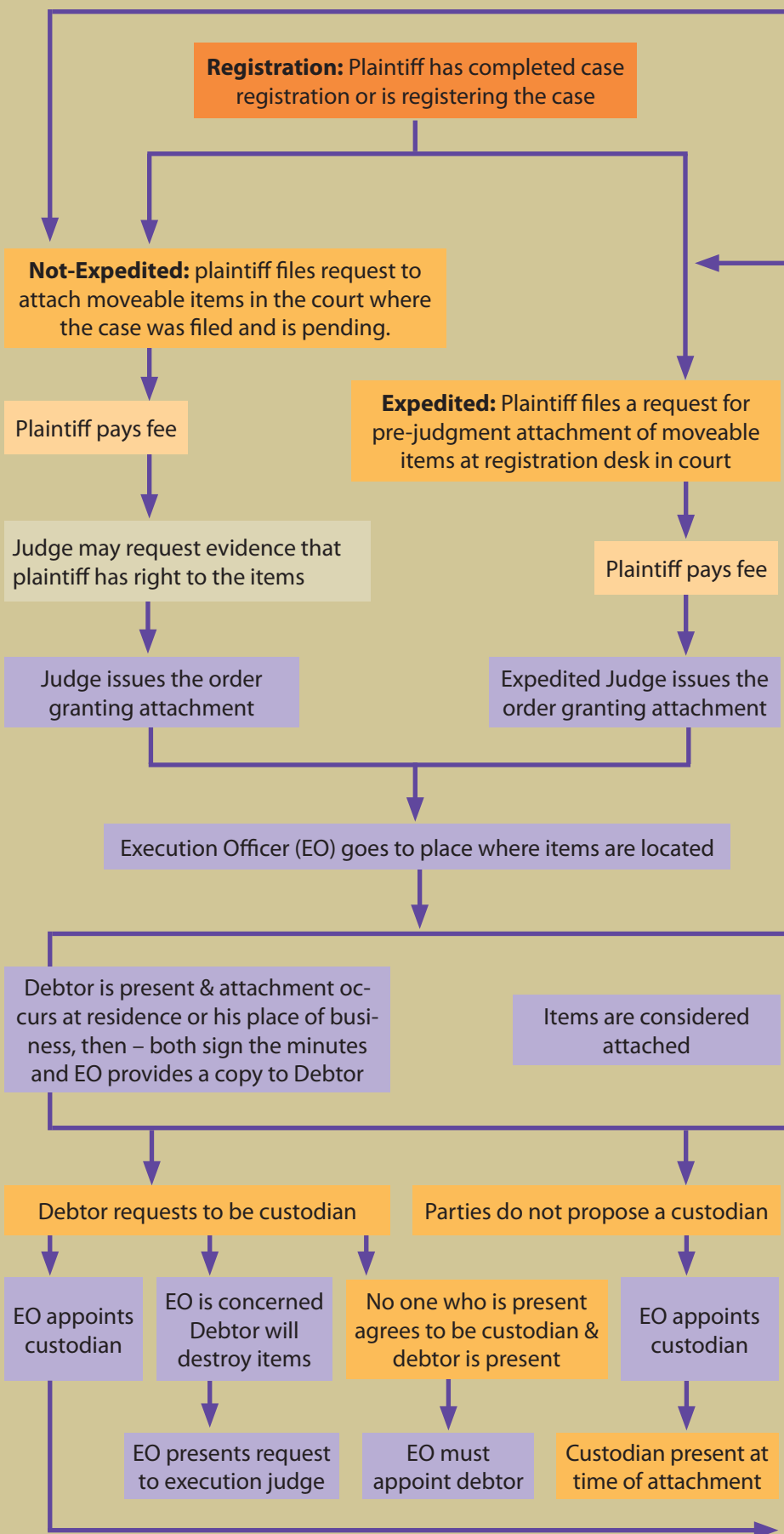


COMMERCIAL COURT & ENFORCEMENT ASSESSMENT TOOL

Developed by
Heike Gramckow
& Omniah Ebeid

GOVERNANCE GLOBAL PRACTICE

Current Process: Pre-Judgment Attachment



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Developed by Heike Gramckow & Omniah Ebeid

