted twice a year with SMEs in particular. In the view of the members interviewed, the existence of the NBCC following representations by IBCM has led to a revitalized acceptance for reform among key stakeholders with more transparency and sense of responsibility to make things happen.

Conclusions

In terms of being able to provide an objective analysis of IBCM's performance relative to specific quantitative indicators as defined in the Program's various PMP reports regarding the Doing Business Element, it should be noted that most of the data provided comes from IBCM's self-evaluation as highlighted in the Program's Data Collection sheets (2008 and 2009) and PMP data

⁴ CNPI was established by the Prime Minister of Morocco in 2005

⁵ This was recommended in IBCM's Summary Report of CNPI Activities March-April 2008

⁶ These are described in detail in the IBCM Final Report – 'Beyond Doing Business, September 2009.

⁷ The CNEA was established in December 2009 and chaired by the Prime Minister

tables for 2007. According to these documents, targets have been met, or in some cases exceeded. IBCM's performance, as defined in its Policy Index⁸, which measures the extent to which policy dialogue has led to the implementation of new laws, has yielded positive results as per IBCM's self-assessment, in the sense that recommended policy has been submitted to the relevant bodies for approval. Thereafter, ultimate completion of the task lies outside the Program's sphere of influence. Following is a more detailed analysis of some of the individual interventions.

3.1.2 Recommend improvements and support implementation of a national investment promotion strategy

Background

IBCM's Work Plan (October 2006 – September 2007) identified four tasks associated with its support to the GoM:

1. Produce a comprehensive assessment of current GoM investment promotion strategies
2. Strengthen the National Investment Promotion Strategy
3. Strengthen and Disseminate Investment Procedures
4. Pilot installation of investment information management system in a Regional Investment Center

In IBCM's PMP of October 2007, there are no references to any of the above mentioned tasks so they cannot be commented upon. In its Work Plan October 2007-September 2008, reference is made to IBCM's earlier work with GoM's investment promotion efforts, in particular its collaboration with the *Direction des Investissements (DI)*, with the production of the investment procedure manual and the National Committee on Investment Procedures. A further outcome of its work with DI resulted in the report "Investment Trends – Morocco is in the Race," which reviewed investment trends in Morocco between 2003 and 2007. In the same Work Plan, reference is also made regarding a pilot investment initiative planned for Meknès (see 3.1.6 below for a detailed analysis on this) and the Program's proposal "to support investment promotion efforts as part of a coordinated strategy including participation from the DI and the CRIs."

IBCM's Performance

It has not been possible to track activities in any logical sequence of events from Work Plans to PMPs regarding investment promotion. To all intents and purposes, interventions seem to have started with regional surveys, working with and supporting Regional Doing Business Committees, working with the CNPI, and ending with a regional Doing Business 'mini-survey' in some regions for a limited number of indicators. Specific activities such as E-invest and the Meknès Vert initiative were developed during the implementation of the Program and are discussed separately.

Conclusions

The Evaluation Team encountered some difficulty in following the progress of investment promotion activities and tasks throughout the lifetime of the Program because of significant changes in Work Plans and PMPs on investment promotion related issues. Where activities have been clearly identified and followed through, these have been commented upon in separate sections of the report.

3.1.3 SNIMA and its transition to an independent standards agency

Background

⁸ This is Attachment A of the PMP Data Collection reports for 2008 and 2009.

In its Work Plan (October 2006 – September 2007), the IBCM Program indicated that one of its main activities would involve supporting initiatives to improve the transparency and quality of the rule-making process in Morocco, particularly with regard to standards. The main beneficiary of this assistance would be the *Service de Normalisation Industrielle Marocaine (SNIMA)* as it transitioned into an independent agency⁹. SNIMA falls under the umbrella of the Ministry of Industry, Commerce and New Technologies and is charged with coordinating national standard setting activities. It is mainly concerned with training, information and certification. One of IBCM's main tasks was to assist SNIMA take over the management of the database and website from the Ministry.

IBCM would also provide internet access and purchase of a domain name. An additional task was to work with the Ministry of Foreign Affairs to plan and implement an outreach strategy to increase awareness and commitment to regulatory quality and transparency. Finally, it was envisaged that to accomplish these tasks IBCM would work closely with both public and private sector stakeholders. In short, the rationale for IBCM's intervention was clear from the beginning and highly relevant in raising awareness of SNIMA's role among businesses in Morocco (and overseas) and the services it offers. An additional reason for IBCM's involvement was to ensure that SNIMA's transition was in line with bringing Morocco closer to full compliance with the US-Morocco FTA and Technical Trade Barriers agreement with the World Trade Organization (WTO).

IBCM's Performance

In pursuit of its goals, IBCM began by assisting SNIMA to develop a standards portal that would enable it to streamline important functions such as public consultations and dissemination of information of new standards. Following a request for assistance by SNIMA in 2007, IBCM deployed a web specialist to work on the process of transferring SNIMA's existing website from the Ministry and in the development of specifications for the upgraded site. Upon the Ministry's approval of the website specifications, an RFP was issued for a developer to work on the technical architecture and software interfaces. In the spring of 2009, IBCM finalized the new website that subsequently became operational in June 2009. The website serves to promote SNIMA's role as the Moroccan standard agency. A review of the website www.snima.ma, available in three languages – French, Arabic and English - confirms this perception. Unfortunately, despite many efforts, it was not possible to organize a meeting with SNIMA during the evaluation mission, so the Evaluation Team was unable to determine the extent of the throughput of enquiries on the website.

Conclusions

IBCM's role and involvement in the conversion of SNIMA to an internationally accepted standards' agency was clear from the start and followed a logical progression of events through to the development of SNIMA's new website. The website is attractive, easy to use and appeals to universal audience. The content is clear and simple and effective in delivering its message. This is testimony to IBCM's close collaboration with the relevant bodies involved in ensuring that planned objectives were achieved. To all intents and purposes this activity was a great success.

3.1.4 E-invest

Background

E-Invest was an initiative that came into being during the course of the IBCM Program in collaboration with the Ministry of the Interior to facilitate the investment process for applications which fell under the 200 million dirham threshold. In short, there was a recognition that investment

⁹ Depending on which website viewed it is also referred to as the Institut Marocain de Normalisation (IMANOR) within the Ministry of Industry, Commerce and New Technologies.

opportunities, which were handled at regional level, suffered from a lack of co-ordination with government agencies resulting in lengthy procedures and potential investors becoming disillusioned due to the bureaucracy involved. To address this state of affairs, IBCM continued work on the development of the E-invest software tool (originally created under an earlier USAID project) to be installed at the Regional Investment Centers (CRIs) throughout Morocco to serve as a focal point for the handling of investment applications leading to significantly improved services for investors.

In summary, the E-invest software was designed to allow the various government agencies involved in the approval of an investment project to access all necessary documentation on-line, organize the review committees and gather statistics on the nature of investment projects and the treatment of investors. In support of this initiative, the Ministry of Interior was awarded 1 million dirhams by the Fund for the Modernization of Public Administration (FOMAP) managed by the Ministry of Modernization. The main purpose of the funding was, effectively, to finance the national implementation of E-invest.

IBCM's Performance

After discussion with the Ministry of Interior, IBCM's initial direct input was to help install E-invest as a pilot scheme in the Settlat region during 2007/8, followed by Rabat and Tangiers regions. The primary focus of IBCM's intervention was in training professionals within the CRIs on use of the system. In interviews that the Evaluation Team conducted with CRI representatives (Rabat, Settlat, Meknes and Tangiers) it was evident that the E-invest concept was appreciated by those responsible for implementing it together with the IBCM-led training. By the end of 2008 / beginning of 2009, workshops had been conducted in Agadir, Meknes and Oujda. The overriding deliverable for E-invest was that all CRIs in Morocco would have access to the software containing all the updated procedures as agreed with the relevant government agencies.

However, in discussions with several of the CRIs (Settlat, Tangiers, Meknes and Rabat) it was clear that this objective had not materialized and that the E-invest roll out had stalled although the Ministry of Interior indicated that, given the funds available, there were plans for this to happen in the not too distant future. Regarding the CRIs themselves, there were mixed views on E-invest and IBCM's involvement. The Director of Meknes CRI advised that E-invest had not yet reached the region although he suggested that this would happen in 2012 when the CRIs would be converted into Economic Development Agencies¹⁰ with a wider economic brief. He did, however, consider the whole concept a significant step forward in speeding up investment applications. The Director of Settlat CRI commented that he had been involved closely with IBCM on the simplification of procedures and, indeed, on the previous USAID project implemented by Chemonics.

He further expressed interest on the impact such an initiative would have on the World Bank rankings connected with ease of doing business in Morocco and felt that E-invest had a positive impact on the decentralization of decision-making regarding investment procedures. He also advised that the guidelines produced by IBCM were helpful and worthwhile. However, he suggested that E-invest was only operational in Settlat in 2008/9 due to what he referred to as security reasons, namely, that private sector clients did not want confidential information (in the form of business plans) to be readily accessible by various government departments. In fact, only now is the E-invest system being resurrected in the region (and in no others according to the Director) as the initiative had never, in any case, taken off in any of the other regions.

¹⁰ This issue was raised with the Ministry of Interior but conversion of the RIC's to Economic Development Agencies was not confirmed.

The Director of Meknes' CRI did add however that the Ministry of Interior was in the process of upgrading E-invest as a tool to take account of CRI misgivings about its operational capabilities¹¹ and that roll out to all regions would be forthcoming. He also suggested that E-invest did not have the capacity to support the anticipated throughput of cases and thought that IBCM might have done more to involve the CRIs when developing the strategy and budget for E-invest. The Ministry of Interior's view was that although they were involved at the beginning they were unaware of the limitations of the practical use of E-invest due to the non-existence to date of an e-signature.

In summary, from discussions with the CRIs and the Ministry of Interior as the major players associated with the E-invest initiative, the Evaluation Team was left with the impression that IBCM had carried out much useful work in advancing the cause of investment simplification procedures with its initial regional surveys, training sessions and workshops and guidelines regarding investment. However, it was additionally felt that a gap appeared to have developed between the expectations of the CRIs regarding E-invest and the IBCM, in terms of what was going to be delivered and when. It was agreed that the ultimate aim of the E-invest initiative, once implemented, would be an improvement in the annual World Bank rankings for Morocco relative to its Doing Business indicators.

Conclusions

The interpretation of the Evaluation Team regarding E-invest is that the initiative was a logical progression from earlier work done by the previous USAID project prior to when the IBCM started in October 2005. The available evidence from documentation read and interviews held, suggests that although it did not get up and running until approximately half-way through the Program, E-invest was a necessary and positive intervention fully supported by the Ministry of Interior and other major stakeholders, especially the re-emergent CRIs who were in fact the main beneficiaries. Although some of those parties harbored mixed thoughts on the real value of IBCM's input, there seems little doubt that a significant contribution to the simplification of business procedures was made by the Program. Some of the interviewees in the Ministry of Interior mentioned during the interviews that they were not sufficiently informed when the IBCM Program would end and felt somewhat abandoned post-July 2009 as they struggled to truly understand what they were dealing with in E-invest and how best to develop a roll out nationwide strategy. However, it should be noted that the Ministry of Interior was present at the close out event of the Program and received a copy of the final report.

The Evaluation Team believes that E-invest's lack of progress was largely due to a lack of support from the highest levels of government and/or lack of communication between the involved (local) parties.

Finally, in terms of the effect this state of affairs would have on World Bank rankings, this will not be apparent till next year's report when the 'Ease of Doing Business' indicators are published. However, even then, there would be no direct correlation between the Program's contribution apropos E-invest and the indicator results for the criteria associated with simplification of business procedures. What is possible to say with some degree of safety is that IBCM pursued the E-invest initiative to the point where, by the end of the Program, some of the intended beneficiaries (selected CRI's in the pilot phase) had received training in its use and instructed on the contents of the procedures manual – both well received.

¹¹ This was also confirmed by the Evaluation Team when it met with the Ministry of Interior

3.1.5 Common Business Identifier

Background

The Common Business Identifier (CBI) came to being following representations from the Central Bank of Morocco, *Banque Al-Maghreb*, under the auspices of the Ministry of Economic and General Affairs and following IBCM's work on the Commercial Registry. Started in 2007 and completed in 2008, IBCM conducted a survey of six government institutions¹² that served as a pre-feasibility study outlining how the Commercial Registry operated. This survey was carried out in parallel with a consensus-building exercise leading to those Moroccan government agencies who interact with enterprises agreeing on the need for a common business identifier (CBI) directly associated with an enterprise's name and address. Essentially, such an identifier would be a unique number (possibly a social security or tax number).

The primary objective of the CBI initiative was to facilitate the communication of information on Moroccan businesses through a web platform, thus eliminating multiple data entry and making it easier and quicker for businesses to interact with government administration agencies. Prior attempts to reach agreement between the involved parties had come to nothing due to their inability to agree on the number of data fields that should be included in the CBI template.

IBCM's Performance

In order to pursue the CBI initiative towards reaching a satisfactory conclusion, IBCM helped set up an Inter-Ministerial Commission¹³ with the task of developing an implementation plan. A number of meetings took place between December 2008 and May 2009, the result of which was the development of a technical platform from which a demonstration of the CBI could be generated. In addition, a circular to give a legal basis for the CBI was drafted and an exercise was conducted reconciling past data from the central registry to the new system. In December 2008, at a meeting of the Inter-Ministerial Commission, an IBCM consultant demonstrated a generic interface that could be made available to any administration. Further important developments from the workings of the Commission included the linking of the CBI with the registering of a business procedure, which represents an enterprise's first contact with the government.

In early 2009, OMPIC completed the development of the interface between the negative name search and the CBI, allowing OMPIC to exchange information with the CBI database. The expectation was that this web application would enable real-time business registration and increase transparency of the procedure. Following this, in spring of 2009, three government agencies¹⁴ completed electronic connections between their internal systems and the CBI and a pilot test was carried out in Mohammedia. IBCM's continued role was to work on the legalization of the CBI with the preparation of a draft decree that would require all government agencies managing and storing data on enterprises to participate in the initiative. The Evaluation Team learned that in the summer of 2011 the decree became law.

However, in discussions with the CRIs it was apparent that, to date, the CBI has not happened and is not expected to happen until sometime in 2012, when it is anticipated that the CRIs will become Economic Development Agencies with a mandate to ensure that CBI is fully operational as a legal requirement. In terms of IBCM's contribution to the whole exercise, it is clear that it played a leading role in influencing the mindset of the key players involved and in ensuring that the debate

¹² Haut Commissariat au Plan (HCP); Bank Al-Maghreb; Direction Générale des Impôts (DGI); the Caisse Nationale de Sécurité Sociale (CNSS); Ministry of Justice and OMPIC in its role as Registre de Commerce (RC)

¹³ The Commission is composed of the tax authorities (DGI); social security agency (CNSS); the Commercial Registry (RC); OMPIC and the Department of Statistics (HCP)

¹⁴ The tax authorities; OMPIC and Ministry of Justice

remained focused. The result of this commitment ensured that the anticipated decree was finally passed into law.

From comments made in interviews during the evaluation mission with respect to CBI, it was evident that its implementation was viewed as necessary and that IBCM's earlier involvement had been helpful and worthwhile. One of the reasons put forward why the CBI had not yet happened was that the involved parties had not decided on which of them would actually be issuing the CBI number. Nevertheless, in anticipation of its inevitable implementation, the CRIs directors currently meet every Friday in Rabat to discuss likely problems, among other things, and how to work together collectively to make the CBI happen.

In terms of tracking performance, the CBI initiative falls under the umbrella of what IBCM refers to as "*IT Streamlining*" in its final Work Plan (October 2008 – July 2009), which also includes E-invest. The only reference to actual performance is depicted in the 2008 PMP, 2008 PMP Data Collection report and in the June 2009 PMP Data Collection report. Six measures in total are used to track performance under the "*IT Streamlining*" banner, all associated with the volume of utilization of the IT systems or tools (by government) supported by IBCM. In terms of the quantitative results in the final June 2009 PMP Data Collection report it is not possible to draw any meaningful conclusions from the figures as, today, several of the indicators employed simply cannot be measured, i.e. E-invest is not fully operational and appears never to have been.

