

GETTING THE DEAL THROUGH

Project Finance

in 45 jurisdictions worldwide

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Contributing editor: Phillip Fletcher



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Morocco

Zineb Idrissia Hamzi

Hamzi Law Firm

Creating collateral security packages

1 What types of collateral are available?

The available forms of collateral under Moroccan law are a mortgage on immovable property, provided by the Dahir (2 June 1915) relating to registered immovable property, and the following forms of collateral provided for under the Moroccan Code of Obligations and Contracts and the Commercial Code: the pledge over going concerns, the pledge of agricultural products, the pledge of debts, the pledge of shares, the pledge of tools and equipment, the pledge of bank accounts, the assignment of accounts receivable, the bank guarantee and the delegation of insurance contracts.

- 2** How is a security interest in each type of collateral perfected and how is its priority established? Are any fees, taxes or other charges payable to perfect a security interest and, if so, are there lawful techniques to minimise them? May a corporate entity, in the capacity of agent or trustee, hold collateral on behalf of the project lenders as the secured party?

Pledge over going concerns

The formalities for a pledge over going concerns are prescribed by article 106 et seq of the Moroccan Commercial Code. The pledge over going concerns should include the elements referred to in article 80, namely, the customers, the goodwill, the trade name, leaseholds, commercial furniture, machinery and equipment, invention patents, licences, trademarks for goods and services and industrial designs, including the related industrial property rights. It may be noted that the pledgor is not dispossessed of these assets.

The pledge over going concerns is perfected by the filing of a pledge deed, which must be registered with the tax authority and in the local trade register within 15 days of its constitution in order to bind third parties. The ranking among pledge creditors is determined by the date of their registration. The registration of the pledge over going concerns, including intellectual property in its assets, must also be completed with the Moroccan Industrial Property Office.

According to article 133 of the Moroccan Tax Code, the deed for a pledge over going concerns is submitted at a 1.5 per cent tax rate and its registration requires a fee of 0.5 per cent of the secured amount. The registration grants a five-year protection and must therefore be renewed prior to the expiry of this period.

In the case of the debtor's default, any registered creditors can require a judicial public auction sale, in accordance with articles 122 and 123 of the Moroccan Commercial Code.

Pledge of tools and equipment

The payment of the acquisition price of tools and equipment may be guaranteed to the seller or the lender by the pledge of tools and equipment granted in due legal form or by private deed, according to article 355 et seq of the Moroccan Commercial Code. It may also be noted that the pledge must include a precise description of all assets

contained in the pledge as well as their location. The pledge of tools and equipment must be concluded within 30 days of delivery at the final location, where the equipment shall be installed.

The pledge deed must be registered within 20 days of its constitution. It may be registered in a special registry at the local court's clerk office or, if the purchaser carries out industrial or commercial activity, the pledge deed must be registered in the trade register, in which the purchaser is also registered.

The registration of the pledge of tools and equipment grants a five-year protection of the debt and two years of interest. It can be renewed for five years.

Pledge of shares

The pledge of shares is provided for by article 537 et seq of the Moroccan Commercial Code and is subject to article 337 et seq relating to the pledge (dispossession). The pledge of shares does not require any registration or publication other than the registration in the company's share registry.

The pledge of shares shall be enforced by judicial public auction sale.

Assignment of accounts receivable

Article 529 et seq of the Moroccan Commercial Code provides that a debt may be assigned to a bank in order to guarantee the payment of a credit or for the advance of the amount of the debt.

The assignment is perfected by the delivery to the financial institution of a slip, which contains the name and the address of the financial institution and the list of the assigned debts. The assignment will take effect between the parties and bind third parties at the date written on the slip.

It may also be noted that the assignor is jointly liable for the assigned debt.

Pledge of agricultural products

The pledge of agricultural products is provided by the Dahir of 27 August 1918 regulating the pledge of agricultural products and concerns the harvest, herd and all of the equipment. This pledge does not deprive the borrower – the appointed 'keeper' – of the pledged assets.

The pledge of agricultural products is granted by private deed or in due legal form. The deed must include a list of the pledged assets, their estimated value, their location and the harvest dimension.

According to articles 133 and 135 of the Moroccan Tax Code, the pledge deed is subject to a 1.50 per cent tax rate and to a fixed rate of 200 Moroccan dirhams.