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ABBREVIATIONS

ADJD	Abu Dhabi Judicial Department
ADR	Alternative Dispute Resolution
CMS	Case Management System
EO	Execution Officer
EU	European Union
FIC	First Instance Court
GDP	Gross Domestic Product
IFC	International Finance Corporation
IT	Information Technology
MOJ	Ministry of Justice
OECD	Organisation for Economic Co-operation and Development
PC	Personal Computer
POA	Power of Attorney
URL	Uniform Resource Locator
VC	Video Conference
WBG	World Bank Group

COMMERCIAL COURT & ENFORCEMENT ASSESSMENT TOOL

Introduction

BACKGROUND

An effective and efficient justice system is essential for sustained economic growth. In a well-functioning, independent, and efficient justice system, decisions are taken within a reasonable time and are predictably and effectively enforced, and individual rights, including property rights, are adequately protected. Among other objectives, the efficiency of the judicial system is important for creating a good business climate, attracting foreign direct investment, securing tax revenues, and supporting economic growth.¹ Research has shown that weak contract enforcement, for example, raises the cost of borrowing and shortens loan maturities,² with a resulting negative effect on investment and GDP.³ Weak court enforcement systems have also been linked to late payments, which can lead to liquidity issues for companies and increase insolvency.⁴

Since the publication of the World Bank's *World Development Report 2005*, the importance of well-functioning courts to strengthening the investment climate and ultimately to reducing poverty and boosting shared prosperity has been brought to the forefront and become internationally recognized.⁵ Indicators of commercial court performance, and business community perceptions of and trust in the courts, are a part of the World Bank Group's (WBG) country-level investment climate assessments and its influential *Investment Climate Surveys* and *Doing Business reports*.⁶ Court performance has also become an element of European Union (EU) and Organisation for Economic Co-operation and Development (OECD) accession.⁷ Helping countries to improve commercial court operations and ensure improved accessibility and effective delivery of services are important components of the development assistance provided by the WBG. The Commercial Court and Enforcement Assessment Tool has been designed to assist assessment teams and client agencies in this effort.

1 Bénassy-Quéré, A., Coupet, M. and Mayer, T. (2007), Institutional Determinants of Foreign Direct Investment. *World Economy*, 30: 764–782. doi: 10.1111/j.1467-9701.2007.01022.x.

2 BAE, K.-H. and GOYAL, V. K. (2009), Creditor Rights, Enforcement, and Bank Loans. *The Journal of Finance*, 64: 823–860. doi:10.1111/j.1540-6261.2009.01450.x; L. Laeven, G. Majnoni / *Journal of Financial Intermediation* 12 (2003) 178–197.

3 Bianco, Jappelli, and Pagano (2002), Courts and Banks: Effects of Judicial Enforcement on Credit Markets, <http://www.csef.it/WP/wp58.pdf>; Laeven and Majnoni (2003b); Djankov et al. (2008).

4 Intrum Justitia (2013). https://www.intrum.com/Global/IR/AR/English/IJAR2013_ENG.pdf.

5 See World Bank, *World Development Report 2005: A Better Investment Climate for Everyone* (Washington, DC: World Bank, 2004), <http://go.worldbank.org/97ZFM8ERIO>.

6 See World Bank, *Doing Business 2015* (Washington, DC: World Bank, 2015), <http://www.doingbusiness.org/reports>.

7 See <http://www.oecd.org/legal/accession-process.htm>.

ABOUT THE TOOL

For many years, teams from the World Bank and International Finance Corporation (IFC) have been responding to requests from governments and judiciaries for help in understanding what is needed to improve commercial court operations and contract enforcement mechanisms and to better respond to the needs of court users.

The “**Commercial Court and Enforcement Assessment Tool**,” hereafter referred to as “the Tool,” is designed to assist in understanding key approaches to enhancing the performance of commercial courts and enforcement agencies for better service delivery and user access across a country or a subnational location. Building on a range of assessments conducted by the WBG and others for over two decades, the Tool essentially provides a comprehensive and systematic way to understand the current state of affairs at a court or enforcement agency, develop targeted and realistic recommendations for improvement, and assist in generating, implementing, and monitoring reform efforts. The Tool was initially developed to assist the Abu Dhabi Judicial Department (ADJD) in addressing efficiency concerns related to major commercial cases. Based on the WBG’s knowledge of the country context and local court environment, the methodology was adjusted and applied to all commercial courts in the Emirate. After being tested in several countries with varying resource and development levels—namely, Nepal, Mali, and India—the Tool was adjusted and refined for use in any court system worldwide.