The only indicator that can readily be measured is the one referring to "*the number of information tools established (procedures manual, website etc.)*." The Policy Index chart attached to the final PMP, rates IBCM's performance by four categories, one of which is referred to as Modernization of Collateral (Common Business Identifier). Here, progress is scored numerically on a scale of 1 to 8 in terms of achieving a goal (1 being the starting point and 8 being the finishing line) of an activity over time. Using this method, CBI scored 6/8 with Program input ending with its contribution to the content of the draft decree.

Conclusions

The basic premise underlying the CBI initiative was that all businesses registered in Morocco should have some sort of identifying feature that would enable government administrative authorities to readily recognize them and be able to share information between those agencies. IBCM's role in the CBI initiative yielded results in the sense that it was instrumental in galvanizing the relevant bodies to discuss the issue and to ultimately help draft the decree which would legally require all government agencies to become electronically connected to the CBI database. As noted above this, as of today this has not yet happened. However, by the end of the Program in July 2009, IBCM had effectively handed over the baton to the authorities to deliver the final result, namely, the CBI decree.

In terms of IBCM's interpretation of sustainability for the CBI, from information gathered by the Evaluation Team from the CRIs in particular, it appears that the authorities in Rabat were uninterested in rolling out the CBI nationwide. Nor it seems were the various government agencies able to agree among themselves on who should be issuing the CBI identities. It is probably unlikely that the IBCM team could have anticipated this given that at the end of the Program they believed that the signals from both the public and private sectors on the need for the CBI would be sufficient to ensure its continuity.

3.1.6 Sustainable Investment in Meknès-Tafilalet Background

The Meknès Vert initiative began as a pilot project in 2007 following a regional “Doing Business” study aimed at identifying opportunities and constraints to private investment in the region and under IBCM’s mandate to work in investment promotion. This resulted in CRI-Meknès approaching IBCM and asking for assistance in designing and coordinating a sustainable investment strategy based on a “green” agenda. The primary objective of this initiative was to attract environmentally sensitive investors particularly in the organic agriculture, sustainable tourism and renewable energy sectors (including Clean Development Mechanisms (CDM)). An additional objective was to link regional investment opportunities with internationally available “green” investment funds.

In response to this request for assistance, IBCM developed the following deliverables and milestones as outlined in its Work Plan (October 2007 – September 2008). Effectively the Program would act as a facilitator in driving the “green” agenda forward and in bringing the main actors together to take ownership of such an initiative. IBCM would:

1. Provide technical assistance to identify and vet investment opportunities
2. Deliver workshops following the “Doing Business” study to discuss investment opportunities
3. Support CRI-Meknès and project developers with one or two investment proposals with a view to acquiring public or private funding
4. Develop additional local partnerships in consultation with the CRI to leverage funding and know-how

In developing its strategy for the Meknès Vert initiative, IBCM also made it clear that while it would act as a catalyst for the development of this “green” agenda, its ultimate success and sustainability would depend on the willingness and capability of local public and private sector players.

IBCM’s Performance

In line with the above objectives, IBCM continued to support the Meknès Vert initiative with two pre-feasibility studies that identified the possibility of attracting carbon credit financing in exchange for a reduction in greenhouse gas emissions – for water treatment and landfill facilities. In pursuit of this, the IBCM team planned the following activities and deliverables:

1. The Solar Technology Service Sector: IBCM would conduct a value chain analysis of the solar energy sector and support local organizations to build linkages between international and local organizations.
2. Regional Branding: in partnership with CRI-Meknès develop a “green label” and communications tool for effective regional marketing
3. Facilitation of a Sustainable Investment Network: continue collaboration with international donors and local stakeholders to coordinate individual and joint actions

In reviewing IBCM’s Work Plans and PMP documentation, it is evident that significant steps were taken by the Program in accomplishing the tasks it set out to achieve with regard to Meknès Vert. In October 2007, a conference was convened in Meknès attended by around 150 key players, including the *Wali* of Meknès and all 5 governors of the region, to kick off dialogue between all concerned parties and commence relationship building activities. IBCM also worked closely with South Pole Carbon (SPC), a carbon asset management company that identifies and assesses the viability of sustainable programs, from which emerged the identification of two self production projects that could benefit from CDM financing – the Meknès public landfill and the city’s waste water treatment

plant. In February 2008, a further event was held to pursue a regional strategy for “Mobilizing Investment for Sustainable Development and Promoting Renewable Energy.” Following continued dialogue between IBCM and Meknès Municipality and the *Régie Autonome d’Electricité de Meknès* (RADEM) throughout 2008, it was finally concluded that both these initiatives would be economically viable. Below, is brief synopsis of what transpired by the end of the IBCM Program’s involvement and the current status of both initiatives two years later.

Landfill Project

In March 2009, the new President of the Municipality decided to combine its Request for Proposals (RFP) for controlled landfill rehabilitation management with CDM certification and to contract one developer for the full certification process. The objective was for biogas to be captured in order to produce electricity and carbon credits to be generated and traded on the carbon market. At the end of IBCM’s input, it was anticipated that GTZ would take over the mantle and conduct a further study on garbage separation to be included in the whole project. However, according to the Director of CRI-Meknès, this did not happen. The reason suggested was that neither the CRI nor the Wali wanted to work with the Swiss expert sub-contracted for the job by USAID to lead the landfill project, or with GTZ who had a connection with the same individual. This of course cannot be verified but the effect was that the project came to a halt. Today, a new RFP is being prepared to hire a private company to pursue the original objectives.

Water Treatment

During 2008/9, IBCM collaborated with RADEM to pursue CDM certification for the waste water treatment plant. The result of discussions held was that RADEM would hand over the CDM certification process to a private developer and a RFP was issued in May 2009. However, when RADEM’s Director was replaced in the summer, the initiative stopped. Today, it has still not been resurrected.

Solar Technology Value Chain Study

In 2008, a study was carried out by IBCM to assess the current and potential markets for solar technologies in the Meknès-Tafilalet region. The results determined that service providers, such as installers, offered poor quality of service and were not sufficiently linked (horizontally with each other) in the value chain. The perceived solution to this dilemma was for a network of installers to be created in the region with a view to improving their efficiency via economies of scale and increasing market opportunities. In June 2009, IBCM published the results of the study that were posted on its website. During this time, an installer network – RESOVERT - was formally established. Below is a brief synopsis of its evolution from inception to date, following roundtable discussions with five of its members¹⁵ during the evaluation mission.

RESOVERT

According to IBCM, in its Final Report Volume III, “RESOVERT was a huge accomplishment because it brought formerly disparate installers into dialogue with one another promoting communication, cooperation and market competition.” However, in the roundtable discussions with the five member companies, it was pointed out that, in fact, they had been collaborating with one another since 2007 but not under a formalized umbrella. With IBCM’s guidance, they agreed to set up a private company to represent their interests. IBCM held workshops to develop commercial contract templates, business cards, etc. and also provided training in business finance and marketing. Both of which were very well received.

¹⁵ Samia Solaire (Meknes); Solaire Environnement (Meknes); Complexe Collier d’Ambre Imilchil (Meknes); Benelect (Khenfira); Topselec (Khenfira)

While acknowledging IBCM's input, there were complaints that the trainer delivering the workshops had led them to believe that their training course certificates would essentially guarantee them sub-contracting work resulting from government RFPs. Apparently, expectations were not met and today, the Evaluation Team was informed, none of the 10 members of RESOVERT has ever been awarded a single sub-contract. According to them, when the Program ended, they made representations to the Center for Development of Renewable Energies (CDER) to ascertain why their tender proposals came to nothing, with no response. In short, it is their belief that RFP tenders were tainted with corruption and designed specifically to ensure they were not considered (i.e. length of experience, linking installation services with necessity to supply hardware etc.).

In summary, the members of RESOVERT have come to the conclusion that such an organization is "useful on paper but in reality cannot operate effectively on behalf of its members essentially because of unfair competition in the industry." In fact, it was pointed out that unless matters changed for the better in the not too distant future, RESOVERT would be wound up, as several of the members were struggling to survive.

Regional Branding

IBCM's contribution here was essentially one of communication where it helped with the creation of a unified regional identity linking it to a single regional logo that had not previously existed, together with the development of a new template for the CRIs' websites.

Conclusions

The entire Sustainable Development in Meknes-Tafilalet initiative was without doubt a substantial undertaking given the nature of what was being planned and the expectations that went with it. In IBCM's own words, in its Final Report Volume III, "the Program worked as a neutral facilitator between government agencies and private investors, funding pre-feasibility studies, providing assistance with the selection of partners and bringing relevant actors into dialogue with one another." In effect, IBCM's contribution with its training sessions, workshops and conferences certainly helped raise the profile of "green" investment and potential opportunities for the region. However, while this was a significant contribution right up till the end of the Program in July 2009, there was not much progress thereafter as most of the players involved did not have the will or motivation to drive it forwards. While IBCM may have believed that it had placed the necessary tools in the hands of those who were tasked with leading the Meknès-Vert initiative, this was apparently not sufficient for it to become sustainable. Unfortunately, the tendency of partners and beneficiaries is that assistance will be ongoing and they find it difficult when that assistance comes to an end.

Finally, one of the more positive outcomes worth mentioning is that several foreign companies have been investigating investment opportunities in the region on a purely speculative basis having been informed independently about the "green" agenda in the Meknes-Tafilalet region especially with regard to solar and wind power. Tentative commitments have apparently been made so it is hoped that one or two will come to fruition with all the ramifications involved – possible work for local suppliers and service providers.

3.2 Qualitative Evaluation

This section further elaborates on information and data that has been acquired for quantitative analysis through interviews and discussions with key players in Morocco with an interest in regulatory reform and investment promotion either directly (including other donor programs), or indirectly (including intended IBCM beneficiaries such as businesses and industry associations).

3.2.1 General Perception of IBCM

All of the stakeholders interviewed by the Evaluation Team agreed that IBCM played an integral part in contributing towards the development of the business enabling environment landscape in Morocco. Most interviewees expressed their appreciation of IBCM's contribution to their particular fields of interest.

The Evaluation Team noted that IBCM's interaction with partners and beneficiaries since the beginning was collaborative and productive. The team was responsive to requests for initiatives to be investigated, started or implemented, most of which were appreciated by those involved. In terms of conducting studies, writing reports, hosting conferences, delivering training session or workshops, these proved to be of great value and worthwhile to the participants or recipients for whom they were intended, based on the Evaluation Team's interviews with them. A number of those interviewed, both in the public and private sectors, suggested, however, that the Program could have done more to inform them about what was expected of them after the Program ended and what would be their roles and responsibilities thereafter.

In some instances, there was concern that initiatives had been introduced and accepted but that there was insufficient planning (by both parties) on the extent of resources needed and time required to complete tasks. This, of course, does not detract from what IBCM accomplished during its mission but serves to highlight that good intentions do not necessarily lead to planned results. The achievements of the Program within this component were that the correct foundations were laid upon which the house could be built.

4.0 EVALUATION OF COMPONENT 2: LEGAL REFORM AND IMPROVED COMMERCIAL COURT SYSTEM

4.1 Quantitative Data Evaluation

The analysis in this section reflects the performance of IBCM activities in quantitative terms.

4.1.1 Support to Bankruptcy Reform

Background

The primary focus of this activity was to reform Morocco's bankruptcy laws. Morocco had reformed its legal framework for commercial insolvency in 1996 by adopting a new Code of Commerce.¹⁶ Book V of the new Code contains the bankruptcy laws. To complement the new Code, Morocco created new commercial courts (at first instance and appellate level), with jurisdiction over insolvency matters in 1997.

According to IBCM's Final Report,¹⁷ the process of implementing Book V had been challenging. Stakeholders as well as academics, the press, bilateral donors had worked for more than five years to identify the areas where the bankruptcy system could be improved.

¹⁶ (Dahir no. 1-96-83 of 1 August 1996, promulgating Law No. 15-95 as the Commercial Code). Book V of the Commercial Code contains the bankruptcy laws which incorporate modern prevention (pre-bankruptcy) and reorganization (*redressment*) influenced by French law and liquidation.

¹⁷ Final Rpt, Sept 2009, pg. 35 entitled *Judicial Training, Bankruptcy Reform and Modernization of the Commercial Registry*. There are three Final Reports and a Summary Final Report for this Program. Final Report in this section refers to this same Final Report.

There were also gaps (*vide juridique*) in Book V. While some of these gaps had been resolved by Commercial Court judges and appellate judges through decisions (jurisprudence), or through improvements in case management and court policies (*pratique judiciaire*), there was a general consensus among the stakeholders that further reforms were needed. The main stakeholders were the Ministry of Justice, the judiciary, other public sector representatives, bankruptcy professionals, lawyers, the business sector, and the banking industry.¹⁸

As a result, IBCM's main objective relating to commercial insolvency was to effectuate a modern bankruptcy law that met international best practices standards and Morocco's needs. The underlying reason for the reforms was that investors would feel more confident if Morocco had modern commercial insolvency laws and that this legal framework would improve Morocco's business climate. Further, these changes might positively impact the "Resolving Insolvency" indicator in the World Bank's Annual Doing Business Report. Morocco ranked 63 in the 2011 report and 67 in 2012.

IBCM's Performance

To accomplish this objective, IBCM undertook bankruptcy reforms in a two-pronged approach by: 1) providing technical assistance that supported the GoM's efforts for bankruptcy legislative reforms; 2) strengthening the judiciary – the commercial courts - with specific training and other activities for judges, lawyers and other stakeholders. This section discusses the legal reform aspect of IBCM's efforts. The training aspect is discussed in the Training – ISM, Commercial Courts, Section 4.1.2, below.

According to the IBCM's annual Work Plans, IBCM efforts on bankruptcy legal reform began from the very start of the Program and continued until activities were ended in 2008 for reasons noted below.

In the beginning, IBCM set out to accomplish its objectives in a number of activities. These included organizing a 2005 national workshop on bankruptcy law reform and retaining Professor El Hajjami, a Moroccan law professor, to study the current law and provide a list of amendments for bankruptcy reform.¹⁹ Professor El Hajjami prepared a report after interviews and consultations with stakeholders. IBCM published a finalized report of proposed legislative changes in 2007.

In mid-2008, IBCM changed its approach to bankruptcy reform. The Program noted in its October 2007-September 2008 Annual Report that "the reform process did not start in earnest until mid-2008."²⁰ Once IBCM recognized that that bankruptcy reform was gaining momentum, it changed its approach and sought to capitalize on the momentum.

The earlier approach had focused on trying to change the law by proposing amendments with some input from stakeholders. Instead, the new approach adopted a more incremental and participatory approach by supporting the institutions and individuals tasked to prepare the amendments. IBCM justified this approach on the grounds that because [bankruptcy] "laws are very complex and politically charged, a more incremental and participatory approach by supporting the institutions and individuals tasked to prepare the amendments was more effective."²¹

¹⁸ *Id.*

¹⁹ 2007-2008 Annual Rpt. Also Final Rpt, pg. 36.

²⁰ Annual WP, Oct 2008-Sept 2009, pg.15.

²¹ Annual Rpt 2006-2007, pg.13.

This participatory approach included “inform and consult” and in April-May 2008, IBCM consulted with a number of private sector representatives, including individual bank executives, the GPBM (national association of banks), judges and ministry officials. IBCM believed these activities would facilitate addressing the entire bankruptcy system, the regulations, the implementing institutions, and the text of the law.²² In turn, a reformed bankruptcy law would create a more enabling business environment.

To further the “inform and consult” objective, the Program also distributed binders with current international and comparative law resources to its partners and stakeholders in June 2008.

Despite the new approach, IBCM concluded that the outcome of its legislative efforts was uncertain and it suspended activities on legal reforms sometime in 2008. The Program concluded that it had done all that it could do in this area and for the reform process to move forward, it would be necessary to establish some sort of public-private dialogue in which both the justice system and the Ministry of Industry and Commerce were represented.²³ However, IBCM’s 2008-2009 Work Plan stated that it would determine in the fall what support would be provided depending on the requests from partners.

To follow-up, in December 2008, IBCM prepared detailed report outlining general considerations, strategies, resources and specific issues for bankruptcy reform in Morocco. This report did not set out any legislative proposals similar to the 2007 report. This was followed by a conference by IBCM and MoJ on bankruptcy reform in May 2009 in Rabat that was attended by over 100 judges, business people, bankers, lawyers, bankrupt and academics.

In its meetings, the evaluators were unable to find public or private sector representatives who were familiar with IBCM’s proposed bankruptcy reforms. Due to holidays and time constraints on the part of the MoJ, the evaluators were unable to meet with MoJ representatives.

