

EMERGING MOROCCO 2006



the annual business economic and political review



- Politics
- Economy
- Banking
- Capital Markets
- Energy
- Tourism
- Construction & Real Estate
- Telecoms & IT
- Accountancy & Law
- Insurance
- Hotels & Restaurants
- Interviews

in association with



www.oxfordbusinessgroup.com



Firm Overview



Kettani Law Firm (hereafter "KLF") is a major Moroccan business law oriented firm founded in 1971 by Professor Azzedine Kettani who is admitted to practice as a lawyer since 1968 and approved by the High Court of Justice of the Kingdom of Morocco. Azzedine Kettani is a Law Professor at Casablanca University since 1968. He is also member of various professional organizations. He is Vice President of the American Chamber of Commerce in Morocco ; Director of the Swiss Chamber of Commerce ; Member of the French Chamber of Commerce and the British Chamber of Commerce; Vice President of The International Chamber of Commerce (ICC), President of the Moroccan Branch of the " Association H. Capitant " (France), Director of the US-Morocco Council on Trade and Investment. Director of the US-Arab Chamber of Commerce (Washington) and is the Kingdom of Morocco arbitrator before ICSID. He is also member of non profit organizations such as Rotary International of which he is an active officer since 1980. He is the author of a Book on Moroccan Law Insurance ; Co-Author of a book on "Provisional Remedies in International Commercial Arbitration"; Director of the Moroccan Review of Law ; Author of numerous Publications on Corporate, Labour and Banking Law. Attorney at law Nadia Kettani joined the firm in 1992 after internships in Paris, France and the United States and is responsible for the consulting department while supervising some areas of the litigation department. Attorney at law Rita Kettani joined the firm in 1993 and is responsible for the consulting department while managing the labor law and the recovery of debts departments. The firm acts for banks and other financial institutions, international businesses, major public and private companies, government departments and several foreign governments. The firm covers the whole spectrum of financial and business activities. KLF is an acknowledged leader in the fields of corporate finance, banking, project finance, corporate, maritime and commercial law. Areas of particular expertise include also stock exchange and aviation laws; telecommunication regulations, labor law and industrial property. Additionally, the firm has a large experience in litigation handling all forms of commercial disputes as well as recovery of debts, insurance, patent and trademark.

International Experience

KLF has handled a number of high profile projects for clients around the world. These include advising a major French operator as a potential buyer of Maroc Telecom, the national telecommunications operator, an important Spanish operator for the acquisition of the second GSM line bid and a major British company in the acquisition of the Moroccan state owned tobacco company Régie des Tabacs for several billion American dollars. The firm has also developed an expertise in the field of energy industry including Jorf Lasfar project finance for US\$1.6 billion and a project finance of wind farm for US\$ 500 million.

KLF has handled a significant number of major M&A projects. Some of the major M&A include Acquisition by a worldwide beverage leader of Moroccan companies. The substantial merger of the Moroccan refinery SAMIR with another large company SCP has also been handled by the firm and the even more important international merger between two major American computer companies. KLF has also advised international bidders during the numerous privatization bids in Morocco in different areas and assisted the Moroccan government in the privatization of the two national refineries.

Lately, KLF has worked for Lydec, the water and electricity distributor for the Casablanca area, on an important bond issue, and provided assistance to the Caisse de Dépôt et de Gestion (CDG) within the framework of the large Tangiers Mediterranean port construction project.

International Clients

KLF acts as a local counsel for international public and private corporations, investments banks and financial institutions, governments and international bodies.

Main International Areas of Practice

Corporate Law: KLF advises foreign investors on the structure of the investment in Morocco, sets up commercial companies, drafts all types of commercial contracts needed, including joint venture agreements and accompany foreign companies during the whole process of their investment in Morocco including a telephone assistance whenever and as often as needed.

Mergers & Acquisitions: KLF advises on all operations relating to the financial strategy of both Moroccan and foreign companies, including

restructuring and regrouping (mergers and similar operations, joint ventures), acquisitions, take over bids, public offers of exchange, stock exchange listings and other equity transactions.

The firm also handles complex law or stock exchange problems which may be encountered by either public or private companies, including during privatization processes.

Banking & Finance: KLF has experience and expertise in all types of financing transactions. The firm provides legal advice in relation to the full spectrum of financial products including lending & acquisition, finance, derivative products, project finance, financial regulations, issuance of bonds and structured finance.