Bank guarantee

The bank guarantee is governed by article 662 et seq of the Commercial Code and article 1117 et seq of the Code of Obligations and Contracts relating to the guarantee.

Nevertheless, most banks see guarantees as a possible way to control, or at least to ensure a strong presence in, companies' management. The granting of a bank guarantee is thus very beneficial for both parties. For the company, the bond is cheaper than a credit and the financial institution can ensure a significant presence in the company.

Delegation of insurance contracts

Under the Moroccan Insurance Code, any insurance policy may be delegated in order to assign the insurance compensation to the benefit of the creditors. Further to that, article 48 of the Moroccan Insurance Code provides that the insurance compensation is assigned to the privileged or mortgaged creditors without any specific delegation.

- 3 How can a creditor assure itself as to the absence of liens with priority to the creditor's lien?

Articles 141, 142 and 368 of the Moroccan Commercial Code provide that the state of registration, called *Modèle J*, must be delivered to everyone who so requests, with references to prior acts of deletion from the register and subrogation. A state of registration proving that a registered lien existed on the asset can also be delivered on demand. Public research can be undertaken using the land title or at the Moroccan Industrial Property Office.

As regards collateral not subject to registration, its debtor must testify in writing of the absence of encumbrance against the subject property.

- 4 Outside the context of a bankruptcy proceeding, what steps should a project lender take to enforce its rights as a secured party over the collateral?

Collateral is enforced through a judicial public auction sale, denominated in dirhams, namely, real estate mortgages, pledge over going concerns, tools and equipment or shares. The other forms of collateral are enforced through judicial proceedings (article 459 et seq of the Moroccan Procedure Code).

Any registered creditor can request a public auction, and overbid one-tenth of the final price, excluding the equipment, and give bail (personal guarantee) for the payment of the price.

- 5 How does a bankruptcy proceeding in respect of the project company affect the ability of a project lender to enforce its rights as a secured party over the collateral? Are there any preference periods, clawback rights or other preferential creditors' rights (eg, tax debts, employees' claims) with respect to the collateral? What entities are excluded from bankruptcy proceedings and what legislation applies to them? What processes other than court proceedings are available to seize the assets of the project company in an enforcement?

Bankruptcy proceedings are provided for by the fifth book of the Moroccan Commercial Code. In accordance with article 568, when a company enters into bankruptcy proceedings, the enforcement of security granted to its creditors is put on hold. If the company is facing a difficult but not irremediable economic and financial situation, judicial settlement is granted, otherwise, the legal liquidation is declared by the court, in accordance with articles 560 to 570 of the Moroccan Commercial Code. Business activities can, however, be pursued, notwithstanding the legal liquidation, with court approval, to the benefit of the creditors, in accordance with article 620.

According to article 680, the preliminary period extends from the date of cessation of payments to the judgment opening the bankruptcy proceedings, increased from a previous period for some contracts. Clawback rights are considered within 18 months prior to the date of the opening of bankruptcy proceedings.

Once the legal liquidation is granted, claims arising after the regular opening judgment recovery are paid in priority to all claims whether or not they are secured. Privileged claims, namely tax debts, social contributions and employee's claims, pledges or mortgages, are privileged above those of unsecured creditors.

Article 560 of the Moroccan Commercial Code provides that bankruptcy proceedings apply to every merchant and corporate company that is not in a position to pay its debts when they fall due. However, public entities are not subject to bankruptcy proceedings, the project documentation may determine the applicable rules.

There is no distinction made in the law between foreign and local creditors.

Foreign exchange issues

- 6 What are the restrictions, controls, fees, taxes or other charges on foreign currency exchange?

The Exchange Office Circular No. 1589 of 15 September 1992 introduced the convertibility system for foreign investments. Foreign investments involve foreign nationals investing in Morocco, as well as Moroccan citizens investing abroad. This system allows the free convertibility of foreign investments, namely, carrying out investment transactions in Morocco, the transfer of the income produced by these investments, as well as the proceeds resulting from a liquidation or a sale.

Most transactions do not require the prior approval of the Exchange Office. However, investment transactions realised by transfer of currencies to the Bank Al Maghrib or with a foreign account convertible in dirhams are subject to statistical reporting to the Exchange Office, in accordance with the first Annex of this Circular. The transfer of foreign investment income as well as the liquidation or sale proceeds must also be reported to the Exchange Office, in accordance with Annexes II and III.