Conclusions

IBCM initially focused on reforming the text of the bankruptcy laws based on its reviews and input from stakeholders.

A World Bank report on commercial insolvency had also underscored the need for legal reforms and judicial training.²⁴ When the Program realized that it was not making progress or achieving its goals on bankruptcy reform, it tried different approaches to achieve this objective. When even the new approach failed to produce results, IBCM suspended activities relating to bankruptcy reform.

In reviewing the documents and from meetings, the evaluators were unable to identify any outcome from IBCM’s bankruptcy activities that affected bankruptcy reform in Morocco. Two years after the close of IBCM, Morocco still has the same bankruptcy law and the evaluators did not find stakeholders who were aware that there had been efforts for legislative bankruptcy reforms. However, it should be noted that the evaluators’ pool of interviews was limited but did include lawyers as well as the business community.

²² *Id.*

²³ Annual Rpt 2007-2008, pg. 13

²⁴ Report On The Observance Of Standards And Codes (RosC) Morocco – Insolvency And Creditor Rights Systems, Prepared by a World Bank staff team based on information provided by the Moroccan authorities. September 2006.

Some private sector representatives stated that bankruptcy reform was not urgent for Morocco as most credit is extended with collateral. In other words, lenders in Morocco do not generally assume loan risks. Therefore, when a business closes if it has run out of money, there are usually no creditors because any financing given has collateral or guarantees. In addition, private sector stakeholders informed the Evaluation Team that Moroccans preferred not to use the judicial system if it can be avoided.

The Evaluation Team was unable to find concrete information in IBCM's records regarding one-to-one consultations with the GoM concerning its strategy/intent on bankruptcy reform. An observation here is that the GoM and IBCM were working on parallel tracks on this issue. The Evaluation Team would like to reiterate that this view is based only on the written reports and not from any contact with MoJ.

The Evaluators further noted that in its meetings with evaluators, the Institut Supérieur de la Magistrature (ISM) requested more training on bankruptcy. Thus, while Morocco needs to reform its bankruptcy laws based on the assessments carried out by both IBCM and the World Bank, it appears that stakeholders are content to proceed with the *status quo*. It is also possible that the need for bankruptcy reform may be more widely accepted if businesses in Morocco had easier access to finance. At the moment, it appears that there is little interest or knowledge of bankruptcy reform.

In summary, the Program was unable to achieve its objective regarding legal reform of Morocco's bankruptcy law and the evaluators were unable to see any direct or lasting impact of its activities. However, for the reasons mentioned above, the Program's decision to curtail its activities on bankruptcy reform appear in retrospect to have been the correct decision. The Evaluation Team recognizes that bankruptcy laws are complicated and that bankruptcy legal reform is a lengthy process and resource demanding. It seems that the Program did not have sufficient time, resources or necessary government commitment to achieve this task.

4.1.2. Training

From the start of the Program, IBCM's Work Plans included training as an activity. The main objective of this training was to strengthen the judiciary and build capacity for the primary beneficiaries: ISM, the commercial courts, MoJ, and Moroccan institutions such as OMPIC. Subsequent to its start, the Program also aimed to build capacity for private sector mediation and related private sector stakeholders including lawyers and accounts.

Originally, the Program set out to provide training in technical areas as requested by partners. However, beginning in 2007, it changed its approach and decided to provide training in the commercial law areas on a sustained basis with the aim of strengthening Moroccan institutional capacity. In addition, around the same time, IBCM received a request from "the intellectual property" office to assist with outreach and training in order to improve judges and lawyers' understanding of the office's role, the new law, and the relationship between Moroccan law and international agreements on intellectual property.²⁵

Thus, from 2007-2009, the Program's training activities were geared towards long-term capacity building of the beneficiaries. IBCM partnered with national and international experts, local Moroccan practitioners (whether commercial court judges, or private mediators), ISM, MoJ, CIMAR and OMPIC to develop and deliver tailored courses for a local audience. These courses

²⁵ Final Rpt, pg. 2.

were at first co-taught by expert consultants with newly trained trainers. Over time, the local judges and mediators assumed greater responsibility for the development of course materials and delivery of training.

As IBCM's training activities encompassed different Program related disciplines, this section will discuss training in three separate headings:

1. ISM, Commercial Courts, MoJ (also includes related beneficiaries)
2. Intellectual Property (OMPIC and Commercial Courts)
3. Alternative Dispute Resolution (ADR) - CIMAR.

(It should be noted that there was a necessary overlap of training activities, *e.g.*, in trademark training for judges, IBCM partnered with ISM, OMPIC and the MoJ. As a result, the trainings are interdisciplinary and cut across beneficiaries).

4.1.2.1 Institut Supérieur de la Magistrature (ISM), Commercial Courts and the Ministry of Justice

Background

ISM provides continuing training for judges and clerks (*greffiers*) as well as training of other legal professionals as requested, in collaboration with international donors and other national training schools, as well as research and publication. ISM reports to the MoJ.

Although by law ISM is the sole provider for initial training for new judges and prosecutors, both the MoJ and the courts are also involved in developing and delivering continuing training for judges, prosecutors and clerks.

IBCM's Performance

At the start of the Program, IBCM conducted a survey among Commercial Court presidents to identify the most common types of cases and areas of law for which sitting judges need additional training, in each region of Morocco. This survey identified specific areas of commercial law of interest, such as intellectual property, secured transactions, bankruptcy, real property and international treaties. IBCM identified that specific technical training was needed in commercial law prior to the appointment of judges to the commercial courts and on-going (continuing legal education) training for judges.

During 2005-2006, the Program designed and implemented ongoing training seminars in commercial and financial law and basic accounting skills for Commercial Court judges. The seminars were organized in collaboration with the MoJ, the ISM and Presidents of the Commercial Courts. Based on IBCM's table of training in the Final Report,²⁶ between April 2006-June 2006, there was a total of 9 trainings for judges in banking, bankruptcy, bankruptcy accounting and enterprise finance in Casablanca and Rabat. IBCM's partners were the commercial courts, MOJ, ISM and Club de la Justice.²⁷

Conclusions

IBCM's activities in commercial training focused primarily on banking and bankruptcy. The training ended in 2006 except for a bankruptcy conference that was held in 2009. As noted above, the Program suspended bankruptcy activities in 2008 due to the uncertain outcome of its support.

²⁶ IBCM's Oct 2006-Sept 2007 WP.

²⁷ Final Rpt, pg. 10

The evaluators were unable to assess any outcome or impact of this activity on improving the business climate in Morocco.

4.1.2.2 Intellectual Property

Background

The primary focus of this activity was to assist the GoM in implementing the amended intellectual property law.²⁸ USAID's earlier Program, *Commercial Courts and Law Modernization*, had assisted in the preparation of the new law. The aim of this legislative amendment was to facilitate Morocco's compliance with WTO, the Trade-Related Aspects of Intellectual Property Rights (TRIPS) and with Morocco's FTAs, including the US-Morocco FTA (signed on June 15, 2004, entered into force on January 1, 2006).

The stakeholders included OMPIC (l'Office Marocain de la Propriété Industrielle et Commerciale), judges in the commercial courts, lawyers, innovators, and holders and seekers of industrial property rights. The new law contained some significant changes including opposition proceedings for trademark registration, customs measures to be taken at the borders for suspected counterfeited goods, and the National Register of Geographical Indications and Denominations of Origin.

Under the earlier IP law, OMPIC did not research the validity of a trademark before awarding protection and did not have established procedures to prevent conflicting registrations. As a result, situations arose where more than one claimant registered the same trademark creating conflicts concerning protected trademarks in Morocco. This created disputes, which the courts were then tasked to resolve. The newly created opposition proceedings enabled holders of protected trademarks in Morocco to present written opposition to the registration of trademarks that impinge on their rights. Implementation the trademark opposition system aimed to reduce the number of industrial property rights lawsuits.

OMPIC is charged with implementing the new IP law and the commercial courts are charged with resolving disputes arising under the new law. Therefore, OMPIC, the courts and private sector stakeholders needed support in understanding and implementing the new law.

As noted above, the commercial courts in Morocco were fairly new, as they were created in 1997 shortly after reform of the commercial code, for which the commercial courts have jurisdiction. In Morocco, commercial court judges are not generally knowledgeable about technical intellectual property issues, nor have they received training on the subject matter. As a result, they often have to rely on the assistance of court-appointed experts in rendering decisions on IP disputes. Generally, the costs for experts are set by the MoJ, are low and do not attract the best experts. Furthermore, while parties to a claim may use their own experts, judges often rely solely on the testimony of the court-appointed experts, who might not be well trained in the required area of expertise. Consequently, the experts do not always provide the best source for "expert testimony."

As a result, IBCM's primary objective was to support OMPIC and build sustainable knowledge and training with commercial court judges in trademark and patent law. Again, informed judges can render informed decisions that can instill confidence in the business community. The Program set out to accomplish this goal primarily with training activities.

IBCM's Performance

²⁸ Law No. 31-05 amending and supplementing Law No. 17-97 on the Protection of Industrial Property was promulgated by Dahir No. 1-05-190 of 14 February 2006.

To accomplish this objective, IBCM set out to support implementation of the new law by: 1) providing technical assistance that supported the GOM to implement the new law; and 2) strengthening the judiciary – the commercial courts - with specific training and other activities for the judges, lawyers and other stakeholders.

During the first year of the Program (Oct 2005-Sept 2006), IBCM, in cooperation with American Chamber of Commerce and OMPIC, produced a CD ROM on new trademark law. Among its stated Work Plan activities for Oct 2006-Sept 2007, IBCM set out to: (1) conduct a needs assessment on trademark opposition procedures at OMPIC and steps needed to comply with the new trademark law; and (2) negotiate and finalize MoU²⁹ for developing training materials in collaboration with OMPIC and ISM, for training and procedures on for patents and trademarks.

While a general needs assessment was conducted for training at the start of the Program, the Evaluation Team did not find documented evidence confirming that IBCM had signed a MoU with OMPIC. Nevertheless, as noted above, the Program provided assistance to OMPIC and the commercial courts on both trademarks and patents.

IBCM's Work Plan (Oct 2006-Sept 2007) stated that its training in Intellectual Property (IP) would be directed at two groups: (1) business lawyers and private trademark registration companies representing trademark registrants and trademark challengers in the OMPIC opposition process; and (2) Casablanca Commercial Court appellate judges then later to judges in all the commercial courts in Morocco, most of the IP trainees were judges.

The Program worked with partners (OMPIC, the Commercial Courts, the ISM and the MOJ) to develop and publish a Trademark Guide (2008). This was followed by preparing a patent guide working with OMPIC, a professor and a representative of the French intellectual property agency. These guides are available on OMPIC's website.

To build sustainable capacity in IP, IBCM provided training of trainers (TOT) for four judges interested in developing trademark and training expertise using the trademark guide. A senior trainer worked closely with four judges interested in developing an expertise in trademark law and training. These same judges, assisted by the senior trainer, then served as trainers for judges in five training programs for judges from all eight Commercial Court jurisdictions held in Ifrane, Casablanca, Rabat and Agadir. In addition to using the Trademark Guide, the two-day intensive training workshops included a sophisticated case study and role-play.

According to the Final Report, as requested by the Ministry of Justice,³⁰ IBCM worked with the same four judges who had undergone training to become trainers on patent law.

In 2007, the Program worked with the MoJ to select a group of judges from the Training-of-Trainer (TOT) group to take a tour of the US Office of Patent and Trade Office (USPTO). It was expected that these judges would then become a resource for the other judges. The Evaluation Team was unable to confirm whether this has been sustained.

In reviewing the 2008 and 2009 PMPs, the Evaluation Team found that the indicators do not accurately correlate or indicate with clarity the Program's accomplishments. Although there are quantitative numbers for the training provided and measurable accomplishments in the trademark

²⁹ MOU to specify the technical assistance and training that IBCM would provide and the resources to be provided by OMPIC.

³⁰ Final Rpt, pg.15.

and patent guides, the impact of the judicial training cannot be reasonably quantified based on the indicators used.

For example, one PMP indicator for trademarks is the number of trademarks requests. The evaluators also take notice that IBCM argued for the PMP indicators that, as a result its information sessions all over the country and disseminating the trademark guide, it is “plausible to believe that improvements in the availability of this type of information have contributed to an increase in the request for trademarks.” The Program also noted that a similar effect for the number of patents was likely to take longer and may not be visible until after the date of Program completion.³¹

The Evaluation Team noted that the number of requests to register trademarks was higher than the baseline September 2006 (6529) in September 2007 (7170) and September 2008 (6823). The numbers for June 2009 (6529) was the same as the baseline and it can be reasonably inferred that this number would be higher by September 2009. There was also an increase in patent registration for these same years (September 2006 baseline (822); September 2007 (908); September 2008 (1003); and June 2009 (905)).

The Evaluation Team does not discount the impact of the Program’s activities although this was not accurately measured by the PMPs. It is plausible that the Program played an active role in increasing the number of such requests but it is difficult to ascertain the precise extent of its influence. In short, the PMPs are based on extrapolation without providing any methodology for a result that may have been influenced by a number of factors and variables.

Further, these PMPs do not quantitatively indicate the impact of the IP training on judges’ need to rely less on court-appointed experts. The PMP merely cites the number of judges who would prefer not to rely on court appointed outside experts. As a result, the evaluators cannot provide a quantitative assessment of these activities as the PMP indicators do not provide any value for this activity.

Conclusion

Without any doubt, IBCM tailored its IP activities to support the public sector, in particular, in strengthening the judiciary in IP. This is reflected in the number of successful trainings, basing success on the number of participants. Further, IBCM developed and provided useful trademark and patent guides that are still being used two years after the Program ended. In fact, OMPIC stated that these guides are being used for training that OMPIC is now conducting and that it further plans to use the guides for e-training.

While the Program had laudable goals, the magnitude of IP protection is larger and extends beyond training judges in resolving IP disputes. With respect to IP protection and compliance – with its TRIPS obligations and the US Free Trade Agreement (FTA) – the road ahead presents many challenges for Morocco. This is primarily not due to the lack of a legal framework rather than matters of enforcement.

In addition, in terms of IP protection, Morocco has a long way to go before there is meaningful IP protection within the terms of the US-Morocco FTA. This is not because of the lack of a legal framework – there is now an existing legal framework - but more of an enforcement and economic issue. The basis for this conclusion is from observation and discussions with both the public and private sector.

³¹ 2008-2009 WP, pg. 17

Furthermore, based on the evaluators' observations, OMPIC is focused on IP in terms of creating innovation for patents and streamlining opposition procedures for more clarity and predictability in trademark registration; IP enforcement does not appear to be a priority. Although Customs is charged with IP enforcement at the border, it does not appear that this is effectively enforced. While the need for customs enforcement is acknowledged, based on the Work Plans, this did not appear to be part of the Program's focus.

4.1.2.3 Alternative Dispute Resolution

Background

Alternative Dispute Resolution (ADR) was not originally part of IBCM's SOW although this changed following representations from the business and professional community who requested that the Program support ADR mediation reform. In late 2006, IBCM conducted an assessment of the state of ADR in Morocco and options for technical assistance. After discussion with MoJ and potential stakeholders, the Program revised its scope of work and included ADR as part of its activities.

IBCM established a collaborative relationship with Search for Common Ground³² from then until the end of the Program. IBCM's support to the development of mediation focused on three key pillars: 1) Work to increase the supply of ADR services, such as training mediators and supporting ADR service providers; 2) Fostering demand for ADR, namely outreach efforts to the business and legal communities to encourage the use of mediation and arbitration; and 3) and support to national level-policy making relating to mediation.³³

IBCM's Performance

The Program raised awareness of and demand for mediation in the business community through the organization of outreach events and other forums on mediation and arbitration. Some of these outreach awareness activities were conducted in collaboration with the IFC such as the development of a website managed by the Ministry of Industry and Commerce.

IBCM offered the first private mediation training for business disputes held in Morocco on June 2007. This was organized in collaboration with CIMAR and the local non-governmental organization, Search for Common Ground.

From then on until the end, the Program, in collaboration with local partners and other international donors, facilitated extensive basic and advanced training programs for mediators, offering 12 mediation courses to over 400 trainees, including TOTs, as well as mediation training to the Public Private Commission, referenced below. These trainings were held starting in June 2007 to March 2009. They also helped CIMAR develop its capacity to offer mediation services to the business community, gain visibility and increase its volume of activities.