Aviation: KLF is a law firm operating at the forefront of the transportation sector. It is one of the pre-eminent local law firms in the aviation field. The firm experience covers aviation finance and leasing, aviation insurance, dispute resolution and corporate finance.

Telecommunications: KLF has a substantial experience in dealing with, and advising on, all aspects of telecommunications.

Intellectual Property: KLF has a long standing experience in IP practice. It acts in all areas of intellectual property law including counterfeiting of patents; trademarks; designs and models; copyright. It also provides assistance in competition law.

Litigation & Arbitration: KLF has a highly developed experience in proceedings before courts and arbitration institutions. The litigation department of KLF assists, advises and represents companies both before and during litigation and/or arbitration proceedings.

The firm has 20 lawyers operating in the above mentioned areas and a total staff of 90.

Contact names:

Head partner - Professor Azzedine KETTANI

Contact persons

Ms Nadia KETTANI and Ms Rita KETTANI

Contact details:

Tel: +212 22 201 898 - +212 22 270 388

Fax: +212 22 205 925 - +212 22 272 617

E-mails:

klf@casanet.net.ma	k@kettanilawfirm.com
nk@casanet.net.ma	knadia@kettanilawfirm.com
rk@casanet.net.ma	krita@kettanilawfirm.com

LAW REVIEW

INVESTMENT LAW

An attractive environment for foreign investment.

Law 18-95 establishing the Investment Charter was promulgated on November 8, 1995 by Decree (*Dahir*) 1/95/213. The purpose of the charter is to encourage investment, specifically by:

- reducing the tax burden related to operations on working stocks, tools, equipment, goods and land necessary for investment;
- reducing the rate of taxation on income and profits;
- granting a preferential taxation regime that favours regional development;
- strengthening the guarantees granted to investors by setting the grounds for appeal in both national and local tax matters;
- promoting offshore financial centres, free zones for exports and a free industrial warehouse system; and
- better assessing the tax burden and ensuring the proper application of competition rules, especially by reconsidering the field of the tax exemptions.

The anticipated by-products of these measures are encouragement of exports, promotion of employment, reduction in investment expenses and protection of the environment. Article 17 of the charter specifies the prerogatives of the government in granting additional favourable terms to investors.

Enterprises whose investment programme is considered a high priority on account of one or more of the following conditions are entitled to additional advantages:

- volume of capital
- number of permanent jobs to be created;
- region where investment is to be located;
- potential for technology to be introduced or transferred to the country
- contribution to environmental protection.

These are awarded at the discretion of the government. Such enterprises are allowed a partial tax exemption on, for example, land



THERE IS A RAFT OF TAX INCENTIVES.

acquisition, expenses required for the realisation of investment, external infrastructure expenses, and vocational training. The government may also exempt investment projects over \$20m from customs duties and VAT on imports. Additional investment incentives include:

- Hassan II Fund contribution to new investments in textiles, clothing and electronics
- special tax incentive for companies in the free zones
- specific measures for activities such as hotel establishments, social housing, agriculture and hydrocarbons.

FREE ZONES: Law 19-94 relating to free zones was promulgated by Decree 1/95/1 of January 26, 1995. It sets out a general legal framework for exporting companies in the industrial or commercial sector as well as services linked to these sectors. Its provisions are:

- entry and exit of goods are not subject to exchange control restrictions or taxes

- commercial and industrial transactions with foreign entities benefit from a total exemption of exchange control regulations
- payment of a transaction may be made exclusively in convertible currency
- companies can be exempted from patents tax, urban real estate tax and taxes on machines and apparel for 15 years.

Companies may be exempted from the corporate tax for the first five years and may benefit from a reduced tax rate of 8.75% for the next 10 years. Products and services in free zones are tax exempt.

The Tangiers Free Zone (TFZ) was created by Decree 2/96/511 of November 10, 1997. The following is a list of just some of the activities that can be set up in the Tangiers Free Zone:

- communication, marketing and promotion services allowing investors located in the free zone to enhance their capacity to enter foreign markets
- maintenance service of industrial units
- technical assistance and company training activities
- exhibition centres
- real estate activities for industrial companies implanted in the free zone
- warehouse activities
- engineering and technical survey offices
- computer engineering works
- catering for staff whose employment is inside the free zone
- postal services
- banking services
- import and export of raw material for companies that are installed in the free zone. 🐦

OBG would like to thank
Kettani Law Firm
for compiling these articles for
EMERGING MOROCCO 2006

LEGAL REVIEW

PUBLIC OFFERINGS

Protection for minority shareholders in takeover bids.

