



MENA Commercial Law Strengthening Project (MENA- CLS)

Under the Auspices of H.E. the Minister of Commerce and
Handicrafts in Tunisia

Dr Reeda AL TOUWETY

First Regional Conference

**“Creating a Dynamic Legal Environment for Business in the MENA
Region: Challenges and Priorities”**

Gammarth, Tunisia

15 - 16 May 2009



With the support of the Middle Eastern Partnership Initiative

Day One: Friday 15 May 2009

16:30 – 17:30 Registration

17:30 – 18:00 Opening Session

The opening session will provide background information and set the tone for the conference.

- **Official Opening Statement** (10 minutes)

H.E Mr. Reeda AL TOUWETY, the Minister of Commerce and Handicrafts in Tunisia

- **Statement of the United States Government** (10 minutes)

H.E. Mr. Marc DESJARDINS, Deputy chief of Mission, US Embassy in Tunisia

- **Statement of the Arab Centre for the Development of the Rule of Law and Integrity (ACRLI) and presentation of the programme** (10 minutes)

Mr. Wassim HARB, Founding Member and General Supervisor, Chief Technical Advisor on MENA CLS Project, ACLRI

18:00 – 20:00 Plenary Session 1:

Overall Assessment of the Business Climate in Project Countries

This first plenary session will present and discuss the assessment that the project has made regarding some of the main characteristics of the Business Climate in the four project MENA countries (**Lebanon, Tunisia, UAE and Yemen**). It will specifically focus on key risks (economic, social, legal, administrative etc.) and the various challenges associated with doing business in the project countries from a policy perspective.

This plenary session seeks to help participants draw specific lessons and policy recommendations for the project countries, as well as lessons that might have implications for business-climate development in the MENA region as a whole. Accordingly, the session is expected to address country-specific issues including, *inter alia*, socio-economic and geo-political elements that affect the business climate, current government policies, structural and institutional deficits, the impact of the global economic/financial crisis and possible policy options for enhancing the business climate.

Format: *The session will consist of one general presentation on different economic elements and policies followed by four interventions from the panel of discussion on the business environment in the involved countries. There will be strong involvement from the floor through short two-minute comments/questions. The entire session will be moderated by a high-level expert with a background in business and public policy. The interventions will build on the findings and recommendations of the economic and political part of the “Comparative Commercial Law Assessment Report”.*

- **Chairperson**

H.E Reeda AL TOUWETY, the Minister of Commerce and Handicrafts in Tunisia

- **Presenting the business and investment environment part of the “Comparative Commercial Law Assessment Report” and its Findings on Business Risks in Project Countries** (20 minutes)

Mr. Samir NASR, Economist, Head of "Etudes et Consultations Economiques", Regional Advisor on MENA CLS Project

- **The Business Climate in Lebanon: Challenges and Policy Options for Reform** (15 minutes)

Mr. Roger MELKI, Economist, Lebanon

- **The Business Climate in Tunisia: Challenges and Policy Options for Reform** (15 minutes)

Mr. Loutfi BOU ZIANNE

- **The Business Climate in the UAE: Challenges and Policy Options for Reform** (15 minutes)

Mr. Mohammed AL MOHAIRY, Senior Legal Advisor, Director, Department of Strategy Legal Affairs, The Executive Council of Dubai, United Arab Emirates

- **The Business Climate in Yemen: Challenges, Risks and Policy Options for Reform** (15 minutes)

Mr. Mohamed HAWERI, Undersecretary for Studies Sector, Ministry of Planning and International Cooperation, Yemen

- **Open Discussion** (30 minutes)

Key discussion issues include:

1. Geo-political advantages and challenges.
2. Socio-economic elements affecting the business climate.
3. Policymaking processes and the participation of non-governmental actors mainly the business community.
4. Role of public and private sectors partnership in the process of policy making
5. Re-visiting key policies (economic, tax, financial, banking etc.).
6. Importance of a clear economic policy with development pillars
7. Quality of performance in the public administrations and the impact of corruption and inefficiency on business environment
8. Impact of global economic and financial crisis on Arab region, mainly on the project countries
9. Economic complementarity between the Arab countries
10. Other key risks and related obstacles that face the economies of the project countries and the entire Arab region.

20:00

Networking Event

The Networking Event is aimed at providing an informal space for interaction between participants from the four project countries. **It will also witness the official launching of the project's "Awareness Campaign"** which seeks to serve two main functions (i) raising awareness among target beneficiaries about project activities and results and (ii) deepening and advocating reform recommendations that will be developed as a result of the project activities.

