



MENA Commercial Law Strengthening Project (MENA- CLS)

Under the Patronage of H.E. the Minister of Justice in Lebanon

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The Second Regional Conference on:

**“Prospects and Challenges facing the Modernization of the
Legal Environment to enable Business and Investment in the
MENA Region”**

Background Paper

Beirut, Lebanon

22- 23 January 2010



With the support of the Middle East Partnership Initiative

1. Introduction

In the context of the MENA Commercial Law Strengthening (CLS) Project, the Arab Center for the Rule of Law and Integrity (ACRLI) is organizing with the support of the Middle East Partnership Initiative (MEPI) the second regional conference on “**Prospects and challenges facing the Modernization of the Legal Environment to enable Business and Investment in the MENA region**” in Beirut on 22-23 January 2010. The list of participants includes governmental officials, regional and international experts as well as private sector representatives from the Arab region.

This paper has been prepared to provide key background information about this conference, which is the second and final regional activity that will be organized under the MENA-CLS Project that included four countries: UAE, Tunisia, Lebanon and Yemen.

2. Overview on ACRLI

ACRLI¹ is a regional, private, non-governmental and not-for-profit organization, headquartered in Beirut, with a number of national chapters and partner organizations in different Arab countries. It was established in 2003 by a group of judges, lawyers, journalists, academics and development practitioners. ACRLI is dedicated to enabling the active engagement of different components of the Arab society in defining and implementing reform policies in the field of good governance, more specifically **the Rule of Law and Integrity**. Furthermore, ACRLI aims at promoting the rule of law and anchoring the foundations of justice with a view to serve the development of communities and individuals in the Arab world as a first and key step in building good governance based on respect for human rights and dignity. For this purpose, the Center has completed many projects in cooperation with international and regional organizations.

3. Overview on MENA Commercial Law Strengthening Project

The **MENA-CLS Project** is a two-year (2008-2010) regional project implemented by ACRLI in cooperation with MEPI in each of UAE, Tunisia, Lebanon and Yemen.

It particularly aims at promoting a business enabling legal environment with a view to boost investment sectors and to improve the business economic environment that is conducive to a sectoral economic growth in selected MENA countries.

During the last fifty years, major global changes occurred including particularly the development of communication and transportation means that lead to the opening and liberation of global markets as well as the emergence of international trends

¹ For more information on ACRLI's activities, please visit the following address: www.arabruleoflaw.org.

towards cooperating and coordinating global trade efforts.

Within this context, the project rests on the firm conviction that the Arab world did not keep pace with such changes with the same required momentum and openness since the majority of Arab legislations governing the business sector still date back to the first half of the last century. Moreover, they did not perceive the concepts and legal systems that dominated global commercial relations since the early eighties of the twentieth century.

Consequently, this project aims at urging the need to improve the business and investment legal environment on the one hand, and finding means to protect such investments on the other, through building the capacity of the legal and business community and helping them develop and advocate specific policy and law reforms to enhance the business climate and thus contribute significantly to the efforts aimed at improving economic growth and development.

The MENA-CLS Project has two main objectives (1) to improve the capacity to understand complex commercial law issues in the MENA countries; and (2) to increase private-sector participation in commercial law policymaking. These two objectives will be served through a number of activities including action-oriented research, commercial law assessment reports, thematic studies, national workshops, national training seminars, and regional conferences in addition to various awareness-raising activities.

For more information about the project, please visit our website/compendium at <http://www.arabruleoflaw.org/compendium/output/main/DefaultAr.aspx>

4. Event Description

The second regional conference on **“Prospects and challenges facing the Modernization of the Legal Environment to enable Business and Investment in the MENA region”** which will be held in Beirut, Lebanon on **22-23 January 2010** is the second final and key activity under the MENA-CLS Project. It is an important event to read the most important findings of the project including general and specialized researches, reports and surveys in the project countries.