The exchange operations that require the prior approval of the Exchange Office are provided by the Instruction on Currency Exchange Operations, namely, transfer of franchise royalties and the opening of an offshore bank account by a Moroccan citizen.

- 7 What are the restrictions, controls, fees and taxes on remittances of investment returns or payments of principal, interest or premiums on loans or bonds to parties in other jurisdictions?

A new Instruction on Currency Exchange Operations dated 31 December 2013 was published by the Exchange Office. It provides in its articles 725 and 726 that remittances include dividends, attendance fees, foreign companies' profits realised in Morocco, rental income and interest on loans or bonds granted by foreign nationals to Moroccan companies. Authorised intermediaries may freely transfer such income in any amount and at any time after the deduction of taxes in Morocco to:

- foreign natural or legal non-resident persons, whatever the mode of financing their investments; and
- foreign nationals resident and Moroccans residing abroad when these investments are made by a contribution in currency.

With the provisions of article 19 IV.D of the Moroccan Tax Code 2014, withholding tax is 15 per cent of the amount of dividends, income from equity shares and assimilated income. It can, however, be decreased within the context of the general system of regulations between Morocco and in accordance with foreign countries on which the foreign investment procedures are based, namely double taxation agreements.

- 8 Must project companies repatriate foreign earnings? If so, must they be converted to local currency and what further restrictions exist over their use?

According to articles 729 and 730 of the new Instruction on Currency Exchange Operations, dated 31 December 2013, foreign earnings must be repatriated and released on the exchange market within 30 days of its collection. In this regard, the investor must submit an annual report to the Exchange Office within 120 days of the relevant financial year's closure. Regulations from foreign countries are made either by repatriation of currencies quoted by Bank Al Maghrib, or by the debit of a foreign currency account or a foreign account in convertible dirhams.

- 9 May project companies establish and maintain foreign currency accounts in other jurisdictions and locally?

Moroccan companies who export services can be authorised by the Exchange Office to open and maintain abroad a foreign currency account, in accordance with article 412 of the new Instruction on Currency Exchange Operations, dated 31 December 2013. This account must, however, be closed at the completion of business. Article 14 of this new Instruction provides that a foreign currency account can be freely opened locally by foreign companies.

Foreign investment issues

- 10 What restrictions, fees and taxes exist on foreign investment in or ownership of a project and related companies? Do the restrictions also apply to foreign investors or creditors in the event of foreclosure on the project and related companies? Are there any bilateral investment treaties with key nation states or other international treaties that may afford relief from such restrictions? Would such activities require registration with any government authority?

The procedures governing foreign investment are based on the general system of regulations between Morocco and foreign countries. Morocco has concluded 61 bilateral investment treaties, 25 of which are with applicant countries to the OECD declaration on international investment and multinational enterprises and 33 are double taxation agreements. Morocco also ratified the conventions establishing the International Centre for Settlement of Investment Disputes, the Multilateral Investment Guarantee Agency and the Inter-Arab Investment Guarantee Organisation.

The following areas are, however, restricted to foreign investment on a socio-economic basis:

- foreign investors cannot own agricultural land, but may be granted long-term leases for the development of farm activities. Guide activities are restricted to Moroccan tourist guides;
- the sector of professional services is liberalised and open to foreign investors; and
- the liberalisation of the services sector is a gradual opening under the General Agreement on Trade in Services (GATS). In Morocco, the opening of the service sector operates on three levels:
 - in terms of Morocco's commitments to the WTO;
 - in terms of bilateral agreements concluded with certain countries and certain related activities; and
 - in terms of free trade agreements.

Limitations often affect commercial presence and the creation of a Moroccan law company.

In the audio-visual sector a Moroccan national must serve among the members of the board.

With regard to professional services – lawyers, doctors, engineers' surveyors, surveyors, architects, etc – priority is granted to Moroccan nationals. Market access for foreign nationals is conditional on residence, qualifications, domicile with national

professionals or the existence of a bilateral agreement allowing nationals of each state to practise in the territory of another state. However, certain professional services such as notaries, adouls, bailiffs and accountants are strictly prohibited to foreign nationals.

- 11 What restrictions, fees and taxes exist on insurance policies over project assets provided or guaranteed by foreign insurance companies? May such policies be payable to foreign secured creditors?