The launching will be followed by an **official dinner organized by ACRLI.**

Day two: Saturday 16 May 2009

9:00 – 10:30

*Two workshops will be held simultaneously where there will be a general discussion of the subjects addressed by the first plenary session on **the Business and Investment Environment in the Project Countries***

Workshop 1: National Business Climate Development Strategies

Developing the business climate in a given market requires concerted and coordinated efforts that involve a multiplicity of stakeholders. A common in-depth understanding of key issues and different approaches to developing national business climate development strategies is critical in helping these stakeholders identify appropriate responses to existing risks and challenges in a more effective and efficient manner.

This workshop seeks to encourage discussion between policymakers and members of the business community on the strategic elements of business-climate development, including assessments, indicators and model strategies. The workshop also seeks to encourage interaction between the public sector and the private sector, with a view to encouraging partnership-building in relation to the development and implementation of country-specific strategies.

***Format:** The workshop will be organized in the format of a panel discussion of three with strong interaction between the panel and the participants through two-way questions and answers. The entire session will be moderated by a high-level expert with a background in business development strategies and related policy reforms. He/she shall work with the workshop's Rapporteur to present an "Outcome Report" during the closing session.*

• **Moderator**

Mr. Chekib NOUIRA, President of the Arab Institute for the Head of Enterprises, Tunisia

Rapporteur

• **Assessing the Business Climate: Approaches and Key Indicators** (15 minutes)

Mr. Julien LEVIS, Private Sector Development Specialist, FIAS, World Bank Group

• **Business Climate Development Strategies: Definitions and the OECD Model** (15 minutes)

Mr. Alexander BOHMER, Head of Unit, MENA-OECD Investment Programme, OECD Private Sector

Development Division

- **The Role of the Private Sector and Public-Private Partnerships** (15 minutes)

Mr Youssef BOUHLEL, the Director General for production services at the Ministry of economic development and international cooperation in Tunisia

- **Open Discussion.** (30 minutes)

Key discussion issues include:

1. Different uses of global indicators for measuring the business climate.
2. Using benchmarks and developing national indicators and user-surveys for measuring the business climate.
3. Adapting the model strategy to country-specific contexts.
4. Advantages of public-private partnerships and related regulatory challenges.
5. Basic components of Business Enabling Environment
6. Practical means to enhance the participation of the private sector in business climate development.
7. Consumer confidence indicators and relation to business climate

Workshop 2: Challenges for Investment, specifically Foreign Direct Investment in the Project Countries

Foreign Direct Investment (FDI) is an important tool for economic growth and development, especially in developing countries. Observers argue that the level of FDI inflows into the MENA region is low compared to other developing regions of the world. One of the main reasons is the business climate in many MENA countries, which is not fully conducive to attracting investors.

This workshop looks at the state of investment, namely, FDI in the four project countries, presenting most recent data and discussing main incentives and key obstacles with a view to drawing lessons, not only for policymakers, but also for members of the legal and business community regarding their role in promoting investment and enhancing positive interaction between foreign and national capitals.

Format: *The workshop will be organized in the format of a panel discussion of three with strong interaction between the panel and the participants through two-way questions and answers. The entire session will be moderated by a high-level expert with a background in investment and economic development. He/she shall work with the Rapporteur to present an "Outcome Report" during the closing session.*

- **Moderator**

- **Rapporteur**

Mr. Ali ZBEEB, Lawyer, University Professor - MENA-CLS Project Coordinator, ACRLI

- **The State of FDI in Project Countries: Incentives and Obstacles** (15 minutes)

Mr. Kamal HAMDAN, Economist, Head of "Consultation and Research Institute"

- **Inter-relation and Interaction between Foreign and National Capitals** (15 minutes)

Mr. Khaled YEHYA, Director of Arab Public Management Research Program; Professor of Public Administration & Policy

- **The Role of the Legal and Business Communities** (15 minutes)

Ms. Najlaa KHAZZAN, Lawyer, Member of the Bar Association in Yemen

- **Open Discussion.** (30 minutes)

Key discussion issues include:

1. Impact of investment in general and of FDI on the economic growth (job creation, tax revenue, technology transfer, etc.)
2. Factors that deter investment and possible responses.
3. The role of government in attracting and maintaining local investment and FDI.
4. The role of other non-governmental actors in attracting and maintaining FDI.
5. Importance of the risk analysis and the impact of investment decisions
6. Privatization policies and impact on local investment and FDI.
7. Competition policies and impact on local investment and FDI..