OVERVIEW

Considering that the focus of this particular instrument has been to respond to requests for assistance in improving court and court enforcement operations within the investment climate context, the Tool focuses on the main elements that influence effective operations, user access, and service delivery in commercial courts or specialized commercial divisions or benches.

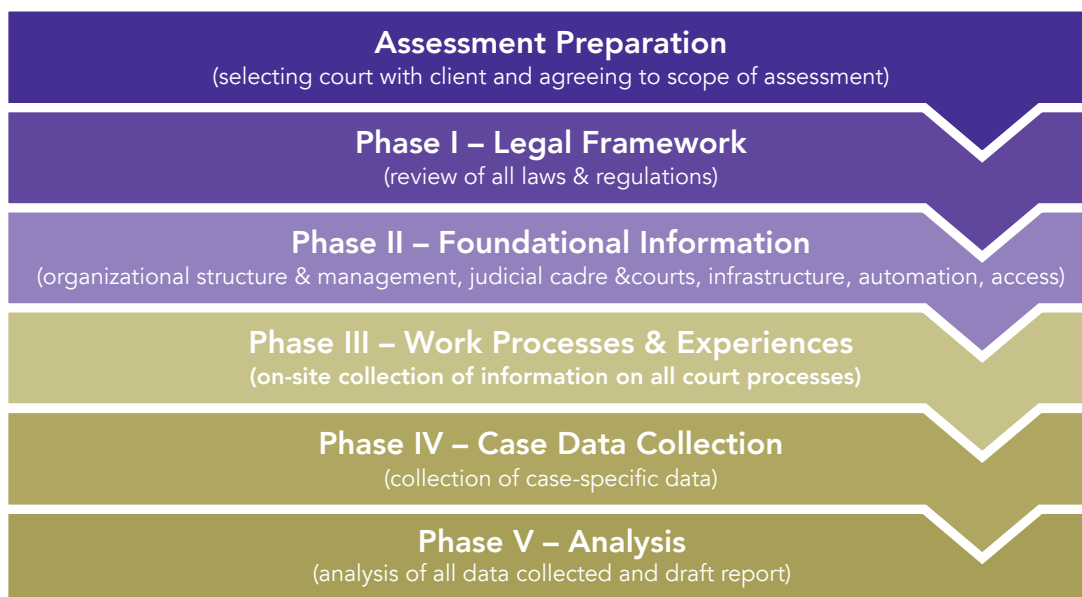
To obtain an understanding of these areas, the Tool focuses on concurrent assessments of:

- The legal framework as it relates to commercial case processing;
- The work environments and workflow of current judicial procedures, from the initial filing of a case through the final enforcement of judgments as applied at the courts, with a focus on internal efficiencies and services;
- User experiences and perceptions, including those of judges, courts, and enforcement staff and users;
- Court and enforcement data.

These concurrent assessments aim to yield comprehensive information that can then be analyzed in relation to best practices in well-performing courts as well as the particular local context (including country resources and requested scope as identified by the client country). The analysis forms the basis of the targeted recommendations that are then discussed in detail with the client. These discussions provide an opportunity for the client to deliberate and reflect on what is needed in terms of improvements and corresponding resources and to identify priority areas.

METHODOLOGY

Implementation of the Tool is broken down into five phases, the majority of which can be undertaken concurrently in order to avoid delays and allow the time and opportunity to verify information as needed. The methodology provides a comprehensive and systematic approach to collecting and analyzing different data sources (both qualitative and quantitative) to understand performance and service delivery gaps. When combined, the results from each phase enable the development of a clear picture of how the court is operating and the legal constraints and potential opportunities for improvements in each process, from filing to enforcement. The results are carefully analyzed in light of best practices in well-performing courts worldwide and the local context, thus allowing for the development and presentation of specific and targeted recommendations. This provides a useful basis upon which to draw appropriate conclusions for designing realistic improvements, which also requires sufficient expertise and understanding of improvement options, change implications, and other requirements.



Phase I: Legal Framework Review. Reviewing the legal framework that governs the processing of commercial cases clarifies how and why processes are carried out in a certain way; whether the court’s processes are legally required or internally created; and whether the legal framework is outdated, does not support modernization and reform activities, and/or is not in line with best practices. Undertaking this review feeds into and expedites the completion of the on-the-ground process-mapping exercise and also enables the team to identify both legally and administratively required improvements as well as the division of responsibilities between the court and enforcement agency.