The Program also held discussions with IFC in 2007 relating to development of commercial ADR in Morocco. This led to collaboration and co-financing of a number of mediation related outreach, technical assistance and training activities. USAID/IBCM entered into a Memorandum of Understanding (MoU) with the IFC on October 30, 2007. This MoU involved a commitment for parallel financing of specific tasks as part of an integrated strategy to promote commercial

³² Search for Common Ground was founded in 1982 and works to transform the way the world deals with conflict - away from adversarial approaches and towards collaborative problem solving.

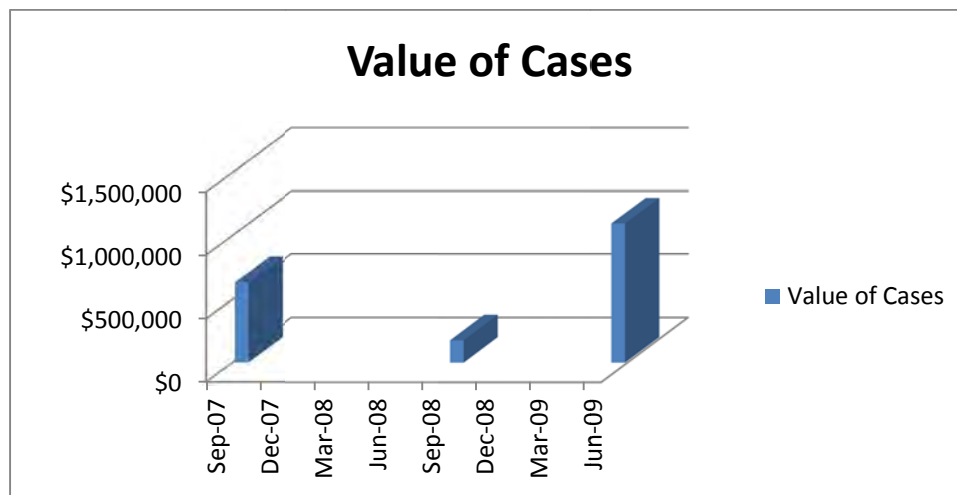
³³ Final Rpt, Volume III, pg. 21.

mediation in Morocco.

The Program also provided comparative research on the regulation and promotion of ADR, analyzed various provisions of the draft law on mediation and arbitration and provided comments. IBCM assisted CIMAR to gain visibility and increase its volume of activities in offering mediation services to the business community. IBCM also assisted CIMAR to prepare its business plan in order to become sustainable and in the design of CIMAR's logo.

In 2008, IBCM, in partnership with IFC, obtained a common agreement from partners on a national public-private commission (Commission) to promote mediation. The Commission comprised the Ministry of Industry and Commerce, the MoJ, the Ministry of General and Economic Affairs, the National Moroccan Business Association (CGEM), and the National Moroccan Banking Association (GPBM). Both IFC and USAID are members with observer status. The Commission met formally for the first time on September 18, 2008. IBCM collaborated with other international donors supporting the development of ADR in Morocco. This is reflected in a number of joint trainings with Search for Common Ground.

The PMPs for 2009 indicate the success of the Program. The indicators show that CIMAR's number of cases increased from 1 in September 2007, to 10 in September 2008, and 8 in June 2009. In addition, the value of the cases for September 2007 was \$633,300, \$175,565 in September 2008, and \$1,100,000 in June 2009.



Conclusion

The Program's work in this area was very successful. Two years after it ended, CIMAR indicated to the Evaluator Team that it is now self-sustaining and that it has been noticing a gradual increase in the number of cases as well as the amount of the settlement. In addition, CIMAR is growing and developing specialized divisions of mediation and has entered into memberships with a number of mediation centers worldwide. CIMAR is unequivocal that its success is due in large part to both trainings and other capacity building the Project provided. CIMAR also gave IBCM credit for its assistance in business plans as CIMAR stated that this was instrumental in becoming a sustainable organization.

4.1.3 Modernizing the *Registre de Commerce*

Background

Financial information on business is often critical for business, bankers, suppliers and customers.

Today, companies worldwide are packaging such information for sale. In Morocco, *the Registre de Commerce* (CR) (commercial register) provides financial information concerning both domestic and foreign business enterprises and merchants in Morocco. It also includes information concerning certain pledges of movable property made by business enterprises and merchants.

The CR consists of a national register and local registers.³⁴ It is part of the court system and is responsible for documenting all information relating to the life cycle of an enterprise: registering its business, any modifications including a change in the by-laws or address, and closing. The commercial registries also track liens on movable property used as collateral.³⁵

Under Moroccan law, the CR is entrusted to the MoJ and each court updates trade records (registration, modification and cancellation of businesses, *etc.*) in local registers for all companies or establishments that fall under their jurisdiction (the Commercial Court of First Instance).

The MoJ directed that OMPIC handle the information contained in the Commercial Registries. Some information is never centralized (as is the case with moveable collateral) because there is no simple way to transmit information from local registries to the central one. On the other hand, there is no simple way to consolidate all information about a business or establishment.

IBCM's Performance

Initially, IBCM set out to modernize Morocco's method of registering moveable collateral so that small and medium enterprises would have easy access to credit. During 2007-2008, IBCM conducted a legal, regulatory, and information technology assessment to understand the best way to move forward with the modernization of Morocco's CR. According to the Program, these studies confirmed two earlier conclusions that were reached through conversations with partners:

- that it would be counter-productive to modernize the collateral registry system independently of modernizing the commercial registry itself
- that any of modern collateral registry system required a central database that could identify each enterprise and successfully match its name to a current address.

The Program also determined, based on a legal assessment, a modern collateral registry system would only provide benefits to enterprises (via greater access to credit) if it were accompanied by an overhaul of Morocco's secured transactions framework and this activity, according to IBCM's partners, was not on the high priority list at the time.

As a result, the Program decided, “*not to proceed forward with the development of a software or other information technology system focused on collateral registry until: (1) Morocco has developed a system for allocating a national business identifier that is common – meaning known - to all government actors; (2) additional work has been conducted on the harmonization of operating procedures for the commercial register; and (3) a champion has come forward to lead the efforts to reform the country's secured lending framework.*”³⁶

³⁴ Regulatory Reform and Investment Promotion - Reliable, Timely Information On Moveable Collateral: Enough To Increase Access To Credit? September 2008

³⁵ WP 2008-2009 - check

³⁶ 2008-2009 WP, pg. 20

The Program then shifted its focus and decided to improve the communication links between Moroccan government and the private sector. The Program had been working on implementing the common business identifier (CBI) discussed in Section 3.1.5 above and concluded that the CBI would provide a central information link to business information. Accordingly, the Program's Work Plan for 2008-2009 set out a pilot program in *Souss-Massa-Drâa* region to:

- develop a guide, following the model used for the trademark and patent guides, on the procedures to be followed by clerks (greffiers) of the CR, together with a training program for clerks; and
- install web-connected terminals in the commercial registries, through which the clerks can input information linked to the common business identifier. The installation of the terminals with a simple interface would be by computer literacy training for the clerks.

The Program noted that *this activity* was pending counterpart commitment.³⁷ The records do not contain any further information on whether the *Souss-Massa-Drâa* pilot was in fact undertaken.

Conclusion

The Evaluation Team noted that there was insufficient information to make a meaningful quantitative assessment of the IBCM's efforts on the CR. However, based on its assessment, the Team believes that IBCM's reasons for discontinuing work on the CR were reasonable and logical. There was a plan for the pilot study but it does not appear that the pilot project was launched. The Program provided some schematic plans for the CR but the Evaluation Team was unable to determine whether this influenced or had any impact on the current CR reforms that are being adopted.

In a meeting, OMPIC indicated to the Evaluation Team that IBCM had participated in the process of drafting the law on the CBI and that this was an important part of linking different agencies' information. In addition, OMPIC stated that there is now an agreement between OMPIC and the MoJ to connect the two systems. During IBCM's life, court clerks manually entered the data received. OMPIC then collected this information, manually and re-entered it, and then marketed the information.

Now, OMPIC provides the human resources in the courts to enter the collected data and both the courts and OMPIC use the data to update the system. The objective, according to OMPIC, is to deliver the "information in real time in cooperation with local offices." OMPIC noted reforming the CR is challenging insofar as the commercial code does not allow flexibility for this interface. OMPIC also noted that training was important in collecting this information and is planning CR training in the future.

The Evaluation Team further observed that reforming the commercial registry will be a key factor in improving the business climate in Morocco. Both the public and private sectors need real time data to facilitate informed decision-making.

4.2 Qualitative Evaluation and Impact

Regarding bankruptcy, the Evaluation Team was unable to learn much about the impact of the Program's efforts, partly because it did not have the opportunity to meet with the MoJ.

³⁷ *Id.* pg. 21

Lawyers interviewed expressed that there had been improvement in the commercial courts in Morocco during these past years but could not link the positive changes to the Program's activities. They credited recent legislation and the king's reform efforts. On the other hand, the Evaluation Team met lawyers and others who had participated in the Program's activities and in some way or another believed that the training and outreach were helpful and useful.

In terms of the Program's activities on ADR in Morocco, there is a strong feeling of gratitude in CIMAR for the Program's assistance, both from a quantitative and qualitative perspective. CIMAR is pleased with its sustainability, on-going progress and stated that it will continue to grow.

Regarding ISM and the commercial court judges with whom the Evaluation Team met, they were also supportive of IBCM and held very positive opinions of the Program's training activities. The judges noted that the IP training offered by the Program resulted in decisions that are more consistent because there was greater understanding of the laws and issues. In addition, both ISM representatives and the judges stated that they missed the Program and would be more than happy if USAID could continue with such training. This is particularly urgent for ISM insofar that in the past few years, ISM generally trained 150 judges annually. That number had increased to about 300 and as of November 2011, the number is approaching 700 trainees annually.³⁸

ISM is particularly interested in training that educates the judges on the differences between common law and civil law because they feel that this will enable them to "build bridges." ISM also expressed an interest in training in the "art of legal writing" on the basis that it would enable its decisions to be understood globally.³⁹

ISM anticipates that training demands will continue to increase as the number of judges is expected to rise from about currently 3,000 judges to about 4,000 - 5,000 in three years. To accommodate this increase, ISM is constructing a new training center on 5.3 hectares of land with a covered space of 35,000 square meters.

ISM also stated that this new world class training center would need a comprehensive law library and it hopes also to have an e-library for which it will also need training. The Evaluation Team would like to note that they observed a class of recruits being trained and, while they did not actually count the number of men and women being trained, the class included a number of female recruits..

Obtaining information on CR was challenging; OMPIC, however, provided an update on current activities relating to CR. It appeared that progress was being made yet some agencies, i.e., the Agency for the Promotion of Small and Medium Enterprises, stated that it wanted the information on line with the ability to access it so that it can quickly help its clients.

Based on observations and discussions with beneficiaries, IBCM's activities were both very valuable and successful. OMPIC confirmed that the IBCM's assistance was "influential" in leading the way and setting the ground work for OMPIC to carry out its current plans for IP implementing and training activities.

Further, two years after the end of the Program, OMPIC has been continuing the work that IBCM

³⁸ Evaluators meeting with ISM

³⁹ Evaluators meeting with ISM

started and is building on it. OMPIC's on-going activities include creating a training center to train IP judges based on IBCM's model. Furthermore, OMPIC stated that it has launched a private public committee to study the impact of piracy.

While OMPIC is a key beneficiary, other stakeholders have expressed similar satisfaction. The American Chamber of Commerce in Morocco (AmCham) also expressed great satisfaction with the Program's activities, in general, and the IP work, in particular. AmCham further noted that it was particularly concerned with IP protection, and that the US-Morocco FTA was the "engine that helped" the change in Morocco's IP law, and that IBCM assisted with the law and its implementation. Other public and private sector also expressed satisfaction with IBCM's assistance in this area and its contribution to improving the business climate in Morocco.

4.2.1 General Perception of IBCM

The Evaluation Team found that beneficiaries and stakeholders held very favorable opinions of the Program and would have liked to see a further continuation of some of the activities as noted in Section 4.2 above.

5.0 SUMMARY OF REVIEW QUESTIONS

Q1.	To what extent was the IBCM Project effective in achieving its objectives? The Program had a major influence on the business enabling environment in Morocco with its efforts to raise awareness of the need for reform and instrumental in influencing policy makers to act to ensure that required change materialized. One of the Program's most important accomplishments was influencing the creation of the National Business Climate Commission (chaired by the Prime Minister) with its mandate to drive reform forward. The Program also made advances in moving the country's administrative processes towards e-governance. At the same time, the Program contributed to upgrading the skills of the legal profession through training of judges and court clerks. The Program was also instrumental in offering the first private mediation training for business disputes in Morocco and contributed towards the development of Alternative Dispute Resolution. In overall terms, it can be argued that after the Program's realignment significant advances were made in achieving planned results.
Q2.	What assumptions or hypothesizes were implicit in the project's strategy? Did these assumptions hold true? Why or why not? The original Program Statement of Work makes no reference to assumptions or hypothesizes regarding a strategy for the Program other than USAID's economic growth strategy to assist Morocco successfully respond to the challenges and opportunities that would come about from the FTA with the US, the EU Association Agreement and the Morocco's own reform efforts. Implicit in this endeavor would be that both the Program and the intended beneficiaries would collaborate sufficiently closely to ensure that agreed goals and activities were achieved. Success would also depend on the will for change especially by policy makers as well as the private sector and the assumption that this would be the case appears to have been adequately realized.
Q3.	Who were the project's intended / final beneficiaries? How responsive was the project to the beneficiaries' needs and interests? In the original Program SOW, the intended beneficiaries would be the commercial courts, the legal profession, MoJ, Ministry of Finance, Ministry of Commerce and Industry and Ministry of Economic and General Affairs and other interested parties. During the course

	of the Program, however, following a USAID budget cut and employment of a new COP, the direction of the Program was realigned having in mind requests by some of the beneficiaries. This included working towards upgrading Morocco's investment promotion efforts with a view to attracting both local and foreign investors. To achieve this aim it was decided to work closely with the Regional Investment Centers in particular to improve the entire administrative procedure for investment projects. In this sense, the Program can be considered to having been attentive to the needs of beneficiaries.
Q4.	What was the intended / unintended impact of the IBCM Project? The intended impact of the Program was that businesses in the private sector including potential investors (domestic and foreign) would be able to operate and compete within a level playing field, unhindered by unnecessary bureaucratic administrative procedures and corruption. One of the driving forces behind the need for change and regulatory / legal reform was the perception of international commentators such as the World Bank and World Economic Forum to name two of the most quoted, regarding Morocco's performance on an annual basis against a number of key business enabling indicators – starting a business, registering a business, construction permit etc. The Program's investigations here focused on fact-finding research at regional level to determine to what extent one region differed from another in attracting and meeting the needs of investors and indeed of aspiring entrepreneurs being able to easily start a business. From the available evidence, it can be deduced that the intended results were partially achieved as some regions more quickly embraced the need for change and especially e-governance, than others. There were few unintended impacts other than those already mentioned regarding the management of expectations as to what the Program could deliver and when.
Q5.	What were the main challenges encountered by the IBCM Project? How did the project address them? There were a number of challenges, beginning with a USAID budget reduction within 6 months of the start of the Program, requiring the original plans to be reviewed and the eventual reduction of the number of Components from 4 to 2. These developments also coincided with the original COP being replaced. Essentially, IBCM appears to have addressed these challenges fairly successfully although as has been noted in the report the way in which progress was documented and reported did not reflect how the Program was actually performing against plan (even with revisions).
Q6	What were the key lessons learned from the project that should inform future Economic Growth Programming in Morocco? The key lesson is that projects of this nature depend not only on the Contractor's efforts for a successful implementation but also on the efforts and willingness of stakeholders to cooperate and collaborate. Key to this is establishing clear lines of communication from the start of the project through its completion for it to succeed. It should be noted that a fair amount of IBCM's input included processes over time, some of which would/could not be accomplished within the lifetime of the Program. Therefore, while many of the Program's objectives were met, some of the key initiatives remain undefined in terms of when they will be implemented. Most depend on the necessary legislation being in place (CBI) to effectively enforce implementation and this cannot be attributed to the Program.