Law 26-03 adopted on 6 May 2004 sets out the legal frame for public offers. It addresses public offers in general and provides for a definition of takeover bids whether voluntary or mandatory, offers for sale and public offers for retreat as well as the underlying procedures that must be initiated before the Moroccan Securities Council called Conseil Déontologique des Valeurs Mobilières or CDVM.

Takeover bids allow a physical or legal person (the initiator) to publicly announce its intent to acquire against cash all or part of the shares giving access to the capital or to the voting rights of a company whose shares are listed on the stock exchange.

It is important to note that the submission of a takeover bid becomes mandatory when a moral or physical person, acting alone or in concert, holds, directly or indirectly, at least 40% of the voting rights of a listed company. Derogations from this are nonetheless anticipated by the law knowing that the request must be made to CDVM and be duly justified. The submission of the mandatory takeover bid project must occur within three days of passing the 40% threshold.

The penalties incurred in the case of failure to adhere to the provisions are significant as the law provides that any person who does not submit the corresponding project to the CDVM or following the cancellation of the derogation of the submission of a mandatory takeover bid is liable for six months to one year in prison and/or a fine of Dh1m to Dh2m (\$111,630 to \$223,260).

A submission of a public offer for retreat or withdrawal becomes mandatory when either a legal or a physical person, acting alone or in concert with others, holds, directly or indirectly, 90% of the voting rights of a listed company. This being the case, the CDVM



MINORITY SHAREHOLDERS HAVE RIGHTS.

verifies the conformity of all bids, but its control does not address the opportunity or the completion of the transaction.

In cases where a public offer project is declared to be acceptable from a legal standpoint, the content and follow through of proposals made in the project become the irrevocable commitments of the initiator.

Once the public offer project is accepted, the CDVM takes additional time to review the information memorandum and other documents filed by the initiator and issues its approval. The process may take between 25 and 35 working days from the date of filing of the documents with the said council.

Publication of the information memorandum and other documents filed with the CDVM must be made within five working days from the date of release of the approval.

In general, during the period of a takeover, the target company and the initiator must strictly limit the information that they dis-

close to the public to the terms and items contained in the information documents. They must not induce the public in error. Moreover, during the period of a takeover, all information relating to the offer released by the target company or the initiator must be provided to the CDVM before publication.

Regarding the share prices, it is important to note that for the duration of a takeover, if the initiator purchases the targeted company's titles on the market at a price greater than the offered price, the takeover share price will automatically be raised to the market price at which the initiator purchased the shares. At the same time, after the conclusion of the offer and until publication of its results, the initiator cannot purchase shares of the target company at a price greater than that of the takeover.

The CDVM, which covers the specific roll out of the said offers in the best interest of investors and the market, has the legal capacity to carry out investigations by all certified agencies that will be commissioned especially for this purpose. Moreover, the CDVM has the legal capacity to request any document or registration necessary to accomplish its control objective.

Furthermore, the CDVM may apply monetary penalties from between Dh50,000 and Dh200,000 (between \$5585 and \$22,345) when the entity benefiting from a mandatory takeover derogation fail to uphold its commitments with respect to the CDVM providing the said derogation.

The principal objective of these new provisions is to give protection to minority shareholders against any substantial change to the status of the company, with the understanding that substantial changes refer to any change of control, and any change in the nature and the policy of the listed company. ➤

LEGAL REVIEW

INTELLECTUAL PROPERTY AND COPYRIGHT

Tighter control on attempts to import counterfeit goods.

Morocco seeks to adapt its intellectual property rights regulations to the international standards enshrined in the Intellectual Property Accord concluded by the World Trade Organisation. Essentially, incomplete intellectual property rights regulations dissuade domestic as well as international investors, particularly in the pharmaceutical and agricultural sectors (for example, in the development of new medical compounds or plant varieties).