The conference is an extension of the dialogue launched during the first regional conference in Tunisia on 15 and 16 May 2009 on “Creating a Dynamic Environment for Business in the MENA Region: Challenges and Priorities”. It will provide a new opportunity serving as a platform for the exchange of ideas and experiences as well as peer-knowledge in order to develop views, efforts and address the needs of modernization in this area².

² For more information on the first regional conference, please visit the following address:

<http://www.arabruleoflaw.org/activitiesListing.aspx?postingID=363&categoryID=5&id=169>

It will present the field experience (practices and activities) of international organizations in the framework of general commercial state in addition to reform recommendations in the MENA region. Moreover, the conference will come out with a series of proposals that serve development and investment and enable business, to be converted into practical projects in the future:

1. **IPR Report in Lebanon**
2. **Competition Law Report in Tunisia**
3. **Investment Law Report in the UAE (with a special focus on the real estate sector in Dubai)**
4. **Enforcement of Commercial Contracts and Debt Recovery Report in Yemen**

In addition, the conference will present the main findings of the **survey reports** on the aforementioned thematic reports.

It is worth mentioning that these surveys were conducted in the project countries and aimed at collecting statistical data which helped the National Teams to prepare thematic national reports in the project countries.

The survey targeted 165 people involved in the thematic study in each of the project countries where the total sample size was about 660 surveyed in the four countries combined. The sample was distributed on three sectors (or sub-samples): the private sector (45 pollsters), the public sector (40 pollsters), and the legal sector (80 pollsters). Surveyed people were selected according to the level of familiarity with the subject.

In addition, the sample was distributed to take account of gender representation, and as far as possible the various age groups, levels of education and years of experience, etc. ..., in order to obtain the required amount of data.

The conference is expected to lay out a set of development and legal reform proposals which will contribute to strengthening the business climate and providing support to the private sector to engage in a future effective dialogue with governments. It will also determine future project activities.

- **Participants:** the event will gather more than 100 participants including in addition to the business and legal persons, dignitaries involved in policy making as well as key governmental representatives, regional and international experts and representatives of partner institutions.
- **Logistics:** ACRLI is organizing this conference in hotel Le Royal. Dbayeh. For any queries about the logistical details, please contact Ms. Romy Salem on the following address: rsalem@arabruloflaw.org

5. Conference Program

The two-day conference will comprise one preliminary session and four workshops in addition to the opening and closing sessions. Day one will comprise the opening and the preliminary sessions. A Rapporteur will be appointed to assist each Moderator in summarizing the outcomes of the workshop and presenting them at the closing session.

This section of this background paper presents the content and format of each session and workshop. **For more detailed information, including speakers, please consult the Conference Agenda.**

Opening Session

The opening session will provide official statements and set the tone for the conference.

Preliminary Session: The Business Legal Environment in the MENA Region from the Perspective of International Organizations involved in Commercial Activities and Development: An Outlook on the Expertise, Experiences and Recommendations for reform and development

This session will present the field experience of international and regional organizations in terms of activities and practices in the MENA region according to their respective competences. The Organizations involved are the following:

1. Commercial Law Development Programme-CLDP- US Department of Commerce
2. Union of Arab Banks- UAB
3. Organization for Economic Co-operation and Development-OECD
4. Millennium Cities Initiative of The Earth Institute-MCI- Columbia University
5. Al Iktissad Wal Aamal Group
6. World Bank

Session 1: Intellectual Property Law: Challenges and Reform Recommendations- the Lebanese Model

This session will discuss the importance of protecting all forms of IPR with a special emphasis on the literary and scientific aspects. It will accentuate the importance of developing IPR Laws in light of the great technological advancement, openness of markets

and the development of publication means. Furthermore, it will reveal how laws that existed until the late seventies of the last century, are keeping pace with recent developments since theft of intellectual and literary production are trans-national crimes which require international cooperation and developing national laws.