In practice, if a company is a subsidiary of a foreign parent and such foreign parent has a policy that covers the local subsidiary, local insurance must be taken out in addition to the foreign policy. The taxation of insurance contract is provided by Annex II of the Stamp Code. The contracts concluded with insurance companies are subject to insurance tax. The amount of tax is determined on the basis of the premiums. However, the insurance tax does not apply to risk located abroad.

- 12 What restrictions exist on bringing in foreign workers, technicians or executives to work on a project?

According to articles 516 to 519 of the Moroccan Labour Code, employers wishing to hire a foreign employee must obtain a permit from the Ministry of Employment and Vocational Training. Any modification of the contract is also subject to approval. The authorisation may be withdrawn at any time by the government authority responsible for work. The employment contract for foreign nationals must be consistent with the model set by the Ministry of Employment. The contract must provide that in the case of refusal to grant the authorisation, the employer agrees to defray the expenses of the employee's return to his or her country or abroad. When appropriate, the provisions of the international multilateral or bilateral conventions that Morocco has concluded with foreign countries relating to the employment of Moroccan workers abroad or foreign nationals in Morocco are also applied.

- 13 What restrictions exist on the importation of project equipment?

Project equipment is liable to an import duty of 2.5 per cent ad valorem up to 10 per cent ad valorem, according to article 3 of the Framework Law No. 18-95 forming investment charter. However, Decree No. 1308-94 (19 April 1994) of the Minister of Foreign Trade, foreign investment and crafts establishing the list of goods subject to measures of quantitative restrictions on imports and export provides a list of goods subject to an import licence.

- 14 What laws exist regarding the nationalisation or expropriation of project companies and assets? Are any forms of investment specially protected?

The first and second articles of Law No. 7-81 relating to expropriation for public utility and temporary occupation provide that expropriation can only be declared in the public interest and through authority of the law. Article 4 provides that buildings of a religious nature, cemeteries, buildings from the state public domain and military buildings and fortifications are protected from expropriation. As regards nationalisation, it is a very unlikely procedure that would have to be approved through Parliament's vote.

Fiscal treatment of foreign investment

- 15 What tax incentives or other incentives are provided preferentially to foreign investors or creditors? What taxes apply to foreign investments, loans, mortgages or other security documents, either for the purposes of effectiveness or registration?

The measures relating to investment promotion are contained in the Bill of Investments. This bill applies to all sectors except agriculture.

Registration duty

There is an exemption for acts related to land acquisition for the realisation of an investment project. According to article 133 (I F. 2) of the General Tax Code 2014, a rate of 4 per cent for the act of acquiring land in order to carry out operations of subdivision and building and a rate of 1 per cent for corporate contributions during constitution or capital increases shall apply.

Custom duties

Import duty is 2.5 per cent or 10 per cent, depending on the type of material and equipment, or exemption from import tax levy.

Value added tax

There is an exemption or refund for goods, materials and tools acquired locally or imported.

Franchise (licence) tax

Franchise tax has been abolished for the first five years of operation for any person or entity carrying on an occupation, trade or business.

Other measures were adopted with a convertibility regime for foreign investments funded in currencies that allows the free transfer of foreign capital invested and capital gains. Also, Morocco has concluded 61 bilateral investment treaties, 25 of which have been concluded with applicant countries to the OECD Declaration on International Investment and Multinational Enterprises, as well as 33 double taxation agreements.

Government authorities

16 What are the relevant government agencies or departments with authority over projects in the typical project sectors? What is the nature and extent of their authority? What is the history of state ownership in these sectors?

The relevant government agencies or departments with authority over projects in the typical project sectors are as follows:

- oil, gas and minerals: the Ministry of Energy, Mining, Water and the Environment and the National Office of Hydrocarbons and Mines, which grants exploration and exploitation permits;
- chemical refining: the Ministry of Energy, Mining, Water and the Environment;
- water treatment: the National Office for Drinking Water (ONEP) (see below);
- power generation and transmission: the National Office for Electricity (ONE), ensuring national electricity and promoting renewable energies, such as solar energy and windfarms (it should be noted that ONEP and ONE merged as the National Office for Electricity and Drinking Water (ONEE) on 24 April 2012);
- rail: the Ministry of Transportation and Equipment and the National Office for the Railway;
- roads: the Ministry of Transportation and Equipment;
- ports: the Ministry of Transportation and Equipment and the National Agency for Ports; and
- telecommunications: the National Agency for Telecommunications Regulation.