Phase II: Foundational Information. When assessing a commercial court system and developing targeted and realistic recommendations, it is necessary to understand the organizational structure and management arrangements (e.g., organization, staffing, strategic planning, performance management, and budget); physical facilities and infrastructure; automated systems; user access to information and services; and court access to user feedback.

Phase III: Workflow Assessment. An on-site review of how a case is processed is necessary for capturing what court users experience and mapping actual processes used on the ground (as opposed to what is provided by laws within guidelines). This activity provides both the data needed to develop process maps and also information on supporting systems, staffing capacity, infrastructure, and actual user experience.

Phase IV: Case Data Collection. This phase focuses on obtaining court performance and case-specific data for all commercial cases. Statistical case data are an integral part without which the completion of the overall analysis is not possible; the data also enable the team to identify and verify bottlenecks that are causing delays and provide a statistical evidence base for the analysis and recommendations that are ultimately delivered to the client. This phase is also important because it allows the team to have a better understanding of how the judiciary is collecting, using, and reporting on case data and the extent to which management is relying on such data in its decision and policy-making process. It also helps identify the technical and automation capacity of the judiciary, as well as the need for improvements.

Phase V: Data Analysis. This phase focuses on verifying, reviewing, and analyzing all the data collected in Phases I–IV and preparing the first draft of the report that will be presented to the client for discussion. Once discussions have taken place, revisions may be necessary before presenting the final report to the client.

IMPLEMENTATION APPROACH

The underlying goal of the assessment activities is to provide the client with the information needed to make the requisite changes, present global good practice examples, and ultimately raise the capacity of the client's judicial system. To this end, the implementation of the Tool is based on a participatory approach in which the client is kept engaged throughout the process and apprised at all times not only of what is being done and the reasons for collecting particular data, but also of the potential improvement needs and what the court can and should do. Engaging with the client throughout the implementation process can also be mutually beneficial, as it allows the assessment team to build a solid relationship with the client, which facilitates the data collection and verification process and builds buy-in for the final recommendations. In many cases, the client may even begin making changes before the assessment is completed, using the partial findings and suggestions provided by the team. This approach benefits the client by providing it with ample opportunities to discuss realistic improvement options and needs and to tap into the expertise and knowledge of the assessment team.

SCALABILITY

Each country, court, and agency is driven by its own policy goals, needs, priorities, and resources, among many other factors. This aspect is reflected in the design of the Tool, as it can be scaled up or down, depending on the client's needs, resources, and reasons for implementing the assessment.

The Tool is flexible and can be adjusted to assess the processing of various types of cases, including minor and major commercial, bankruptcy, debt collection, other civil, and so forth. Moreover, it is not limited to any one legal or judicial system and can easily be adjusted and implemented in common, civil, customary, and Shari'a law systems.

Although all five phases included in the Tool are generally required in order to obtain a full understanding of all the areas that influence effective and accessible operations, the scope and level of detail required in each phase will differ with each client country. Depending on the needs or client request, only select phases may be carried out. For example, one client may be initially interested in a review of the legal framework and advice on adjusting it. In other client countries, the court or enforcement agency may be interested only in how well its own operations can be improved. A full assessment using the Tool can require six to 12 months, depending on the size of the courts and the availability of data and other documents, including all laws (ideally in a language that is accessible to the assessment team). This step requires resources that are sufficient enough to collect all the needed information, carry out an in-depth analysis, and produce a comprehensive report that can inform short-, medium-, and long-term reform agendas.

When resources are limited, the Tool may be scaled down to support an initial one- or two-week on-site data collection effort. Especially where data are scarce (or not very reliable) and resources for extensive case file reviews to develop the needed data are lacking, an initial assessment based on interviews, observations, and more general aggregate data can be a helpful first step toward developing a more wide-ranging reform agenda, one that would also focus on creating the capacities and systems required to first develop and then evaluate the essential processing data.

In addition to serving as a guide for improvements, for those clients about to embark on reform activities, the results of the assessment can also serve as a baseline against which future changes can be measured. To ensure successful implementation, the Tool provides guidance related to collecting data, scaling the tool, and exploring alternative data collection options.

RESOURCE NEEDS

Since the Tool is tailored to each client's focus area, needs, capacities, and resources, the costs associated with implementing it will differ from one country or agency to another. The client determines the scope of the assessment early in the process, which will guide future implementation. An initial assessment can be conducted

in the span of several weeks by two or three experts at a cost of under US\$50,000. A full assessment in several court locations in one country can take up to a year and cost over US\$600,000, depending on the accessibility of laws and data as well as travel requirements and other related costs.