6.0 CONCLUSIONS AND RECOMMENDATIONS

6.1 Conclusions

- In overall terms, IBCM made a meaningful and worthwhile contribution to improving the business enabling environment in Morocco both in practical ways through specific, targeted interventions and also with regard to raising awareness of the need for reform among government circles, the private sector and the public at large. Some activities were completed before the end of the Program in 2009, others removed or replaced during the lifetime of the Program, with yet others waiting final completion or implementation in the not too distant future. In this respect, IBCM was an added-value intervention in Morocco. Without such intervention it is clear that progress would not have been made in the country's path towards economic growth and development or, at least, would have been significantly slower.
- IBCM was at the forefront of activities related to improvement strategies even though a number of these involved a set of actions leading to policy changes as opposed to simply achieving a quantitative result as defined by indicators. Some of the practical measures taken to tackle restrictions to growth in the private sector included the E-invest initiative, lobbying for the creation of the National Business Climate Commission (CNEA), development of the Common Business Identifier (CBI) and others, all aimed at streamlining administrative procedures at local, regional and national level. Several of these interventions had their roots in the World Bank's "Doing Business" annual ranking indicator reports, which highlight areas of deficiency in a country's economy and which need to be addressed if economic performance is to improve meaningfully from one year to the next. How far progress has been recognized by the World Bank will only be apparent in next year's annual report but whatever the results, it will still be difficult to attribute to what extent the Program influenced those results relative to what other factors (including external) come into play. Nevertheless, much has improved in the simplification process as evidenced by the remarks made by the private sector and the CRIs so the foundations have been laid as a result of IBCM's intervention strategies.
- IBCM's efforts on ADR in Morocco were very successful. The Program's activities were aimed at developing private mediation in Morocco, and two years after the close of the Project, CIMAR is continuing to grow and expand its areas of private mediation and develop global relationships. The Program coordinated with other donors to maximize its assistance and efficiency. An important point is that CIMAR is now self-sustaining and credits IBCM for its assistance in crafting business plans that have made it sustainable. This can certainly be viewed as having a positive effect in creating an environment of confidence for commercial business transactions.
- IBCM's training activities for the Institut Supérieur de la Magistrature and the Commercial Courts were very helpful and very well received by the beneficiaries. Although the TOT program has halted, the judges who received the training gave a very positive feedback and stated that the training, particularly on intellectual property, resulted in more consistent decisions. It was unclear why the TOT has been halted but at least one of the four judges continues to train new recruits on judicial issues.

- The Program’s activities supporting OMPIC were well received and have served as a foundation to improve and sustain OMPIC’s activities. OMPIC is continuing to provide IP training using IBCM’s models and IP guides.
- Morocco’s banking sector poses obstacles to creating an enabling business environment and SME development. The demand for full collateral and full loan guarantees for SME’s coupled with high interest rates protect banks and stifle SMEs. As a result, SME’s remain uncompetitive today with limited opportunities for growth and development. They frequently miss out on government procurement contracts, and have difficulty in obtaining finance/credit.
- Morocco’s commercial courts practice of court-appointed experts needs to be reformed. Stakeholders explained to the Evaluation Team that Morocco’s law does not require a judge to appoint an expert in the specific area expertise. In other words, a judge can appoint a “real-estate person on a complex IP case.”⁴⁰ Furthermore, because the fees for experts are so low, the experts do not generally have the level of needed expertise or are not committed to the case at hand. Also, the practice facilitates favoritism and corruption and dampens an enabling business environment.
- Morocco appears to be on the right track with respect to reforms. In meetings with stakeholders, there was a general sense that the legal environment for doing business in Morocco was improving. The Evaluation Team were struck by the enthusiasm of many of the public and private sector representatives who believe Morocco is improving and expressing the desire to see Morocco have a greater presence on the global trading stage.
- In terms of the way in which the IBCM Program managed, reported and monitored its own performance, the Evaluation Team concluded that there was a lack of correlation between annual Work Plans and the PMPs. It was difficult to follow any logical path throughout the years between intended actions and how their achievement (or otherwise) would be measured. Activities and tasks were subject being re-defined, replaced or renamed with no discernible tracking mechanism in the PMP reporting mechanism. From 2007 onwards a matrix format for reporting on quantitative results was introduced including a Policy Index, which tracked progress of actions along a designed path towards a final goal and this was more understandable as it dealt with policy issues. While it is acknowledged that a reduction in IBCM’s budget and replacement of the original COP required some realignment of the direction and strategy for the Program, it was felt that the entire reporting and monitoring system could have been more effectively managed.

6.2 Recommendations

As the IBCM Program ended in 2009 the only recommendations that can be made by the Evaluation Team at this time are those regarding any future planned USAID follow-on projects in the business-enabling arena. These would essentially relate to activities for which there is a perceived need or which have been requested by local partners, counterparts or beneficiaries. In addition, they would address issues related to Program management, reporting and monitoring:

- Provide technical training for the commercial courts and legal writing. The new ISM training center has ambitious training goals and expressed the need for USAID’s assistance

⁴⁰ The evaluators have not confirmed this in the law.

for technical training, legal writing and developing a modern e-library. With so many new judges every year and current judges on the commercial courts who lack specific expertise, there is a need for technical training in the commercial courts. While OMPIC is planning to build on IBCM's efforts, it is recommended that USAID support commercial court training and assistance on legal writing, perhaps on a short-term basis. This will strengthen Morocco's commercial courts that have jurisdiction over commercial law disputes as well as ISM. Two important points are: 1) the main beneficiaries are requesting such training so there will be government "buy-in"; and 2) improved commercial courts create an enabling business environment as investors and the business community feel more secure in conducting business knowing that there is reliable legal redress.

- Legal reform for the process of commercial court-appointed experts. In the event that USAID provides technical assistance to ISM and the commercial courts, the evaluators recommend that USAID conduct a review and assessment of the commercial courts' practice of court-appointed experts with a goal towards legal reforms. Because commercial court judges lack technical expertise and rely on experts in rendering decisions, accurate expert testimony is a key factor to increasing confidence in the business environment.
- Banking reform and lending practices. SMEs, which are the engine of growth for a country's economy, need access to credit. In Morocco, because of the demand for full collateral and guarantees as well as high interest rates, SMEs are stifled. While the Agency for the Promotion of SMEs makes grants available to small businesses, it experiences frustration regarding its efforts to help because of the lending practices of Morocco's banks - (See Section 7.4 below for further details on how this situation might be addressed).
- It is strongly advised that future USAID Program's similar to IBCM require that the implementing consortium or company clearly outlines how it plans to report and monitor performance relative to the indicator specifications outlined in the Statement of Work. The mechanism suggested should then remain throughout the lifetime of the program and only be revised where there has been a significant reason for doing so. While it is acknowledged that programs need to be sufficiently flexible to adapt to changing circumstances on the ground (including budget realignments) and that tasks and activities may need to be revised, removed or upgraded, this should not imply any significant change in the way results are logged and monitored. This would avoid confusion in tracking actual performance against plan from year-to-year and allow more effective and efficient decision-making by program management.
- In terms of the sustainability of interventions at the end of a program, care should be taken in the management of expectations of local partners, counterparts and beneficiaries who it appears can often misunderstand or misinterpret what is expected of them. This was clearly the case regarding IBCM where several 'stakeholders' claimed that they were unaware that the Program was coming to an end and why they were not informed in a timely manner. Although this may not be the majority view, the perception nevertheless exists among enough of them to draw the Evaluation Team's attention to the matter. A more robust sustainability strategy may, therefore, be required involving those at local level at the beginning, during and towards the end of the Program as to how the road ahead will look and where roles and responsibilities for on-going implementation of initiatives may lie.

7.0 BUSINESS ENABLING ENVIRONMENT

7.1 Introduction

The terms of reference for the Evaluation Team consisted of two parts. The first concerned an evaluation of USAID's IBCM Program 2005-9 the contents of which are outlined above in some detail. The second part required that an analysis of the business enabling environment in Morocco be carried out with emphasis on the extent of its impact on trade and investment, job creation and economic growth in general. Below is a synopsis of that investigation drawn from a review of recent literature and publications on the subject, discussions with key stakeholders around the country and general observations made by the Evaluation Team in comparing Morocco's economic performance with previous experience in other similar emerging economies around the world.

7.2 Current Status

One of the main determinants of economic growth of a country is the extent to which the business enabling environment is perceived by both domestic and international investors in terms of facilitating and accommodating the needs of private sector operators. In particular, assurances are sought regarding the freedom with which they are allowed to carry out their activities with a minimum of government interference and in an environment in which competition is real, open and transparent. These minimum requirements set the tone for how the international community, in particular, rates the performance of a country on a year-by-year basis and which investors will consult often as a first port of call when considering potential investment opportunities in a host country.

In recognition of this and following the progress made by the GoM in recent years towards creating the kind of level playing field demanded by local and foreign enterprises through its range of legal, regulatory and institutional reforms, the GoM, in collaboration with the private sector, published its "National Industrial Emergence – Programme Contract 2009-2015." The primary aim of this document was to address the challenges that still remain for Morocco with respect to the restrictions still hindering its economic growth, and to offer a "road-map" for how these challenges can be overcome in the years to come. It also recognizes that the future prosperity of the country relies on the extent to which the aspirations and expectations of all sections of the community are meaningfully addressed and satisfied.

7.3 International Economic Indicators

In order to gauge how far along this path Morocco has tread in the two years since the report was published in 2009, it is worth considering how the international community currently views the extent of progress to date. Annual and specific country reports are published by the World Bank (Doing Business), the World Economic Forum (Global Competitiveness Reports) and OECD ("Morocco – Business Climate Development Strategy, June 2011"), which effectively provide a "snapshot" of how a country is performing at a particular point in time. However, these reports can only tell part of the story, as year-on-year movement in rankings is only relative, as what happens from one year to the next in terms of an economy's regulatory environment for businesses can be influenced by external factors. Moreover, annual rankings including changes (up or down) do not take account of how the business regulatory environment has changed over time or how it has changed in different areas.

Nevertheless, these indicators serve a useful purpose in that they stimulate debate about a country's economic standing and draw attention to how performance relates to international "best practice" and, thus, can define what still needs to be done to close existing gaps. Most of the above mentioned reports essentially draw similar conclusions about Morocco's economy and progress in

recent years, namely, that much has been done but that much still needs to be done to create the kind of business climate that leads to real and sustainable growth.

The most significant step forward towards achieving this goal was the setting up of the National Business Climate Commission (CNEA) – (see Section 4.1.1 above), which would focus on the simplification of business administrative procedures and, thus, speed up those activities that most impact on entrepreneurs, small businesses or large corporations. The country is also making meaningful progress towards paperless business transactions with its E-invest initiative, which formed a significant part of IBCM’s Program activities.

Once established, businesses clearly expect to be able to trade freely within Morocco and also when exporting, with the minimum of state intervention, which in turn can have an impact on overall GDP. The extent to which this is perceived by international investors can also have a major impact on the decision-making process on whether to investigate and/or set up operations in Morocco and whether the potential benefits that can accrue from such investment outweigh perceived hindrances in the day-to-day running of a business.

To gain a perspective of how Morocco has performed in the last few years with regard to attracting foreign investors, it is worth noting the following FDI statistics extracted from a recent US State Department’s Bureau of Economic, Energy and Business Affairs report (March 2011). At the same time, it is also worth highlighting GDP figures for the same period published by the Central Bank of Morocco and IMF⁴¹. Although there is no direct correlation between one and the other, the figures demonstrate a certain degree of stability in trends over the five years with minimal growth.

Table 1 – FDI Inflows to Morocco 2006-2009

	2006	2007	2008	2009	2010
FDI (Inflows)	\$2.96bn	\$4.62bn	\$3.61bn	\$2.51bn	\$4.22bn

Source: US Department of State – 2011 Investment Climate Statement

Table 2 – GDP for Morocco 2006-2009

	2006	2007	2008	2009	2010
GDP (Per Capita)	\$2165	\$2423	\$2748	\$2850	\$2941

Source: Central Bank, Ministry of Finance, IMF

At face value, these figures are encouraging and do not suggest that any perceived lack of progress in some of the business indicators highlighted by the World Bank Doing Business reports for Morocco is currently having a detrimental effect on inward investment. With overall rankings improving from 115 to 94 and protecting investors from 153 to 97, this represents progress. In support of this state of affairs and notwithstanding the analysis detailed above in Section 3.1.6 regarding the Meknès Vert initiative, a number of foreign investment companies, from France and Germany in particular, have been reviewing the possibility of substantial investment in renewable energy production in the Meknès-Tafilalet region. The Director of CRI-Meknès indicated during an interview with the Evaluation Team that a French company was currently conducting a two-year analytical study with the possibility of investing 2bn dirhams if the results were positive. Therefore, there is some argument that the message is getting through to foreign investors (at least in specific

⁴¹ Data in Table 2 has been extracted from ‘The Report – Morocco 2011’ published by the Oxford Business Group

industry sectors) of what Morocco has to offer. Morocco currently imports 95% of its energy needs in response to which the Moroccan Agency for Solar Energy is planning to oversee investments of 70bn dirhams with a view to increasing of green energy to 20% of the country's needs by 2020. Boosting production capacity is also expected to reduce energy costs – currently the highest in the region, undermining the nation's competitiveness. This appears to bode well for the region although as noted above all the necessary ingredients will need to be in place if it is to take advantage of all the available resources that would provide it with a much sought after competitive advantage.

7.4 SME Development and Promotion

The prosperity of any nation depends substantially on the extent to which its SMEs contribute to GDP. In most developed countries starting a business is a relatively pain free process which can be handled by the relevant authorities in a matter of hours. In Morocco, whilst advances have been made to reduce the burdens on aspiring entrepreneurs wanting to set up and operate a successful business, the trend towards making this happen has cooled down with World Bank Doing Business figures showing a drop in rankings in 2011 (82nd to 93rd). The reason for this is not easy to ascertain given that both they and their representative organizations such as the National Agency for the Promotion of SMEs are aware of the developments and progress (albeit slow) of the move towards e-governance with all that this implies including a reduction in corrupt practices in many of the business-related official administrative procedures.

However, in discussions with owners of small businesses, three specific recurrent complaints became apparent: 1) the limited access they had to bidding and winning public procurement tenders; 2) the lack of development finance to support their tender proposals and for expansion purposes; and 3) even when they are successful in winning and implementing government tenders they experience considerable difficulty in getting paid.

In its National Pact document the GoM addressed some of these issues and it is worth quoting what was announced regarding tenders. "The State undertakes to improve the conditions of access to public markets for SMEs through the introduction of procedures within the administration to encourage regroupment or development of contract allocation, enabling the latter to have sufficient financial capacities to implement public markets." Today it is difficult to gauge the extent to which this has happened but the available evidence seems to suggest that little progress has in fact been made.

At the time of writing, the National Agency for the Promotion of SMEs was working on a charter on behalf of its members for submission and review by the National Business Climate Commission. Priority actions for consideration included movement towards e-licensing to remove corruption, reduction in the number of procedures required with grant applications and lower interest rates from banks for business loans. It is difficult to assess the impact on SME competitiveness caused by these restrictions to growth; however, there is clear evidence that the negative effects are often real and, in some cases, can lead to possible business closure. In discussions with some of the RESOVERT members in Meknès, several were struggling to survive, citing some or all of the above mentioned issues.

Perhaps a serious study on SMEs today is required to determine the extent to which real and perceived problems have been alleviated (or otherwise). At the same time, such a study should attempt to identify, since the National Pact was published two years ago, how many businesses actually started in Morocco, where and in what sectors and regions. It should also aim to quantify how many businesses were forced into bankruptcy, how many were successful in winning

government procurement contracts, and how many were able to access bank loans or grants from other sources. Without such a comprehensive review, it will be problematic for policy makers and the private sector to assess whether anticipated or actual reforms will have a lasting impact.

Finally, it is possibly worth drawing attention to measures currently being taken in the UK regarding lack of bank lending to SMEs. This is a planned government scheme⁴² to channel taxpayer funds to major banks to lend to small businesses at preferential interest rates. This “credit easing” could be further explored in Morocco but would need the support of knowledgeable third parties (possibly in any planned technical assistance program.) Along similar lines, it is also worth noting that one of the missing ingredients in Morocco in the business world is the lack of a culture in entrepreneurship. There is no link between education and entrepreneurship in the education chain – from school through colleges and universities to starting your own business. Youth enterprise schemes including business plan competitions do not appear to exist in Morocco, providing a platform to starting a business. Nor is there any evidence of business incubators or business support centers that could help develop entrepreneurship. Here again, opportunities appear to exist for meaningful external intervention, which might be explored further.