Session Themes:

- **Presentation of the IP Thematic Survey results in Lebanon**
- **The Main Findings of the National Thematic Study on Intellectual Property in Lebanon**
- **Regional/Arab Cooperation for protecting Intellectual Property**
- **International Means for protecting Intellectual Property and fighting Counterfeit and Piracy**

***Format:** The session will be moderated by a high-level expert with a background in IPR. He will be assisted by a rapporteur to present the “outcomes report” at the closing session.*

Session 2: Competition Law: Challenges and Reform Recommendations- the Tunisian Model

This session will discuss the importance of competition legislations within the framework of commercial laws in general and in light of the related international treaties and the recent economic developments.

The Tunisian experience will be tackled as a model in this session, whereas the economic background which enabled the enactment of the Competition Law will be discussed as well as the legislative and institutional framework of this law. Moreover, this session will address the relationship between Competition and the public sector as well as the impediments facing the competition in the financial markets and the reform and development paths.

Session Themes:

- **Presentation of the Thematic Survey results on Competition Law in Tunisia**
- **The main findings of the National Thematic Study on Competition Law in Tunisia**
- **Opening the Public Sector to Competition: Strengthening Competition Rules in the Public Sector and Implementing the Provisions of the Law in Public Institutions.**
- **Beyond the Financial Crisis: the Role of Competition Policy.**

***Format:** The session will be moderated by a high-level expert with a background in competition. He will be assisted by a rapporteur to present the “outcomes report” at the closing session.*

Session 3: Enforcement of Contracts and Recovery of Commercial Debts:

Challenges and Reform Recommendations- the Yemeni Model

This session will discuss means and major hurdles facing the enforcement of contracts and recovery of debts in general as well as applying the necessary guarantees to facilitate the enforcement and recovery of debts on the one hand and to avoid risks faced by creditors in the debt recovery on the other. The Yemen will be presented as a model in this area.

The session will conclude by proposing development and reform procedures that would enable both the administrative and legal systems to become more effective in the field of granting and enforcing credits.

Session Themes:

- **Presentation of the Thematic Survey results related to the Enforcement of contracts and the recovery of Commercial Debts in Yemen**
- **The main findings of the National Thematic Study on the Enforcement of contracts and the recovery of Commercial Debts in Yemen**
- **The need to reform Banking Securities and Guarantees as a precondition for granting Loans**
- **International Measures to avoid bad debts Problems- Lessons Learned from Basil II Committee of Banking Supervision to avoid credit risks**

***Format:** The session will be moderated by a high-level expert with a background the enforcement of contracts and the recovery of commercial debts. He will be assisted by a rapporteur to present the “outcomes report” at the closing session.*

Session 4: Investment with a focus on the Real Estate Sector: Challenges and Reform Recommendations- the Dubai Model

This session will present key investment laws in the UAE, at both the federal and the Dubai levels with a special focus on the real estate sector. It will address Property Laws and the various forms of long term leasing contracts in addition to the administrative and legal bodies entrusted with the implementation of such laws.

Moreover, the session will address the most important activists in the field of investment and real estate development in Dubai, real estate registration in addition to the resolution of conflicts. It will tackle the most important recommendations for reform and development in terms of current laws and potential future laws, while highlighting the relation between the prosperity of the real estate sector and the legal reform.

Session Themes:

- **Presentation of the Thematic Survey results on the Investment with a focus on the Real Estate Sector in Dubai**

- **The main findings of the National Thematic study on Investment with a focus on the Real Estate Sector in Dubai**
- **The new Law to protect the rights of real estate investors - How to regulate the relationship between developers and investors**
- **Prosperity of the Real Estate sector in UAE in harmony with the Legal Reform: Lessons learned from the recent Crisis for moving forward**

***Format:** The session will be moderated by a high-level expert with a background in investment laws. He will be assisted by a rapporteur to present the “outcomes report” at the closing session.*

Closing Session

The closing session will summarize the main findings of the four workshops and make practical recommendations for law and economy reforms. It will also form a solid ground aimed at improving the business climate and at contributing concrete input to the upcoming project activities.

6. Concluding Remarks

The outcomes of the conference will be posted at ACRLI’s website www.arabrulEOFlaw.org. For any questions or comments, please contact the Project Manager, Mr. Elias CHALHOUB at echalhoub@arabrulEOFlaw.org