Regulation of natural resources

17 Who has title to natural resources? What rights may private parties acquire to these resources and what obligations does the holder have? May foreign parties acquire such rights?

Article 19 of Law No. 11-03 Relating to Protection and Improvement of the Environment provides that the utilising of natural resources must be authorised by the Ministry of Energy, Mines, Water and the Environment by a concession permit, especially if these projects are liable to entail damage to the environment. A mining exploration

permit is valid for three years and should be renewed once for up to four years, whereas the hydrocarbon exploration permit lasts for 25 years and may be extended by an additional 10 years.

18 What royalties and taxes are payable on the extraction of natural resources, and are they revenue- or profit-based?

Extraction of natural resources is taxed locally.

Section 68 of Dahir No. 1-97-84 of 2 April 1997 on the Organisation of the Region has established a tax on products extracted from mines in favour of the rural or urban municipality and a tax on mining products, in favour of the regions. This tax is annual and based on net quantities of minerals extracted by the mine operators and dealers regardless of the legal nature of that operation.

The tax rate on mining is fixed, per net ton extracted, by an order made every three years on the proposal of the Minister of the Interior and the Minister for Mines. This rate reflects the value of each mineral substance or group of minerals.

Mine operators must report annually to the administration of the region the quantities of minerals extracted and remit the appropriate fee.

19 What restrictions, fees or taxes exist on the export of natural resources?

There are no fees or taxes on the export of natural resources.

Legal issues of general application

20 What government approvals are required for typical project finance transactions? What fees and other charges apply?

Government approvals are not required for typical project finance transactions. Nevertheless, public services projects may require the approval or the intervention of the related authority. Indeed, Law No. 21-90 Relating to Exploration and Exploitation of Hydrocarbon Deposits, as amended and completed by Law No. 27-99 of 15 February 2000, and the 1951 Mining Regulation both provide that the granting of a exploration permit is subordinated to the conclusion of a petroleum agreement with the Moroccan state. It will be stipulated in the agreement that the state will own a stake in the exploration permit and exploitation concession at the rate specified in the agreement that may not exceed 25 per cent of the permit and the concession. Also, a project likely to affect the environment requires the prior approval of the Ministry of Energy, Mines, Water and the Environment, in accordance with article 19 of Law No. 11-03 Relating to Protection and Improvement of the Environment.

21 Must any of the financing or project documents be registered or filed with any government authority or otherwise comply with legal formalities to be valid or enforceable?

Companies must fulfil a declaration to the Exchange Office in order to conclude project financing contracts. The authentication of this declaration (article 425 of the Moroccan Code of Obligations and Contracts) is not necessary, except for real estate mortgages and pledge deeds, as previously stated. However, since Morocco has not joined the 1961 Hague Apostille Convention, any document authenticated abroad must be certified in due legal form locally or at a Moroccan consulate.

22 How are international arbitration contractual provisions and awards recognised by local courts? Is the jurisdiction a member of the ICSID Convention or other prominent dispute resolution conventions? Are any types of disputes not arbitrable? Are any types of disputes subject to automatic domestic arbitration?

According to the Law No. 08-05, dated 30 November 2007, abrogating and replacing chapter VIII of title V of the Civil Procedure Code,

international arbitral awards are recognised in Morocco through an exequatur on the express condition that they do not conflict with national and international public policy. They are declared enforced by the President of the Commercial Court or by the President of the Commercial Court of the seat of arbitration located abroad.

The existence of an arbitration award is established by the production of the authentic arbitration agreement or copies of these documents satisfying the conditions required for their authenticity. If these documents are not written in Arabic, they must be translated by a certified translator. The order refusing recognition or enforcement can be appealed.

Morocco is a member of ICSID.

In the event of one the following disputes, the parties cannot conclude any agreement to refer the matter to arbitration:

- on gifts and bequests of food, clothing and housing;
- on matters concerning the condition and capacity of persons; and
- on matters of public policy including:
 - disputes concerning acts or property subject to the regime of public law;
 - disputes involving the application of the Tax Law;
 - litigation involving laws governing the taxation of prices, during forced, foreign exchange and foreign trade; and
 - disputes over the nullity and dissolution of companies.