The main addition to these texts is the reinforcement of legal protection mechanisms at the point of importation of counterfeit products, in violation of the rights of the beneficiary of the legal protection. To this effect, the customs administration has the power to suspend the market entry of merchandise suspected of being counterfeit or of which the characteristics are not clear, at the request of the owner of the registered trademark or the beneficiary of an exclusive exploitation right. This suspension may not exceed one year.

INTELLECTUAL PROPERTY: Regarding intellectual property protection, the adoption of law 31-05 (modifying and completing law 17-97) allows the extension of the registration time limit as the seeker of a trademark has a supplemental period of two months. This reform was necessary for Morocco to attract more investors and reinforces the protection not only of trademarks but also of patents, commercial denominations, industrial drawings and models.

This text establishes a claim system that deviates from the former registration process. Basically, the Moroccan Office of Intellectual and Commercial Property (OMPIC) previously conducted a standard review. Now, trademark registration requests are part of a publication released twice a



PRISON IS POSSIBLE FOR COPYRIGHT THEFT.

month. The trademark holder can submit a claim during the two-month period following publication of the registration request, which mitigates risk of illegal reproductions. With respect to international treaties that Morocco has signed regarding intellectual property, trademarks are protected for a period of 10 years, indefinitely renewable.

Moreover, this text provides more severe sanctions with the possibility for the public minister to initiate counterfeit lawsuits, without a prior complaint being made by a private party or the legal holder.

COPYRIGHT PROTECTION: Copyright protection has been addressed by the adoption of law 34-05 which modifies and completes law 02-00.

The purpose of this law is to extend the copyright protection duration and associated rights to 70 years instead of 50, to reinforce the presumption of existence and ownership, and to consolidate the customs

administration powers that can from now on suspend the market entry of merchandise that is suspected of being in fact counterfeit or pirated.


Such an extension of legislation over copyright and intellectual property in general not only concerns authors, but also producers and interpreters who can claim important rights over any artistic creation in which they have participated. This law also allows for more severe sanctions against offending parties. Not only damages and profits will have to be paid to the copyright owner – prison sentences can be ordered and hefty fines can be levied.

A national committee for the fight against counterfeiting will be forthcoming and will have the objective of carrying out studies and the creation of statistics on losses incurred due to counterfeiting. It will be comprised of representatives of OMPIC, customs, the ministry of justice and of the royal guard.

Thanks to these new laws, Morocco can anticipate a claim system for factory, commercial and service trademarks, similar to those of developed countries.

ADVANCED SERVICES: Furthermore, Morocco is modernising its services with regards to OMPIC which reinforces its online services.

Essentially, the central trade registry will be accessible online by 2007, which will provide access to financial and other information relating to companies (bylaws, minutes, balance sheets and trademarks) 24 hours a day and for a minimal cost.

Finally, other advances include new online trademark registration procedures (on www.directinfo.ma), which is part of the intellectual and commercial property development project known as Horizon 2010. 

LEGAL REVIEW

THE BANKING SYSTEM

New laws modernise and introduce more transparency.

The Moroccan banking system has recently seen significant changes due to the passing of two laws. The first dated 14 February 2006, has just modified the banking law of 6 July 1993 whereas the second, promulgated on 23 November 2005 completes and modifies the central bank or Bank al-Maghrib statute.

Banking law 34-03 preceded an expansion of the application of surveillance and accounting provisions henceforth applicable to any organisation engaged in banking or banking support activities, namely the Caisse de Dépôt et de Gestion, the National Savings Depository, the Caisse Centrale de Garantie, off-shore banks and micro-credit associations. Also, accreditation is now mandatory for the completion of transactions tied to financial investment, management of estates and fund transfer intermediaries.

The authorisation previously granted to monetary authorities and consulting organisations has been redefined, with, most notably a reinforcement of the attributions of Bank al-Maghrib and the creation of the Credit Establishment Committee whose mandate includes conferring with Bank al-Maghrib in a consultative capacity.

This being the case, the law imposes a greater transparency of Bank al-Maghrib which must henceforth justify its refusal decisions, the immediate notice to boards of directors, auditors of the results of audits and access to common services for clients such as the central payment event service and the central balance sheet service

The objective of auditors was also redefined in order to expand their control of the verification of compliance with accounting and prudent measures and provisions by credit establishments but also to complete an evaluation of the internal control system,



PERSONAL BANKING IS NOW SAFER.

namely to verify the validity of information communicated to the public.