8. FDI and a possible role in enhancing integrity.
9. Sustainability of FDI inflows.

10:30 – 11:00

Break

11:00 – 13:00

Plenary Session 2:

Key Priorities for Commercial Law Reforms in the MENA Region

This second plenary session will present and discuss suggestions for law reforms that would contribute to improving the business climate in the four project MENA countries (Lebanon, Tunisia, UAE and Yemen). It seeks to define the different components and groups of the legal environment with a view to improve the quality of services and outputs offered by them. It specifically focuses on discussing key priorities of reforms in order to improve current laws and regulations and related institutional arrangements, and to suggest new ones based on the results of the work that has been done so far, at the national level. Furthermore, the session will discuss capacity gaps in using and implementing a number of these laws.

Unlike the first plenary session which focused on policy issues, the second plenary session will focus on concrete law-related reforms that will inform the next set of activities under the project. Accordingly, the session is expected to address country-specific law-related issues including, *inter alia*, the need to modernize aspects of the commercial law and introduce new legal institutions, the quality of commercial law texts, accessibility to the legal corpus, the capacity of the judiciary, the capacity of lawyers, red-tape and others.

***Format:** The session will consist of one presentation addressing different legal and legislative aspects of the regional report followed by four interventions on the methods of legal reform in the involved countries with strong involvement from the floor through short two-minute comments/questions. The entire session will be moderated by a high-level expert with a background in commercial law practice and related reform initiatives. The panel will build on the findings and recommendations of the “**Comparative Commercial Law Assessment Report**” in relation with the legal and reform part related to legislation development.*

- **Chairperson**

- **Presenting the Comparative Commercial Law Assessment Report and its Findings on Key Legal Reforms in Project Countries.** (20 minutes)

Mr. Wassim HARB, Founding Member and General Supervisor, Chief Technical Advisor on MENA CLS Project, ACLRI

- **Key Commercial Law Recommendations in Lebanon: Priorities and Obstacles.** (15 minutes)

Mr. Antoine BASILE, International Economist and Attorney-at-Law, University Professor

Ms. Gizelle ZOUEIN, Lawyer, Ibrahim Najjar Law firm, Lebanon

- **Key Commercial Law Recommendations in Tunisia: Priorities and Obstacles.** (15 minutes)

Mr. Ahmed WORFALI,

- **Key Commercial Law Recommendations in the UAE: Priorities and Obstacles.** (15 minutes)

Mr. Habib MULLA, Founder and Manager Director of Habib Al Mullah Law Firm, VP of council of trustees at Dubai International Arbitration Council, UAE

- **Key Commercial Law Recommendations in Yemen: Priorities and Obstacles.** (15 minutes)

Mr. Ismael AL WAZIR, Former Minister of Justice, Member of Yemeni State Council, President of Yemeni Centre for Conciliation & Arbitration (YCCA)

- **Open Discussion.** (30 minutes)

Key discussion issues include:

1. Unification of the commercial and business legislations in one code.
2. Introducing modern legal institutions to the existing legal system.
3. Effective mechanisms for the enforcement of contracts and recovery of debts.
4. Enforcement of foreign judgments and arbitral awards.
5. Intellectual property laws and ways to overcome practical challenges.
6. Legal protection for national and foreign investors.
7. Specific judicial reforms needed to enhance the legal environment for business.
8. Legal education and impact on the effective utilization and implementation of commercial laws.

13:00 – 14:00 **Lunch**

14:00 – 15:30 *Two workshops will be held simultaneously where there will be a general discussion of the subjects addressed by the first plenary session on **the Business and Investment Environment in the Project Countries***

Workshop 3: Key Requirements to Improve the Legal Environment for Doing Business.

Improving the legal environment for doing business is an indispensable element of the effort to improve the business climate. This transcends the improvement of certain texts to a series of reforms. ACRLI understands the legal environment as including, laws, regulations, the judiciary and its supporting apparatuses, law enforcement authorities, and legal education, with two overriding principles that govern all (i) the rule of law and (ii) integrity. In the MENA region, research and experience reveals key reform needs in almost all of these areas.

This workshop looks at the key requirements to improve the legal environment for doing business in the four project countries, presenting expert analyses and discussing entry points with a view to drawing lessons that may inform future project activities and national reform efforts. In addition to contributing to knowledge-building, the workshop is also expected to encourage interaction between participants with a view to exploring ways to increase the drive behind some of these reforms in each of the project countries.