- 23** Which jurisdiction's law typically governs project agreements?
Which jurisdiction's law typically governs financing agreements?
Which matters are governed by domestic law?

The issue of governing law is particularly significant in the case of an international contract.

Article 13 of the Dahir of August 1913, relating to the civil status of foreign nationals in Morocco, distinguishes two situations:

- if the parties have indicated the applicable law in the contract, (even a foreign law) it will be binding on the parties and even to third parties; and
- if the parties have not chosen the law applicable to their contract, the Moroccan jurisdiction may well define the law to be applied, by reference to the law of the jurisdiction where the contract was concluded, the law of the place of contract performance, the language of the contract, the nationality of the parties to the contract or their domicile.

- 24** Is a submission to a foreign jurisdiction and a waiver of immunity effective and enforceable?

According to Moroccan law, submission to a foreign jurisdiction and waiver of immunity are effective and enforceable.

Environmental, health and safety laws

- 25** What laws or regulations apply to typical project sectors? What regulatory bodies administer those laws?

Specific laws apply to every project sector, such as Law No. 11-03 Relating to the Protection and Improvement of the Environment, Law No. 13-09 Relating to Renewable Energies, and Law No. 21-90 Relating to Exploration and Exploitation of Hydrocarbon Deposits, etc, regulated by the Ministry of Energy, Mines, Water and the Environment.

Project companies

- 26** What are the principal business structures of project companies? What are the principal sources of financing available to project companies?

The special purpose vehicle, constituted as a public limited company, is the most frequently used project company business structure,

which allows the intervention of shareholders and equity investors. Financial institutions are a significant source of financing as well.

Public-private partnership legislation

- 27** Has PPP enabling legislation been enacted and, if so, at what level of government and is the legislation industry-specific?

Act No. 54-05 Relating to the Delegated Management of Public Services was enacted by the national government in 2006, even though there was a strong practice of managed services when no law existed. This act is not industry-specific and applies to delegated management agreements for services and public infrastructure providing mortgage on reversion properties and the choice of law for arbitration. However this act is not convenient in the case of power purchase projects.

This law will be completed by the forthcoming Law No. 86-12 relating to the public-private partnership, the draft of which was adopted by the Governing Council on 27 December 2012. Its object is to define a unified and incentive general framework to the development of public-private partnerships in Morocco for the state, its public institutions and for the public companies, and is applicable to different sectors of public activities.

The PPP contract should include mandatory clauses, including the duration, performance objectives, risk-sharing, transfer, subcontracting, control obligations of the private partner, security, staff and at the end of the contract.

Concerning the settlement of disputes that may arise from PPP contracts, a conciliation procedure is contemplated, prior to any arbitration or legal action.

PPP – limitations

- 28** What, if any, are the practical and legal limitations on PPP transactions?

The concepts of public service and solidarity must be reviewed concerning the urban poor. So far, neither the government, often lax and inefficient, nor private operators, focused on profitability, have given any satisfactory solutions regarding access to this sector of the population, in particular with regard to water and sanitation. Delegation of markets and deregulation projects have become much less numerous than before. Often the remaining bids are offered on less profitable terms than in the past.

Various firms have shown interest in developing activities in Maghreb, including Morocco, but with caution imposed by the economic and institutional context. In fact, these companies have yet to really experience a public service activity subject to a constraint limiting public funding but also a potential pattern of competition with the artisan sector or with any other companies.

According to the draft of Law No. 86-12 relating to public-private partnership contracts, the award of those contracts will be subject to the principles of freedom of access, equal treatment of candidates and objectivity in the procedures. It shall be preceded by an advertisement to allow the presentation of several competing offers.

Also, the aforementioned draft of Law No. 86-12 requires the completion of an evaluation prior to entering a public-private partnership contract. This evaluation should reveal precisely the reasons of economic, financial, legal and administrative nature that led the public entity to initiate the procedure for the award of a contract. The aim is to outsource a task or a project for reasons of economy, efficiency and appropriate skills.

The award of a public-private partnership contract, which would have a time frame from five to 30 years, will be carried out either by the competitive dialogue or by tender, or exceptionally by the negotiated procedure. The maximum duration may be extended to 50 years depending on project needs. However, there is no limitation on specified public-private partnership transactions.