7.5 Trade and Investment

A significant part of this report has focused on several important issues regarding investment, from the policy makers and governmental institutions charged with setting the rules and promoting Morocco as an investment location (AMDI and CRIs), to some of the key players in the private sector including SMEs. For the former, progress has been made towards simplifying the whole process of dealing with potential investors together with measures taken to upgrade their capacities and capabilities. Attention has been paid to the published statistics of international commentators such as the World Bank with an interest in the economic performance of a country. For the latter, although much of the unnecessary procedures regarding starting and operating a private business have been addressed through regulatory reform measures, there is still a significant degree of discontent among the SME community, in particular regarding availability of opportunities to trade on a level playing field. Most tend to be family businesses with limited export opportunities due to size and availability of funds to expand into overseas markets.

To put matters into perspective regarding exporting in Morocco, below is a brief synopsis of the recent situation. Reference is made to both macro-level conditions (where Morocco stands regarding its current account indicators) and at micro-level (where examples are provided of the impact of the free zones on the economy) and the impact this has on local SMEs and their competitiveness. Below is a table that highlights the extent of Morocco’s trade imbalance with the rest of the world:

Table 3 – Current account indicators 2005-2009 (bn dhm)

	2005	2006	2007	2008	2009
Exports	99.3	112.0	125.5	154.5	111.8
Imports	184.4	210.6	261.3	321.9	264.4
Deficit	85.1	98.6	135.8	170.3	152.6

Source: Central Bank, Ministry of Finance, IMF

⁴² This UK Treasury Initiative is based on a similar one to that introduced by the European Bank of Investment (EBI) in 2008 to lend to small enterprises in the UK – 2.3 billion pounds to 7500 businesses in the last three years

These statistics clearly indicate the extent to which Morocco relies on foreign imports that, up until 2009, averaged about twice the level of exports. More recent figures are not available although it is interesting to note the impact of the FTA between Morocco and the US, which came into force in 2006. According to recent information supplied by the Office of the US Trade Representative, US exports to Morocco increased by 261% (from 2005 and pre-FTA) in 2010, when they reached \$1.9bn. One of the main categories was agricultural products accounting for \$765m of exports consisting of soybean oil, soybean meal and wheat. On the other hand, US imports from Morocco were \$685m in 2010, one third less than what it exported to the country. This imbalance in trade between the two countries has led to some commentary in Morocco that while the FTA in principle opened up mutual trading opportunities, in reality it favors the US to the detriment of Morocco.

Nearer to home, the EU is Morocco's largest trading partner, having grown from the 2000 Association Agreement to "Advanced Status" in 2008. The EU is also one of Morocco's largest donors with EUR654 million pledged between 2006 and 2010. In 2009, both parties reached a deal on agri-food products which, when ratified, will reduce Customs fees on Morocco's exports to the EU by half. In October 2010, IMF recognized the important role played by the EU in Morocco's economy and stated that, "enhancing competitiveness is going to be important for sustaining Morocco's future growth." However, only time will tell how trade will evolve between Morocco and the EU in the years to come, although it is clear that if Moroccan companies want to take advantage of EU markets they will need to significantly upgrade their skills and expertise, particularly in export marketing.

On the subject of competitiveness, it is worth commenting upon Morocco's free zone areas and future plans for integrated industrial parks (P2Is) aimed at providing state-of-the-art accommodation facilities for investors. Morocco already has several free zones situated around the country, providing a platform for foreign enterprises to manufacture under favorable trading (tax-free) conditions. To date, these zones accommodate the automotive, aeronautics and space, electronics, textiles, and leather, for the most part.

However, the agriculture and food sector (approximately 35% of the industrial GDP) does not have similar facilities specifically for its needs. Today, the sector remains underdeveloped with few real export opportunities for its products. In its National Pact document of 2009, the GoM focused on this dilemma with grand plans for the construction of six Agropoles⁴³ (Meknes, Eastern region, Souss, Gharb, Haouz, Tadia) to underpin the agreed action plans for the sector. At the moment, these plans remain long term and thus not relevant to those involved in agriculture and especially the SMEs.

During the evaluation mission, the team met with the Director of the Tanger Free Zone to discuss trade, investment and export issues. The relevance of the zone to Morocco's economy is substantial, with the value of exports accounting for 20% of the country's GDP. The zone has 530 companies and provides employment for 70,000 people. Everything produced in the zone is for export only, with emphasis on the automotive, aeronautics, electronics and textile industries. In ten years, the zone has grown from just a handful of companies to its present position. The benefits and competitive advantages for investors are clear – various tax and duty exemptions, special customs procedures, availability of inexpensive and well-trained labor force and fully serviced facilities and workspaces.

⁴³ These projects have not been implemented to date

7.6 Findings and Observations

What has emerged from this brief review of the business enabling environment today in Morocco, is the acknowledgement at home and abroad of the progress that has been made in recent years by both the public and private sectors in identifying, addressing and trying to alleviate some of the major obstacles and hindrances to business development. Emphasis has been on reducing the unacceptably high levels of bureaucracy restricting or preventing economic growth with an irreversible move towards e-governance and all that that implies – less corruption and faster and more effective decision-making by owners and managers of businesses. The GoM recognized this some years ago and, in 2009, published its National Pact for Industrial Emergence 2009-15, which spelled out the way forward for the country.

Most informed parties have paid some attention locally, regionally and nationally to what the international community has to say about Morocco in their various annual economic reports and other publications. Awareness has been raised to new levels about what is needed to develop the economy and, indeed, the IBCM Program, as mentioned above, played a significant role in this between 2005 and 2009. It is also generally accepted that legal and regulatory reforms have taken place along the right lines but that more needs to be done in the implementing of rules and regulations. More aspiring entrepreneurs need to feel sufficiently motivated to start a business, those already in existence need to feel they have the necessary support from official sources and from private sector service providers who can assist them achieve their objectives. Some areas and regions are more advanced than others often due to geography and availability of funds and natural resources.

In addition, a mechanism is now in place to meet the needs of both local and international investors through the AMDI and the CRI network, and opportunities for growth appear to be opening, although slowly. The levers of change therefore seem to be in place. What appears to be missing in the business enabling landscape is that not everyone is pulling together at the same time towards a common cause. Dissatisfaction with government procurement procedures still serves as an impediment to the growth for the SME sector, basic business management skills are still lacking, and the inability to obtain development funds from the banking sector is still a cause for concern among the business community.

Further, there is a commonly held belief that larger companies in Morocco, either local or foreign, enjoy special privileges and/or favors when negotiating with the authorities on account of their size, wealth and influence. Smaller companies often feel that deals are done behind closed doors, shutting out their hopes and aspirations for government contracts. Those in the free zones also clearly enjoy a special status in terms of the potential returns on their investments that can accrue by being located in these zones although they simultaneously provide employment for many locals.

In a sense, Morocco appears to be at a crossroads in terms of how it is going to reach its goals as highlighted in its National Pact. Two years have since passed but there is little evidence that giant leaps forward have been taken in any of the initiatives addressed. Steps have been taken here and there but the expectations of what is desirable and possible appears not to be embraced by some in the business community when it comes to real roles and responsibilities. What is now needed are action plans for development based on a proper assessment of local needs in every region. Possibly this will happen when the CRIs become Regional Development Agencies in 2012 (as alleged but not confirmed) and their scope of activities is widened to encompass more than only investment related matters.

8.0 SUMMARY OF REVIEW QUESTIONS

Q1.	How is the current business environment impacting the competitiveness of SMEs in regard to investment, job creation and innovation? As discussed above, some progress has already been in recent years to improve the trading and operating conditions of SMEs in Morocco through measures taken by both GoM and third parties to make life easier for them in the way they go about their business. For example, the move towards e-governance with regard to speeding up bureaucratic administrative procedures, is in progress through initiatives such as E-invest, which is designed to facilitate the investment process for applications under 200 million dirham. Once fully implemented it is expected that potential investors (domestic and foreign) will feel more confident in having their investment projects reviewed and approved without unnecessary delays (usually associated with corrupt practices) as applications will be recorded and trackable online. Awareness has also been raised in Morocco through the efforts of programs such as IBCM and also through the efforts of the recently created National Business Climate Commission (CNEA) whose mandate includes gathering information on the business environment as it affects the SME sector (nationally and regionally), on the need to support SME development. However, in reality, while these initiatives and efforts are commendable and have the right intention, there is sufficient evidence to suggest that SMEs still suffer from the same restrictions to growth as they have always experienced, namely, lack of access to development finance and an inability to compete with more established companies for government procurement tenders. Therefore, growth is slow today in the SME sector and there is little incentive for potential entrepreneurs to start a business with innovative ideas due to their perception of what they would be getting themselves into as owner/managers of their own businesses. Evidence in support of these observations comes from both the World Bank, which ranked Morocco 98th in 2012 in terms of ease of accessing credit from banks, and from the World Economic Forum whose Global Competitiveness Report 2011/12 rated access to financing as the most problematic factor for doing business in Morocco. The end result of this state of affairs, as reiterated recently by the Agency for the Promotion of SMEs in Morocco, is that instead of growth many in the sector are struggling to survive, which has motivated the Agency to prepare an SME draft charter for consideration by the CNEA to help bring about much needed change.
Q2.	In regard to the indicators covered in the World Bank’s Doing Business Report which procedures and/or regulations are most detrimental to the competitiveness of Moroccan SME’s? What opportunities exist for USAID to assist the Government of Morocco (GOM) design and/or implement efficient, accessible and predictable regulation? This issue has largely been addressed in response to the first question above although starting a business, dealing with construction permits, and registering property, are still poorly ranked according to recent World Bank Doing Business indicators and with almost no improvement between 2012 and the previous year. However, in discussions with some

	of the CRIs, it is clear that there has been marked improvement in regions such as Meknès, Tanger and Settat where registering a business can now be initiated in a matter of hours as opposed to days or weeks. This has primarily been due to the in-house “one-stop-shop” facilities being offered to clients (as witnessed by the Evaluation Team) where procedures are essentially free from unnecessary bureaucracy and applications being processed without fuss or hindrance (and with no likelihood of corruption). In addition, it is also important to note that some of the indicators mentioned above are likely to experience significant improvement (it is hoped) in the next reported World Bank rankings, as changes and measures in progress now and due to be implemented fully in 2012 (E-invest, Common Business Indicator) will most certainly lead to ease of doing business. In reviewing the recent developments in Morocco relative to the indicators most frequently referred to and commented upon by international commentators, there appears little need or even appetite for ongoing regulatory reform as it impacts SME competitiveness, either by the public or private sector. One of the main complaints has been, not that the necessary legislation is not in place, but that its implementation and enforcement has hitherto been deficient. The question, therefore, might be redefined to consider how USAID might support this aspect as opposed to working on the notion that somehow there is a need for further legislation.
Q3.	In terms of promoting trade and investment what types of donor funded activities are likely to facilitate the adoption of ‘good rules’? As a third party to the process how can USAID harness the private sector to facilitate pro-business reform? In Section 8 above a number of issues have been discussed regarding trade and investment in Morocco with particular reference to the importance and relevance of free zones to the country’s economy, the way in which large enterprises appear to have more opportunities for development and expansion than SMEs, and contribution of both to GDP. The importance of exports from Morocco was also discussed, together with the relevance and impact of trade agreements (with the US and the EU). Regarding the promotion of trade and investment, Morocco now has a single unified body responsible for the Moroccan Investment Development Agency (the AMDI) in collaboration with the CRIs at regional level. Should E-invest become fully operational in the CRIs throughout Morocco in 2012, as currently appears to be the plan, then the fundamentals associated with the technicalities of investment promotion activity through procedural streamlining, will be in place. Furthermore, the foundations will have been laid for a more robust approach to attracting and dealing with investors. However, in discussions with the CRIs it was apparent that while “parts of the engine have been (are still being) tuned and/or repaired” none really knew what the engine would sound like when fully started and revved up. In short, none had prepared a business plan or roadmap for the way forward, essentially acknowledging that there was a bit of a wait and see attitude regarding what would happen with E-invest. What, therefore, appears to be lacking and what could possibly be open for future support by external parties such as donor organizations, is in helping to build the capacities of the CRIs to function as independent (but linked) regional bodies with a clearly defined strategy and purpose including targets for FDI. As mentioned above, Morocco has been successful in attracting major investors in the free zones in particular in the last ten years, which without doubt cements its reputation as place to do business. Therefore, although it

	is clear that foreign companies receive preferential treatment in the zones, potential for further FDI in the rest of the country remains high. Therefore, it is imperative that those organizations tasked with attracting and supporting investors are in a position to do so effectively, efficiently and professionally.
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ANNEXES

ANNEX 1: WORK PLAN

**Project Evaluation
of
Improving the Business Climate in Morocco
(IBCM) Project
(October – November 2011)
WORK PLAN**

Submitted by:



Mendez England & Associates

Introduction

In the preparation of its management and technical approach, ME&A's Evaluation Team has followed the guidelines detailed in the Request for Task Order Proposal (RFTOP). As stated, the purpose of this Task Order as defined in the accompanying Scope of Work (SOW) related to the 'Improving the Business Climate in Morocco' (IBCM) Project Evaluation mission is, "to gain further insight concerning the impact and sustainability of the IBCM project. The evaluation is intended to provide an objective assessment of the IBCM project as well as to identify key lessons learned". In addition, the evaluation was also "to provide USAID with an analysis of the current business enabling environment in Morocco". Emphasis would be on the business enabling environment's impact on trade and investment, job creation and economic growth. Following a conference call with USAID / Morocco on Monday, 24 October, 2011, between the Contractor (ME&A) represented by Mirela McDonald, the Team Leader, Colin Maclean and USAID/IBCM project COTR Nadia Amrani, it was agreed that an evaluation Work Plan be submitted to USAID on Friday, 28 October, 2011.

The Evaluation Team intends to actively pursue the methodology outlined in the evaluation mission SOW and the strategy defined in M & E's Technical Proposal. In summary this involves the receipt and review of project-related documentation prior to the Team's departure to Morocco and preparation of a draft Work Plan for further discussion and approval on arrival in Rabat. Following agreement on *who* the Evaluation Team should meet during its mission and exactly *what* is going to be evaluated, the team will embark on a series of in-country field visits for data gathering purposes and analysis. This will then form the basis of a draft outline of the Final Report for submission prior to the team leaving Morocco. It is also envisaged that a final MS PowerPoint presentation of the Team's findings be conducted in USAID's offices on the last day of the mission.

Annex 1 of the report outlines the Team's proposed mission schedule with planned activities and deadlines for deliverables. This is subject to discussion with USAID in Rabat and will take account of the various religious and other holiday periods that the Team will encounter whilst in country. In this respect, and in order to optimize the time available for interviews during its mission, USAID has agreed to begin the process of organizing meetings with identified partners and beneficiaries in advance of the Team's arrival. Annex 2 provides a list of potential questions to be answered by the evaluation and Annex 3 a suggested list of potential interviewees, all of which are subject to further discussion between USAID and the Evaluation Team at the start of the evaluation mission.

Evaluation Team

The evaluation of the IBCM Project will be conducted by a three person team consisting of in-country and expatriate specialists. These include: Colin Maclean (Team Leader), Savitri Singh (Economic & Trade Analyst) and Khalil Soodi (Local/In-Country Coordinator).

Colin Maclean will assume overall responsibility for the management of the evaluation. This will include identifying persons and materials to be consulted prior to the departure of the team to the field and liaising and working with the Contracting Officer's Technical Representative (COTR) to ensure that the evaluation meets the objectives of USAID/Morocco. *Savitri Singh* will assist in the scheduling of meetings, conduct interviews and research, conduct regional field visits and contribute to the preparation of the draft and the final report. *Khalil Soodi*, located in Rabat, will also assist in the planning and organization of interviews and co-ordination of site visits.

The Team will function as a single unit and in general jointly participate in meetings to collectively gain an understanding of the issues at hand. However, due to the fairly wide ranging scope of the evaluation and in order to maximize the limited time in the field, there will be a number of occasions when individual Team members will conduct interviews or briefings on their own. For any envisaged field trips outside of Rabat, the tTam will travel together.

In addition, ME&A's Evaluation IQC Manager, Dr. Loren Schulze, and Project Manager, Ms. Mirela McDonald will be accessible to the COTR and responsible for providing oversight to the Team's activities. They will assure that resources are available to the Team to meet all needs that might arise during the course of the evaluation effort.