***Format:** The workshop will be organized in the format of a panel discussion of three with strong interaction between the panel and the participants through two-way questions and answers. The entire session will be moderated by a high-level expert with a background in legal and judicial reforms. He/she shall work with the Rapporteur to present an “Outcome Report” during the closing session.*

- **Moderator**

Mr. Elias CHALHOUB, Lawyer, MENA-CLS Project Manager, ACRLI

- **Rapporteur**

Mr. Arkan EL SEBLANI, Legal Specialist, UNDP-POGAR

- **The Role of Legislative Drafting** (15 minutes)

Mr. Zuheir ISKANDAR, Director General, Centre for Legal and Judicial Council

- **The Quality of Legal Institutions and Services.** (15 minutes)

Ms. Arlette ZAKARIAN, University Professor, Institute of

Political Science, Paris

- **Corporate Governance and Implications on the Legal Environment for Doing Business** (15 minutes)

Mr. Rainer GAIGER, Attorney-at-law, International Advisor
on MENA-CLS Project

- **Open Discussion.** (30 minutes)

Key discussion issues include:

1. Modern techniques and developed methodologies for legislative drafting (drafting the regulatory or legislative text)
2. Bilateral and Multilateral Agreements.
3. Regulatory impact assessment.
4. Quality of judicial services and role of precedents.
5. Approach and quality of legal education in law schools and judicial institutes.
6. Challenges of regulating interaction between government and private sector.
7. Internal controls and compliance in the private sector.
8. Databases to enhance access to commercial legal information.

Workshop 4: The Case for Introducing Modern Legal Institutions into Legal Systems in the Project Countries.

Modern legal institutions, though proven to improve the business climate in different legal systems across the globe, remain largely under-developed and under-utilized in the MENA region. Key institutions in company law and other areas such as competition and alternative dispute resolution stand to contribute significantly to commercial law strengthening in the MENA region.

This workshop is expected to contribute to the creation of a common language between participants and to increase their understanding of these key modern legal institutions. It is also expected to enhance interaction between participating members of the legal and business communities in the project countries and participating policymakers, with a view to advocating the transposition of these legal institutions into the legal systems in the project countries.

***Format:** The workshop will be organized in the format of a panel discussion with strong interaction between the panel and the participants through two-way questions and answers. The entire session will be moderated by a high-level expert with a background in legal and judicial reforms. He/she shall work with the Rapporteur to present an "Outcome Report" during the closing session.*

- **Moderator**

Mr. Mohamed KOLSI, Head of Competition Council, Tunisia

- **Rapporteur**

Ms. Rola AKOUM, Legal Specialist, ACRLI

- **Modern Forms of Companies** (15 minutes)

Mr. John SPANOGLE, University Professor, George Washington

- **Competition Laws and Supporting Institutions** (15 minutes)

Mr. Frederic JENNY, Chairman of Competition Committee, OECD

- **Alternative Dispute Resolution Mechanisms.** (15 minutes)

Mr. Sami HOUEIRBI, Director for Eastern Mediterranean, Middle East and Africa for ICC Disputes Resolution Services.

- **Open Discussion.** (30 minutes)

Key discussion issues include:

1. Modernizing the company laws to allow new forms of companies and contracts. (offshore, holding...)
2. Simplifying registration and dissolution procedures (ease of doing business)
3. Best of international practices and the Tunisian example in the area of competition.
4. Joining international conventions on the enforcement of arbitration agreements and arbitral awards (the New York Convention.)
5. Using commercial law to encourage the growth and mergers of businesses.
6. Other modern legal institutions (secured transactions and the credit market)

15:30 – 16:30

Closing Session

The closing session will summarize the main findings of the workshops and build on the discussions during the plenary sessions to make final recommendations for policy and law reforms aimed at improving the business climate and to contribute concrete inputs to the upcoming project activities.

- **Presentation of Workshop Reports**

Rapporteur of Workshop 1 (5 minutes)

Rapporteur of Workshop 2 (5 minutes)

Rapporteur of Workshop 3 (5 minutes)

Rapporteur of Workshop 4 (5 minutes)

- **Closing Discussion.** (20 minutes)

Key discussion issues include:

1. Main findings on risks and challenges for doing business in project countries.
2. Possible policy options to improve the business climate in project countries.
3. Key priorities for commercial law reforms.
4. Final recommendations for upcoming project activities.

- **Official Closing Statement** (10 minutes)

H.E Reeda AL TOUWETY, the Minister of Commerce and Handicrafts in Tunisia