Update and trends

The financial centre Casablanca Finance City (CFC) continues to develop. It is governed by Law No. 44-10 related to Casablanca Finance City Status as modified by Law No. 68-12.

The CFC Status is a designation giving access to a unique package of advantages. These advantages include tax incentives, facilities at the level of exchange control and other benefits for business facilitation. At present, there are 50 companies with the CFC status.

Further, Morocco represents an increasingly important projects market.

Indeed, Morocco has launched a US\$740 million project that will reconfigure the port of Casablanca. The programme is funded by Wessal Capital, an investment vehicle that brings together funds from the United Arab Emirates (Aabar Investments PJS), Kuwait (Al Ajjal Investment Fund Holding), Qatar (Qatar Holding LLC), Morocco (Fonds Marocain de Développement Touristique, FMDT) and Saudi Arabia (Public Investment Fund). Wessal's total equity amounts to US\$3.4 billion.

Its first project, Wessal Casablanca-Port, requires a US\$740 million investment. The shipyard will be transferred while a new fishing port will be built and the cruise terminal will be expanded. Eight agreements relating to the Wessal Casablanca-Port project were signed on 1 April 2014 during a ceremony headed by Morocco's King Mohammed VI. One was the framework agreement between the Moroccan state and Wessal Capital. The investment vehicle also signed funding agreements with national and international financial institutions.

Additionally, the Tangier-Casablanca high-speed rail line is under construction in Morocco. The 350km line will link Morocco's largest city, Casablanca, with Tangier. This will be the first high-speed rail line in Africa when completed in 2015. It will be operated by the Moroccan railway operator ONCF. The new line will cut the journey time between Casablanca and Tangier from nearly five hours and 45 minutes to just over two hours. It will reduce the traffic and thus reduce pressure on the existing lines along the route, which are predicted to witness high growth in container traffic volumes. It is expected to carry up to 10 million passengers per year. The project is estimated to cost approximately US\$4 billion.

PPP – transactions

29 What have been the most significant PPP transactions completed to date in your jurisdiction?

Lyonnaise des eaux de Casablanca

In Morocco, the first delegation of public service post-independence occurred in 1997 with the multi-dealership service (electricity, water and sanitation) by the Lyonnaise des Eaux de Casablanca (LYDEC).

The capital of LYDEC amounted to 800 million Moroccan dirhams, bringing together the following shareholders: Suez Environment, Elyo, Endesar Europa, EDF International and Agbar (Aguas de Barcelona).

The Convention of the Delegated Management of Electricity Distribution Service, the Service of Drinking Water and the Sewerage Service was signed on 28 April 1997. The scope of the contract is delegated to the territory of metropolitan Casablanca including the city of Mohammedia. The licensed activity officially started on 1 August 1997 for a period of 30 years. The management contract is the largest in Africa; it concerns about 4 million inhabitants.

The group M'dina BUS consists of three partners: RATP, FinanceCom and Transinvest.

The licensing authority is targeting all municipalities in the region of greater Casablanca, although the main area is the urban district of Casablanca.

The purpose of the management agreement is to operate a public transport service and urban bus transportation, including services for schools and universities, provided on a subscription basis.

Recent and current PPP transactions in clean energy include the Ouarzazate Solar Complex, launched by the Moroccan Agency for Solar Energy (MASEN) and the 150MW wind power complex development project in Taza launched by the National Office of Electricity (ONE).

A notable PPP transaction that has been completed was the operating project for the Casablanca Tramway, for which the company Casa Tram SA, constituted of the RATP, the CDG and the holding Transinvest, was created. The contract was signed on 13 July 2012 and the duration of operation is five years.

Moreover, the Moroccan state now offers PPP relating to the exploitation of its agricultural lands. Thus, it makes available to investors properties of large enough size to allow optimal development, with a rental duration sufficiently long for the amortisation of capital invested.

The private partners will, then, be encouraged to carry out agricultural or agro-industrial projects, as sources of agricultural development, able to attract the maximum returns on investment and creating the maximum employment.



Hamzi Law Firm

Zineb Idrissia Hamzi

zhamzi@hlf.ma

Résidence Granada
96A Boulevard Al Massira Al Khadra
Casablanca
Morocco

Tel: +212 522 39 39 06 / 31
Fax: +212 522 39 39 13 / 16
www.hlf.ma