The new banking law also implements a specific procedure for the treatment of credit establishment difficulties, namely a derogation of amicable settlement and of insolvency procedures set forth in the Commerce Code in order to adapt them to the particulars of banking activity.

Regarding the consolidation of the Bank al-Maghrib statute, law 76-03 proposes a new structure for the organisation, management, and control of the central bank by establishing the principle of separation of executive and monetary functions.

In order to ensure total independence with respect to executive power, the new bylaws of Bank al-Maghrib include a restructuring of the board of the bank while ensuring its members total independence since they cannot terminate their mandate before the end of term unless due to an inability to carry out

their mission or due to committing a serious infraction. On the other hand, Bank al-Maghrib must not participate in the administration and management of teams of establishments subject to its control and must give up the whole of its participation within a maximum period of three years.

The text provides the central bank with autonomy with respect to determining and implementing monetary policy mechanisms with the goal of ensuring price stability.

Bank al-Maghrib may no longer provide overdraft facilities to the state or public establishments, except depository facilities in some exceptional cases, and for which the conditions otherwise would be very restricted by the new text.

The objective of Bank al-Maghrib with respect to the functioning and safety of means of payment was established by law 76-03 and addresses the fight against money laundering as well as the fight against the financing of terrorism. Regarding the change in policy, the attributions of Bank al-Maghrib have been clarified since, in compliance with international practices, the central bank determines the relationship between dirhams and foreign currencies in the framework of the exchange system and the parity of the dirham which originates from regulatory power. The text provides for the implementation of an annual external audit whose purpose is to ensure that the central bank operates with a greater level of transparency.

These banking reforms allow Morocco to self-impose the recommendations and norms adopted internationally in order to benefit from a more transparent banking system adapted to the demands of modernisation, and focused on consumer interests in order to overcome obstacles to economic expansion and liberalisation that the country is facing. 🐦

LEGAL REVIEW

PROPOSED MONEY LAUNDERING LAW

A new bill is aimed not only against terrorism but also at the informal economy.

On 19 April 2006, the Government Council submitted the draft for law 43-05 relating to the fight against capital money laundering, which is expected to be added to the provisions of the Penal Code. The adoption of this law is essential for Morocco, which hopes to improve its image as a recipient of questionable funds.

The law provides an assurance that its legislation will be more compliant with international conventions and norms and responds to recommendations from international financial institutions as the project originates for the most part from the recommendations of FATF (a financial action group originating from the OCDE, responsible for money laundering concerns).

This law is not only essential in the fight against terrorism, but also equally necessary for fighting the clandestine economic development that is so harmful to investment and development in Morocco.

The proposed law defines capital money laundering as "the acquisition, holding, using, converting or transferring of goods with the purpose of dissimulating or hiding the origin of the goods, in the interest of the originator or others" when the latter are the product of illegal activity (trafficking of drugs, humans, or immigrants, weapons and munitions, as well as corruption and embezzlement of public or private goods).

The punishment for this activity is imprisonment for two to five years for physical persons as well as fines from Dh20,000 (\$2228) to Dh100,000 (\$11,413). Legal persons (associations or companies) risk fines from Dh500,000 (\$57,065) to 3m without prejudice of prison sentences for officers.

The punishment and fines are doubled for repeated offences or in the case of those committed by an organised crime group. Law 43-



JAIL TERMS CAN BE 2-5 YEARS.

05 leaves the responsibility of declaring by official order the list of persons subject to this text to the administration.

However, article 10 of the proposed law specifically identifies certain categories of persons such as credit establishments, financial institutions, insurance and reinsurance companies, offshore holding companies, the General Treasury of the Kingdom, the Foreign Exchange Office, attorneys, notaries, fiduciaries, legal advisors, real estate agents, account commissioners, the CDG, stock exchange companies, casinos, and betting houses in general.

The other addition introduced by the proposed law concerns the state organisation of control and repression of money laundering called Unité de Traitement du Renseignement Financier under the authority of the prime minister, who appoints the president.

This unit's purpose is to initiate investigations and implement judicial procedures

based on the results of the investigations. It is equally responsible for ordering the freezing of goods and assets upon the request by its foreign counterparts.