Evaluation Design Plan

The ME&A Team is tasked with conducting an evaluation of IBCM, which commenced in July 2005 and ended in September 2009. The evaluation will be both quantitative (analysis and review of measurable data) and qualitative (gathering and assessment of comment and opinion) with emphasis on the former. The final report format will therefore reflect this through the inclusion of graphic tables attached as annexes which will track the performance of IBCM results against planned targets on a year on year basis. Commentary on the team's findings will appear in text following each relevant chart.

In summary, quantitative data (e.g. number of actions / activities to be accomplished against plan) will be sourced from IBCM annual work plans and period reports. In addition, particular reference will be made to the project's own annual Performance Monitoring Plans (PMPs) designed to provide ongoing analysis and commentary on actual results achieved against plan including actions and strategies to be taken to address any current or anticipated deviation from plan. The collective outcome of this evaluation will be a thorough assessment of the impact of the IBCM to date relative to the planned objectives as envisaged in the original SOW and elaborated and/or revised in subsequent IBCM Annual Work Plans. Qualitative data will be gathered via the Team's interviews with key stakeholders such as beneficiaries, national and local government officials, international donor representatives and other relevant bodies.

The evaluation mission will take place between Monday, 24 October, 2011 and Thursday, 24 November, 2011, inclusive. Preparation time for the advanced review of relevant materials prior to mobilization of the Team as well as post-evaluation time following return to home base also forms part of the total evaluation process as defined in the terms of reference for the experts. The review of all available project documents will focus specifically on providing answers to the key questions identified by USAID as defined in the experts' SOW, which addresses two separate issues: 1) the extent to which questions asked lead to answers regarding the impact / results achieved by the IBCM project within specific components and relative to pre-determined objectives; 2) the extent to which questions asked lead to a better understanding of the business enabling environment in Morocco in particular with regard to the competitiveness of SMEs and trade and investment climate.

On initial review of both, the Team believes that the questions raised are fairly all encompassing the answers to which should contribute towards the final 'big picture' of IBCM aimed for by the Team. As an *aide memoire* these are included in this work plan (see Annex 2 below).

The early part of the field visit to Morocco will focus on finalizing the list of interviewees, final list of key questions to be answered, final report outline and arranging interviews and project site visits.

The remainder of the time in-country will be oriented towards collecting and analyzing relevant information. Three principal means of gathering information will be considered:

- *Document Review.* The Team will perform a document review of available reports and studies provided by USAID, the Contractor and other relevant parties.
- *Structured Interviews.* The Team will ask questions designed to answer the key questions identified by USAID. Our approach will be to employ a core set of questions to enable a common baseline of information but to modify the set of interview questions based on the experience and position of the interviewee. For example, government officials and enterprise owners would have different questions. All of the interviews will go beyond qualitative “yes/no” to open ended answers to solicit as much explicit and concrete information as possible. Our intent is to have those interviewed speak frankly and candidly about their association and/or experience with IBCM
- *Focus Groups.* If deemed more efficient, the Team may assemble focus groups (enterprise or association representatives) to elicit information regarding IBCM’s efforts to support them.

We anticipate conducting approximately 30-40 interviews and site visits depending on the location, willingness and availability of interviewees as well as the time available. An illustrative list of people and organizations that the Team should meet during the evaluation mission is highlighted in ME&A’s Technical Proposal and this will form basis on which the team will proceed. However, it is expected that during the Team’s investigations additional candidates for interview will come to light and these will be followed up where possible. The Team will also endeavor to identify those firms or associations (or other parties) who participated in IBCM’s activities but who subsequently withdrew their collaboration for one reason or another. Discussion with such parties will help provide a more balanced view of the workings of IBCM rather than simply relying on those parties which have participated and benefitted from assistance. Annex 3 provides an indicative list of potential interviewees. Where possible the Team will endeavor to evaluate performance via the accumulation and analysis of gender-disaggregated data and information.

Finally, prior to arrival in Morocco, communication will be established between the Evaluation Team and Lara Goldmark (COP of the IBCM project). This will serve to provide further insight regarding the project’s design and implementation and provide a general background regarding progress and developments throughout the 5 year period.

Mission Schedule

24/10/11 – 16/12/11						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
October 24	25	26	27	28	29	30
Conference call with USAID Team Leader (TL) , Team Member (TM) Review of materials		Review of materials (TL, TM)	Review of materials (TL, TM)	Work Plan Submitted (TL)		Team departs for Rabat
31	November 1	2	3	4	5	6
Meeting with USAID in Rabat (TL, TM)	Meetings in Rabat (TL, TM)	Meetings in Rabat (TL, TM)	Meetings in Rabat (TL, TM)	Meetings in Casablanca (TL, TM)	Meetings in Settat (TL, TM)	Depart for Agadir (TL, TM)
7	8	9	10	11	12	13
Meetings in Agadir (TL, TM)	Meetings in Agadir (TL, TM)	Meetings in Agadir (TL, TM) Depart for Chaoia-Ourdigha	Meetings in for Chaoia-Ourdigha (TL, TM)	Meetings in for Chaoia-Ourdigha (TL, TM) Depart for Meknes	Meetings in Meknes (TL, TM)	Meknes (TL, TM)
14	15	16	17	18	19	20
Meetings in Meknes (TL, TM)	TL meetings in Meknes Departs for Oujda	TL on Oujda	TL in Oujda	Return to Rabat (TL, TM)	Meetings in Rabat (TL, TM)	Rabat (TL, TM)

TM departs for Kenitra	TM meetings in Kenitra Departs for Tanger	TM in Tanger	TM in Tanger			
21	22	23	24	25	26	27
Meetings in Rabat (TL, TM)	Rabat (TL, TM) Report preparation	Rabat (TL, TM) Report preparation	Final Report Presentation & submission of draft report (TL, TM)	Team departs Rabat		
28	29	30	December 1	2	3	4
USAID comments	USAID comments	USAID comments	USAID comments	USAID comments		
5	6	7	8	9	10	11
USAID comments	USAID comments	USAID comments	USAID comments	USAID comments		
12	13	14	15	16		
USAID comments integrated (TL, TM)	USAID comments integrated (TL, TM)	Final Report Submitted (TL, TM)				

Annex II – Review Questions

Based on the key questions provided by USAID in the Scope of Work, answers to the following questions will be the focus of the evaluation.

IBCM Project – Impact and Sustainability

1. To what extent was the IBCM Project effective in achieving its objectives?
2. What assumptions or hypotheses were implicit in the Project's strategy?
3. Who were the Project's intended / final beneficiaries/ How responsive was the Project to the beneficiaries needs and interests?
4. What was the intended / unintended of the IBCM Project?
5. To what extent were the IBCM Project activities sustainable?
6. What were the main challenges encountered by the IBCM Project?
7. What were the key lessons learned from the Project that should inform future Economic Growth programming in Morocco?

The Business Enabling Environment in Morocco

1. How is the current business environment impacting the competitiveness of small and medium enterprises (SMEs) in regard to investment, job creation and innovation?
2. In regard to the indicators covered in the World Bank's Doing Business Report which procedures and/or regulations are most detrimental to the competitiveness of Moroccan SMEs? What opportunities exist for USAID to assist the Government of Morocco (GOM) design and/or implement efficient, accessible and predictable regulation?
3. In terms of promoting trade and investment, what types of donor funded activities are likely to facilitate the adoption of 'good rules'? As a third party to the process, how can USAID harness the private sector to facilitate pro-business reform?

[N.B. It is possible that additional questions may come to light during initial start-of-project discussions with USAID in Rabat and if agreement reached may be addressed in the final report]

Annex III – List of Potential Interviewees

The Evaluation Team suggests that meetings be held with the following indicative list of organizations and/or individuals subject to availability.

(1) Government – relevant representatives from the following institutions should be interviewed:

- Ministry of Economic and General Affairs
- Ministry of Justice
- Ministry of Housing
- Ministry of Environment and Urban Planning
- Ministry of Modernization and the Public Sector
- Ministry of Interior
- Ministry of Commerce and Industry
- The Investment Directorate of the Ministry of Industry and New Technology

(2) Professional Associations:

- The General Confederation of Moroccan Enterprises (CGEM)
- National Moroccan Business Association
- National Moroccan Banking Association

(3) Judiciary Bodies:

- Moroccan Supreme Court
- Higher Judicial Institute of Morocco
- Institut Supérieur de la Magistrature (ISM)

(4) Trade and Investment Organizations

- The National Committee for Investment Procedures
- The Municipal Investment Fund
- Investment Promotion Agency
- CRI Casablanca
- CRI Tangier
- CRI Meknes
- CRI Settat

(5) Business Registration, Property, Standards and Protection of Rights Organizations

- The Moroccan Standards Agency
- Moroccan Industrial Property Office
- National Institute of Intellectual Property (INPI)
- Office Marocaine de la Propriete Industrielle (OMPIC) (trade marks and patents)
- Service de Normalisation Industrielle Marocaine (SNIMA)
- Rabat International Center for Mediation and Arbitration (Alternative Dispute Resolution) (CIMAR)

(4) Other International Development/Donor Organizations - relevant representatives from the following institutions (based on project knowledge) would be interviewed:

- World Bank
- GIZ
- IFC
- UNCTAD
- UNDP

(5) USAID Implementing Partner (DAI)

- Lara Goldmark (COP)
- Jean Michel Mass (Project consultant – regulatory reform and investment)

(6) Financial institutions

- Bank Al-Maghreb

[N.B. It is also suggested that the Evaluation Team meet with at least some SMEs and business service providers to determine first hand the problems they encounter in the day-to-day running of their respective businesses. We propose that we discuss this further with USAID on the Team's arrival in Rabat]

ANNEX 2: LIST OF INTERVIEWEES

List of Meetings

	CONTACT PERSON	POSITION	ORGANISATION	LOCATION	DATE
1	Ms. Lara Goldmark	COP of IBCM	DAI	Bethesda, MD	
2	Mr. Matthew Burton	Private Enterprise Officer (Director)	USAID	Rabat	31/10/11
3	Ms. Nadia Amrani	Program Manager (COTR)	USAID	Rabat	31/10/11
4	Ms. Nadia Amrani	Program Manager (COTR)	USAID	Rabat	01/11/11
5	Mr. Brahim Quermane	Adviser to the Prime Minister	Prime Minister	Rabat	02/11/11
6	Ms. Seloua Benmbarek	Adviser to the Prime Minister	Prime Minister	Rabat	02/11/11
7	Mr. Jean Michel Mass	MECP	DAI	Rabat	02/11/11
8	Ms. Yousra El Hatib	MECP	DAI	Rabat	02/11/11
9	Ms. Imane Masmoudi	Cooperation & Coordination Manager	Ministry of Interior	Rabat	02/11/11
10	Mr. Khalid El Yacoubi	Director of Coordination of Economic Affairs	Ministry of Interior		03/11/11
11	Mr. Brahim Kheireddine	Chief, Animation, Tourism, & Coordination of Regional Centers Investment Activities	Ministry of Interior	Rabat	03/11/11
12	Ms. Mounia Boucetta	Secretary General	Ministry of Industry & Commerce	Rabat	03/11/11
13	Mohamed El Jaouhuri	Juriste	Ministry of Industry & Commerce	Rabat	03/11/11
14	Mr. Said Aqri	Director	Settat Central Regional Investment	Rabat	04/11/11
15	Mr.. Chemseddine Abdati	Director	CIMAR (Centre International de Médiation et d'Arbitrage à Rabat)	Rabat	09/11/11

16	Mr. Mohamed El Moujahid	Administrator	CIMAR (Centre International de Médiation et d'Arbitrage à Rabat)	Rabat	09/11/11
17	Mr. Marwane Mansouri	Director of Institutional Relations & Communications	CDG Capital (Group CDG)		
18	Ms. Rabia El Alama	Managing Director	American Chamber of Commerce, Morocco	Casablanca	10/11/11
19	Ms. Nafissa Belcaid	Directeur Pôle Signes Distinctifs	OMPIC (Office Marocain de la Propriété Industrielle et Commerciale)	Casablanca	10/11/11
20	Ms. Dounia Elouardi	Chef de Département; Département Système d'information	OMPIC	Casablanca	10/11/11
20	Mr. Réda Oulamine	Attorney	Oulamine Law Group	Casablanca	10/11/11
21	Mr. Guido Prudi'homme	Head of Office	European Investment Bank, Rabat Office	Rabat	10/12/11
22	Mr. Hassan Bahi	Director	Regional Investment Center, Ministry of Interior	Meknes	10/14/11
23	Mr. Aharak Abdellah	Director	Samia Solaire (Resovert Member)	Meknes	10/14/11
24	Mr. El Bekkali Said	Director	Topselec (Resovert Member)	Meknes	10/14/11
25	Mr. Ben-Kassaoui Driss	Director	Benelect (Resovert Member)	Meknes	10/14/11
26	Mr. Dghoughi Mohamed	Director	Solaire Environemt (Resovert Member)	Meknes	10/14/11
27	Mr. Daamti Mohamed	Director	Complexe Collier D'Ambre Imilchil (Resovert Member)	Meknes	10/14/11
28	Ms. Helene Andres		AZIT (Assoc. de la Zone Industrielle de Tanger)	Tanger	10/15/11

29	Mr. Khalid el Anjoumi el Amrani	Director General	Wolkat Holding; Member of AZIT	Tanger	10/15/11
30	Ms. Fatima Zahra EL Alaoui	Counsultant	Euro future Consulting group	Tanger	10/15/11
31	Mr. Oliver Gattel	Siège Social; Délégation CFCIM -Tanger	AIZFE; Chambre Française De Commerce Et D'Industrie Du Maroc (CFCIM)		10/15/11
32	Mr. Hassan Salmi M'Rabet	Chief, Investement Division	Regional Investment Center	Tanger	10/16/11
33	Mr. Jamal El Mesbahi	Responsable Département Création d'entreprise	Regional Investment Center	Tanger	10/16/11
34	Ms. Latifa Echihabi	Directeur-Général	National Agency for the Promotion of Small and Medium Enterprises	Rabat	10/17/11
35	Dr. Taoufiq Boudchiche	Senior Economist; Director of International Cooperation and Economic Promotion	Agency for Promotion, Economic and Social Development of the Moroccan Oriental Region	Rabat	10/16/11
36	Mr. Hicham Bouzekri	President	Morocco Microelectronics Cluster	Rabat	10/17/11
37	Mr. Mohamed Saïd Bennani	Director General	Instutit Supérieur de la Magistrature	Rabat	10/17/11
38	Mr. Mohamed El-Ayoubi	Director of Training	Instutit Supérieur de la Magistrature	Rabat	
39	Ms. Fatima Zohra Dinia	Chief, Cooperation Division	Instutit Supérieur de la Magistrature	Rabat	10/17/11
40	Mr. Hassa Hadri	Judge	Instutit Supérieur de la Magistrature	Rabat	10/17/11
41	Mr. Jamal Snnoussi	Judge	Instutit Supérieur de la Magistrature	Rabat	10/17/11
42	Mr. Hatim Elkhatib	Lawyer	El Khatib Law firm	Tangier	10/18/11

ANNEX 3: LIST OF MATERIALS CONSULTED

LIST OF MATERIALS CONSULTED

1	Original Copy of Project Award RFP/SOW (July 05)
2	Improving the Business Climate in Morocco: <i>Summary of Final Report</i> (Oct 09)
3	Improving the Business Climate in Morocco: <i>Final Report - Beyond Doing Business</i> (Sept 09)
4	Improving the Business Climate in Morocco: <i>Final Report - Judicial Training, Bankruptcy Reform and Modernization of the Commercial Registry</i> (Sept 09)
5	Improving the Business Climate in Morocco: <i>Final Report Volume III - Activities: e-invest, CBI, Supporting the Moroccan Standard Agency, Promoting Sustainable Investment in Meknès-Tafilalet, and Promoting ADR for Business Disputes in Morocco</i>
6	Improving the Business Climate in Morocco: <i>Work Plan and task schedule October 2005-September 2006</i> , October 1, 2005
7	Improving the Business Climate in Morocco: <i>Annual Work Plan, October 2006 – September 2007</i> , November 2006
8	Improving the Business Climate in Morocco: <i>Annual Work Plan -April 2006 – March 2007</i> , Draft
9	Improving the Business Climate in Morocco: <i>Annual Work Plan, October 2007 – September 2008</i> , September 2007
10	Improving the Business Climate in Morocco: <i>Annual Work Plan, October 2008 – July 2009</i> , October 2008
11	Improving the Business Climate in Morocco: <i>Annual Report 2005-2006</i> , November 2006
12	Improving the Business Climate in Morocco: <i>Annual Report October 1, 2007 –September 30, 2008</i> , October 2008
13	Improving the Business Climate in Morocco: <i>Regulatory Reform and Investment Promotion Doing Business: Catalyst for Administrative Reform</i> , March 2009
14	Improving the Business Climate in Morocco: <i>Regulatory Reform and Investment Promotion Doing Business: Summary Report of CNPI Activities</i> , March – April 2008
15	<i>Study Program on Effective Development and Utilization of Intellectual Property Assets: Presentation of Efforts towards effective utilization of IP in Morocco</i> , Mr. Benali Harmouch, OMPIC, Tokyo, November 25 to 27, 2009
16	<i>Building a modern secured financial system for moveable collateral in Morocco: Implementation Plan</i> , July 2006 USAID Morocco
17	<i>Credit Information Sharing Assessment Mission: Technical Report</i> , June 2006, USAID Morocco

18	<i>Tanger Free Zone-Your partner for a dynamic development</i> , Produced by the Tanger Free Zone
19	<i>FEMIP Annual Report 2010</i> , European Investment Bank
20	<i>Resovert Réseau d’installers: Energies Renouvelables de Meknès-Tafilalet</i> , Produced by Resovert
21	<i>1999 Investment Climate Statement For Morocco</i> , Produced by the Economic Section, Embassy of the United States in Rabat
22	<i>The Report</i> , Morocco 2011, Oxford Business Group
23	<i>Horizon 2015 DE LA PROPRIETE INDUSTRIELLE ET COMMERCIALE</i> (Office Marocain de la Propriete Industrielle et Commerciale
24	<i>Le nouvel espace de croissance</i> , Produced by Centre Régional d’investissement, Rabat, Salé, Zemmour, Zaër
25	Un pôle d’investissement de croissance d’opportunités..., Centre Régional d’investissement, Rabat, Salé, Zemmour, Zaër
26	<i>The new space of growth</i> , Produced by Centre Régional d’investissement, Rabat, Salé, Zemmour, Zaër
27	<i>The National Pact For Industrial Emergence, Programme Contract 2009-2015</i> , Produced by the Ministry of Industry, Trade and Technology, Morocco
27	<i>Guide du Centre International de Médiation et d’Arbitrage de Rabat</i> , Produced by CIMAR (Centre International Médiation et d’Arbitrage de Rabat)
28	<i>Revue marocaine de médiation et d’arbitrage</i> , Produced by CIMAR (Centre International Médiation et d’Arbitrage de Rabat)
29	<i>Doing Business au Maroc</i> , World Bank Report 2007
30	<i>Guide sur les Marques De Fabrique, De Commerce or De Service</i> , USAID Morocco
31	<i>Guide sur le brevet d’invention</i> , USAID Morocco
32	<i>Towards Greater Competitiveness and Sustainable Growth</i> , Morocco Economic Competitiveness, USAID, Morocco
33	<i>Morocco Economic Competitiveness: financing Entrepreneurs, Growth & Competitiveness – Program Opportunities for USAID In Venture Financing in Morocco</i> , MEC document 19, USAID Morocco, Dec 2010
34	<i>Votre succès technologique commence par un brevet</i> , Produced by OMPIC
35	Improving the Business Climate in Morocco: <i>The Bankruptcy Reform Process in Morocco</i> USAID Report December 2008
36	Improving the Business Climate in Morocco: <i>Regulatory Reform and Investment Promotion - Reliable, Timely Information On Moveable Collateral: Enough To Increase Access To Credit?</i> September 2008

37	Improving the Business Climate in Morocco: <i>Legal Assessment: Registration Of Secured Transactions For Movable Property</i> , August 2008
38	Report On The Observance Of Standards And Codes (RosC) Morocco <i>Insolvency And Creditor Rights Systems</i> , Prepared by a World Bank staff team based on information provided by the Moroccan authorities. September 2006
39	Improving the Business Climate in Morocco: <i>Legal Reform and Reformed Commercial System Court System - Putting The Commercial Registry On Line</i> , October 2008
40	Improving the Business Climate in Morocco: <i>Credit Information Sharing Assessment Mission: Technical Report</i> , June 2006, USAID Morocco
41	Improving the Business Climate in Morocco: <i>Evaluation of Statistics System and Development Case Typology: Ministry of Justice</i> , March 2006, USAID Morocco
42	<i>Standardization in Morocco: Options for Assistance</i> March 2006, USAID Morocco
43	Improving the Business Climate in Morocco: Performance Monitoring Plan <i>Strategic Objective 11: Moroccan Economy Successfully Responding to New Opportunities and Challenges of Free Trade</i> June 28, 2006, Version 8 USAID/Morocco
44	<i>Memorandum Of Understanding On Business Start Up Simplification In Morocco</i> between United States Agency For International Development and the International Finance Corporation, April 28 th , 2008
45	Improving the business climate in Morocco Program, <i>Rapport trimestriel, 1er avril –30 juin 2006</i>
46	Improving the Business Climate in Morocco: <i>Performance Monitoring Plan Data Collection, September 2008</i>
47	Improving the Business Climate in Morocco: <i>Performance Monitoring Plan: Data Collection, December 2008</i>
48	Improving The Business Climate In Morocco: <i>Performance Monitoring Plan Data Collection, June 2009</i>
49	Improving the business climate in Morocco Program <i>Quarterly report, January 1 – March 31, 2006</i>
50	<i>Alternative Dispute Resolution for Commercial Disputes in Morocco: Assessment and Options for Technical Assistance</i> , September 2006
51	Improving the Business Climate in Morocco: <i>Handling /Enterprise Insolvency: Recommendations for Reforming Book V of the Commercial Code</i> , Ministry of Justice, August 2006
52	Improving the Business Climate in Morocco: <i>Legal Reform and Improved Commercial Court System: Business Insolvency: Recommendations for Reforming Book V of the Commercial Code</i> , Vol. 2, April 2007

53	Improving the Business Climate in Morocco: <i>Report On The Round Table On Private Mediation</i> February 22, 2007, Casablanca
54	Improving the Business Climate in Morocco: <i>Improving the Business Climate in Morocco: A Day Of Reflection On How To Promote Renewable Energy In Meknès-Tafilalet</i> September 2008
55	Improving the Business Climate in Morocco: <i>Regulatory Reform and Investment Promotion: Legal Assessment: Registration Of Secured Transactions For Movable Property</i> August 2008
56	<i>Regional Economic Profile: The Oriental</i>
57	<i>Regional Economic Profile Souss-Massa-Drâa</i>
58	<i>Regional Economic Profiles Meknès-Tafilalet</i>
59	Improving the Business Climate in Morocco: Regulatory Reform and Investment Promotion - <i>Regulatory, Quality and Competitiveness in Morocco</i> , April 2007
60	Improving the Business Climate in Morocco: Regulatory Reform and Investment Promotion - <i>Report On The National Conference On “Doing Business In Morocco: Regional Best Practices</i> , November 29-30, 2007, May 2008
61	Improving the Business Climate in Morocco: Regulatory Reform and Investment Promotion - THE «SOCIAL DIALOGUE» FROM THE DOING BUSINESS PERSPECTIVE <i>Impact on the Doing Business ranking and recommendations</i> , April 2008
62	<i>Investment Trends: Morocco is in the Race</i> , 2003-2007, USAID Morocco

ANNEX 4: EVALUATION MISSION STATEMENT OF WORK



Rabat, June 22, 2011

Issuance Date: June 22, 2011
Deadline for Questions: July 5, 2010, 8:00 AM Rabat
Local Time
Closing Date: July 11, 2011, 8:00 AM
Rabat Local Time

SUBJECT: Request for Task Order Proposal (RFTOP) No. 608-11-011
for the Evaluation of the "Improving Business Climate in
Morocco" Program

USAID/Morocco wishes to issue a firm fixed-price task order under the Evaluation Services IQC, in accordance with the Fair Opportunity provisions of the IQC, section F.5, to evaluate USAID/Morocco IBCM program.

USAID/Morocco invites your firm to submit a proposal in accordance with the IQC and the attached Statement of Work. Proposals shall be submitted electronically on or before **July 11, 2010**, (8:00 AM Rabat Local Time) to Najia Mesfioui at nmesfioui@usaid.gov.

The Technical and Cost Proposal must be kept separate from each other, and the Technical Proposal must not make reference to pricing data in order that the technical evaluation may be made strictly on the basis of technical merit. However, names of individuals and their associated levels of effort should be part of the technical proposal to indicate overall human resource inputs for the work.

This request in no way obligates the U.S. Agency for International Development to award a Task Order, nor does it commit USAID to pay any cost incurred in the preparation and submission of your proposal.

Questions regarding this RFTOP may be submitted via email to nmesfioui@usaid.gov, no later than **July 5, 2011**. Both questions and answers will be sent to all IQC holders. We will not identify the firm asking the questions.

Sincerely,

Anne T. Quinlan

Regional Contracting Officer

STATEMENT OF WORK

Evaluation of the Improving the Business Climate in Morocco (IBCM) Project and Assessment of the Business-Enabling Environment in Morocco

1. Background

Over the past decade, Morocco has made great strides in modernizing its economy and business environment particularly in the areas of macroeconomic stability, infrastructure development, business rights, and customs clearance. Regulatory reform has been driven by Morocco's membership in the World Trade Organization, the Association Agreement with the European Union, free trade agreements with other countries in the region, and the recent negotiation of a free trade agreement with the United States. Yet Morocco lags in terms of its underlying competitiveness structures, placing 8th among 12 Arab countries (as rated by the World Economic Forum), and ranked 102 out of 155 countries by the World Bank in Doing Business (DB) in 2006 and ranked 128 out of 183 countries in DB 2010.

In July 2005, the Economic Growth (EG) Office of USAID/Morocco launched the Improving the Business Climate in Morocco Project (IBCM). This five-year project, which ended in September 2009, was designed to assist the government in forging a sound legal and regulatory framework, while strengthening key institutions to promote the growth of competitive businesses and to accelerate the pace of job creation. The principal goal of the project was to enhance the ease of doing business in Morocco. Resources were targeted to carry out a series of activities under two broad headings: 1) regulatory reform and investment promotion, and 2) legal reform and improved commercial dispute resolution. The project sought to improve the overall business climate, to increase access to finance for small and medium enterprises (SME), and to help Morocco meet its commitments under the recently negotiated Free Trade Agreement with the United States. During its tenure, IBCM implemented specific activities addressing bankruptcy law, commercial registries, intellectual property rights, standards and technical norms, and alternative dispute resolution (ADR).

The total budget for the IBCM Project was US\$ 9.25 million, with resources going directly towards technical assistance, i.e. consultancies, trainings, workshops, and study tours related to program objectives and deliverables. The project was implemented by Development Alternatives, Inc., (DAI) and its subcontractor, DPK Consulting. For more information about the IBCM project, please see attachment 1 (Summary of IBCM Final Report).

2. Purpose and Use of the Evaluation

The purpose of this evaluation is to gain further insight concerning the impact and sustainability of the IBCM Project. The evaluation is intended to provide an objective assessment of the IBCM Project as well as to identify key lessons learned. The purpose of the second part of the evaluation is to provide USAID staff with an analysis on the current business enabling environment in Morocco. Such analysis shall be highly technical in nature with an emphasis on the business enabling environment's impact on trade and investment, job creation, and economic growth in general.

The findings from the evaluation will inform current and future programmatic and strategic decisions within the Economic Growth Office. Where and when appropriate, USAID/Morocco will use this evaluation to recalibrate ongoing activities in the business enabling environment arena.

3. Review Questions

The evaluation shall address two sets of distinct but related questions. In regard to the IBCM Project, the evaluation will respond to the following key questions:

- A. To what extent was the IBCM Project effective in achieving its objectives?
- B. What assumptions or hypotheses were implicit in the project's strategy? Did these assumptions hold true, why or why not?
- C. Who were the project's intended/final beneficiaries? How responsive was the project to the beneficiaries' needs and interests?
- D. What was the intended/unintended impact of the IBCM Project?
- E. To what extent were the IBCM Project activities sustainable?
- F. What were the main challenges encountered by the IBCM Project? How did the project address them?
- G. What were the key lessons learned from the project that should inform future Economic Growth programming in Morocco?

The second part of the evaluation will address the following questions concerning the business enabling environment writ large:

- A. How is the current business environment impacting the competitiveness of small and medium enterprises (SME) in regard to investment, job creation, and innovation?

- B. In regard to the indicators covered in the World Bank's Doing Business Report which procedures and/or regulations are most detrimental to the competitiveness of Moroccan SMEs? What opportunities exist for USAID to assist the Government of Morocco (GOM) design and/or implement efficient, accessible, and predictable regulation?
- C. In terms of promoting trade and investment, what types of donor funded activities are likely to facilitate the adoption of "good rules"? As a third party to the process, how can USAID harness the private sector to facilitate pro-business reform?

4. Performance Review Sources

A variety of resources are available for the contractor to evaluate the performance and impact of the IBCM Project. Key documents include, the IBCM task order, project work plans, quarterly reports, technical reports, performance management plans (PMP), annual reports, and the final report. Relevant documents not attached will be made available once the task order is signed.

Useful sources of information for assessing the business enabling environment in Morocco will include but are not limited to:

- a. The World Bank Doing Business Reports
- b. The Organization for Economic Co-operation and Development (OECD)
- c. Business Climate Legal & Institutional Reform (BIZCLIR)
- d. International Trade Center (ITC)
- e. International Finance Corporation (IFC) – Credit Bureau Toolbox
- f. World Trade Organization (WTO)
- g. The World Economic Forum – Executive Survey

5. Methodology

The contractor shall propose the research methodology. In doing so, the contractor should consider employing a variety of data collection methods, including:

- A desktop review of relevant documentation: cooperative agreements / contract, work plans, baseline studies, quarterly reports, annual reports, technical reports and other documents as necessary.
- Field visits in order to meet with beneficiaries, focus groups, surveys/min-surveys and other practical methods to gather feedback.
- Interviews with key informants, such as USAID staff, implementing partners, program beneficiaries and participants, and other donors as appropriate.

6. Team Composition

The contractor shall propose the team composition.

7. Period of Performance

The estimated period of performance is from o/a September 1, 2011 to o/a November 30, 2011. The evaluation team is expected to perform the evaluation tasks during this period, but not necessarily work on full time basis for the entire period. The contractor is allowed to work on a 6-day workweek basis while overseas.

8. Deliverables

The contractor shall submit the following deliverables:

Deliverable	Due Date
Detailed plan for implementing the scope of work, including any evaluation tools.	15 days after award
Draft report of the evaluation for review.	45 days after award
Presentation of Evaluation findings, conclusions, and recommendations.	45 days after award
Final report addressing comments provided by USAID	60 days after award

All deliverables shall be produced in English. Payment will be processed upon successful submission of the deliverables and acceptance by the Contracting Officer Technical Representative (COTR).

9. Administrative / Logistical Support

The contractor shall be responsible for all administrative support and logistics required to fulfill the requirements of this task order.

The contractor shall be responsible for all travel arrangements, appointment scheduling, secretarial services, report preparations services, printing, duplicating, etc.

10. Branding and Implementation Plan:

A Branding Implementation Plan (BIP) and Marking Plan (MP) must be submitted to implement the Branding Strategy as required by ADS 320 and the Evaluation Services IQC.

Selection Criteria

Evaluation Criteria:

The Government intends to award a firm fixed price task order resulting from this Request for Task Order Proposal to the responsible Offeror whose proposal, conforming to the solicitation, is most advantageous and represents the best value to the Government in terms of technical and cost factors

A. The technical proposal should consist of:

- 1) The nature and number of proposed staff, the quality and experience of proposed personnel, including but not limited to their academic background, their management skills and professional experience (40 points); and
- 2) a brief (five page maximum) description of the proposed technical approach to carrying out the tasks outlined above (30 points);
- 3) a summary of relevant prior corporate experience not to exceed five pages, with an emphasis on the demonstration of an on-going commitment to research, analysis, and evaluation of technical assistance projects relating to business environment in developing countries (30 points).

B) PRICE PROPOSAL

The price proposal will be evaluated for reasonableness. The above evaluations factors other than price, when combined, are approximately equal to price.