In order to successfully manage its objectives, the unit calls upon the involvement of the royal prosecutor. Article 17 of the proposed law specifies as a matter of fact that in a situation where "information gathered by the unit shows evidence of a money laundering infraction, the unit refers the matter to the prosecutor, detailing for him, as applicable, the investigation or inspection services that were used in order to carry out the investigations. The prosecutor notifies the unit of its decisions regarding the situations for which it was in charge.

The prosecutor and the judge may also mandate, during the course of instruction, the freezing or the seizure of goods belonging to both physical and legal persons suspected of having ties to persons, organisations or activities linked to incidents of money laundering, even if these infractions are not committed on Moroccan territory.

Persons governed by this law are required to declare to the Unité de Traitement du Renseignement Financier any and every suspicious transaction or movement of money.

Therefore, this law is going to limit the notion of professional secrets in force until now but with guarantees for the persons governed by it similar to those for concerned persons or entities.

Finally, regarding terrorism, the Rabat courts have exclusive national jurisdiction for matters of money laundering.

This proposed law, which had originally been due to be addressed by the parliament during its spring 2005 session, was rescheduled for debate in parliament during the session that ended in the summer of 2006. ❧

LAW REVIEW

PHARMACEUTICAL REFORM

Significant changes in regulations on foreign ownership, imports and exports.

Law 17-94, adopted by parliament on January 17, 2006, is not yet in force as it has not been published in the Official Bulletin; however, it gives a preview of the legal framework of the pharmaceutical industry which shall replace the Pharmacy Code of 1960, currently in force.

This reform was necessary because, in spite of its numerous revisions, the Code of 1960 and its application decrees no longer fully addressed the legal and economic environment of the pharmaceutical industry.

Indeed, the main contributions of the law concern opening share capital of pharmaceutical companies to foreign investors without a minimum local capital (1); modification of the importation provisions (2) and export provisions (3) of pharmaceutical products.

(1) FOREIGN INVESTOR CAPITAL: The Code of 1960 requires that the capital of any "establishment involved in the deposit, the storage, dedicated to the manufacturing, to the holding, to the wholesale, to detail, product, composition or preparation dispensaries, specialised or not, intended for the pharmacy and provisioned using medicinal weights, with the purpose of the sale for the use of human or veterinarian medicine has to be owned by a pharmacist" at the level of 51% for pharmacists fulfilling the conditions to exercise the profession in Morocco, and at the level of 26% to pharmacists admitted to practice in Morocco.

According to this text, foreign nationals can exercise the pharmacy profession in Morocco subject to acceptance of the title or the diploma issued by his or her state of origin. Therefore, it is important to note that the code of 1960 does not require a part of the capital of the pharmaceutical establishment to be held by local nationals but this text contains an important restriction for foreign

investors, which requires that they join either with a local national at least at the level of 26%, or with foreigners authorised to practice in the kingdom.

The Code of 1960 stipulates that the authorisation and other registration and approval formalities must be renewed in cases where a pharmacist who previously obtained an authorisation to practice in Morocco has not practiced for two years.

The main contribution of law 17-04 is the elimination of the minimum participation of Moroccan nationals. Article 85 of law 17-04 stipulates that the industrial pharmaceutical establishments must be Moroccan companies and only requires that the establishment is managed by pharmacists authorised to practice in Morocco (the general manager, the sales manager and the engineering manager). Therefore, there is no more restriction regarding the capital of industrial pharmaceutical establishments.

This law also confirms that foreign nationals can obtain authorisation to exercise the pharmacy profession in Morocco under certain conditions, which include the recognition of the diploma as well as the condition that the applicant is not registered in a foreign order of pharmacists.

(2) IMPORTATION OF PHARMACEUTICAL PRODUCTS: The importing of pharmaceutical products is governed by the provisions of decree 2-00-411 of June 22, 2000.

This decree stipulates that the importation of pharmaceutical specialities and active raw materials intended exclusively for pharmaceutical use or raw or semi-finished medicinal products is possible only after obtaining a health authorisation (*visa sanitaire*) issued by the Minister of Health.

That being the case, the decree clarifies that pharmaceutical establishments that intend

to import active raw materials are not required to obtain a health authorisation.

Consequently, according to the decree of June 22, 2000, the importation of the active raw materials is not limited to pharmaceutical establishments.


Law 17-04 modifies the provisions of decree 2-00-411 and strengthens the control of the administration over the pharmaceutical importation of products because it limits the possibility of importing pharmaceutical products to industrial pharmaceutical establishments. Furthermore, law 17-04 requires industrial pharmaceutical establishments to obtain a health authorisation. It also stipulates that the health authorisation will be issued by the administration.

The law does not stipulate the means of requesting the authorisation and the conditions of its issuance, suspension or of its revocation which will be determined by regulation after the publication of law 17-04.

(3) EXPORTATION OF PHARMACEUTICAL PRODUCTS: Likewise, the law 17-04 limits the possibility of exporting pharmaceutical products to industrial pharmaceutical establishments outside the country.

This law also stipulates that industrial pharmaceutical establishments must obtain not only a prior traditional product introduction authorisation but also a certificate of sale, which is issued by the administration.

Furthermore, pharmaceutical establishments that distribute in bulk must obtain the authorisation from the industrial pharmaceutical establishment benefiting from the product introduction authorisation in order to export pharmaceutical products covered in the authorisations.

Finally, the law stipulates that any medicine that has been suspended or from which the licence was revoked cannot be exported. 

INTERVIEW

GOOD PROGRESS

OBG talks to Rita Kettani, Partner at the Kettani Law Firm.

How has Morocco managed its integration into the global economy?

KETTANI: Since it joined the WTO in 1995, Morocco has pursued a policy of economic and trade liberalisation by the signing of bilateral free trade agreements (FTAs) with, most notably, the EU, the European Free Trade Association, some Arab countries with the Agadir Accord signed between Egypt, Jordan, Tunisia and Morocco, the US FTA and Turkey.

American enterprises have already expressed their desire to enter Morocco (in paper manufacturing, for example, by the repurchase of 65% of CMCP shares for \$80m), the FTA having not only resulted in a change in tariffs but also in raising the bar in terms of market practices, protection of investments and of the business environment in general.

Moreover, Morocco concluded numerous fiscal agreements to avoid, among other things, double taxation, most recently with Lebanon, Senegal, Kuwait, and China. The applications to put these partnerships into practice are being adapted in their legislative and regulatory framework to conform to international standards as it is necessary to have sufficient legal protection in case of trade disputes.

What is the progress on adapting the legal framework to international standards?

KETTANI: Several laws have been adopted recently in the areas of investment, (organisation of regional investment centres), fiscal law, stock exchange, telecommunications, intellectual property, labour law (by the development of a labour code), family law, insurance, public markets, offshoring and its development and the judi-



RITA KETTANI

cial organisation (by the creation of first instance administrative courts, commerce courts and more recently of an administrative court of appeals, and the training of commerce judges with the cooperation of USAID). In March 2006 the new banking legislation, the new industrial property law, copyright law, the stock exchange and corporate law amendments and Mandatory Health Insurance have improved the existing legal arsenal.

To meet international requirements, Morocco consolidated its banking statutes with a new law strengthening the Central Bank's control and instituted internal control as well as expanding the role of account commissioners. Already in 2002, Bank al-Maghrib welcomed banks that benefit from an effective internal control system.

Similar measures were adopted in the area of insurance, requiring insurance and reinsurance companies to implement an internal control and audit system.

Regarding the protection of intellectual property (IP) and copyrights, two new laws have reinforced the existing judicial arsenal by conforming to the standards imposed by the Intellectual Property Rights Accord (ADPIC). One relating to the protection of intellectual property extended the power of customs agents, implemented border control measures, and allowed public prosecutors to file counterfeit lawsuits without the IP owner having to make a legal claim. The second, on copyright, consolidated the power of the customs administration and extended the duration of the protection offered by it.

The judicial framework of limited liability companies in Morocco was consolidated with a decrease of the amount of social capital necessary to start a business, enabling unregistered businesses to access a structured form of company.

Other legal projects are in development and include notably the money laundering law. Establishments subject to this law will be required to declare any questionable situation, which is critical in terms of the professional confidentiality that has often been an obstacle to transparency in the business world. Projects are in development to address an internal and international Arbitration Code, reform of the Joint Stock Company law, the validity of evidence, judicial acts produced electronically and the fight against corruption.

What still requires upgrading?

KETTANI: Among others, real estate, Civil Procedure Code provisions on enforcing foreign judgments, environmental law, and competition law to settle issues concerning exclusive distribution or agents. 🐦