BENEFITS OF USING THE TOOL

- The Tool provides a standardized, systematic, and comprehensive approach for collecting information and identifying improvement needs for a judiciary/court and enforcement agency. This ensures that data from all relevant information sources are compiled in an efficient and systematic manner that allows for cross-data validation. Especially when more than one court or enforcement agency is part of the assessment, uniform data collection is essential to ensure that data can be compared in order to understand performance and delivery differences.
- The provided data collection instruments reduce preparation time for the team. They can be shared early on to discuss data needs and requirements with the client and to begin data collection locally, if that is feasible.
- As with any tool of this kind, the real challenge is not just in collecting and ensuring the validity of the needed data but also in performing the analysis. Here, the Tool provides some guidance on compiling and analyzing the results. At the same time, although the data will tell a story of court performance over time, understanding and interpreting the story still tends to require experience and expertise to draw practical conclusions with meaningful recommendations for change. Thus, although the Tool makes the data collection easier and ensures a systematic approach, it does not replace the expert review and input required to analyze the information gained from the multi-method data collection and to recommend meaningful and realistic change processes and inputs that will make a difference.
- The Tool can serve to guide reform efforts by providing a blueprint for short-, medium-, and long-term improvements. It can also be the basis for developing detailed and realistic action plans.
- The Tool produces reports that can serve as a baseline against which future improvements can be measured.
- The Tool enables courts and their enforcement agencies to have a better understanding of what information they, along with other related entities, should be collecting in order to effectively monitor and improve performance and service delivery over time.
- Application of the Tool can serve to enhance the capacity of the client. Engaging with the client during implementation, explaining why particular data sets are being collected and how they can be used, and providing lessons learned from other well-performing judiciaries together provide the client with valuable information and opportunities to discuss improvements that can serve to increase the client's own capacities to affect changes.

We are excited that many other courts and enforcement agencies are interested in applying this instrument and envision that it will continue to evolve over time. We know that understanding courts and their enforcement operations has many facets, and our combined experience will continue to shape the Tool and other future assessment lessons that we hope to capture and share to advance court performance and service delivery beyond current best practice standards.

Preparing for the Assessment

To prepare for the assessment, the team must engage with the client in detailed discussions about results expectations, the purpose, scope, and objectives of the assessment, and what the client should expect to learn and provide throughout the process.

These discussions are important to ensure that there is clarity about what the assessment can deliver, what the time and resource needs are, and what involvement from the client will be needed. At this stage, the team should come out of the discussions with a clear picture of the availability of the various pieces of information and data from the courts and other agencies, the need for supplemental data collection, and client capacities to support or facilitate the assessment. The team should also consider the need for and availability of additional local consultants to support data collection and an evaluation of the legal framework and/or to coordinate meetings and interviews.

Particularly when more than one court location is the focus of the assessment, it will be important to clarify accessibility questions and the need for formal authorization to share data, conduct observations and interviews, and determine whether all courts that are handling commercial cases have to be involved or if a representative sample would suffice and how such a sample should be selected.

In preparation, the team should request case data on the prospective court in order to determine whether that court can be assessed (e.g. the court should have a large enough caseload to draw reliable conclusions about the processing of commercial cases). In those cases where the court does not meet the requisite criteria, the client must select another or an additional court to better reflect the overall caseload of the commercial courts and allow the team to conduct its analysis.

Preliminary meetings with management. Once the court(s) to be included have been agreed upon and selected, the Bank team is advised to hold preliminary discussions with the client prior to beginning of the assessment in order to:

- Identify and agree to the scope of the assessment (i.e., how limited or comprehensive it will be)
- Outline the assessment steps and requirements, as well as discuss the planned process in detail and answer any questions the client may have
- Outline the resources and level of engagement required from the client (and individual courts and other agencies) to complete the assessment and obtain full support
- Agree upon a client focal point (person or committee) that the team can rely on for support throughout the assessment
- Discuss data availability and access to court and agency information issues
- Provide a timeline for the deliverables (i.e., the draft and final reports)
- Agree upon a dissemination strategy and communications approach

Plans and material for continuous client communication and feedback. The Bank's approach is to closely engage with the client throughout the assessment process. Keeping the client apprised on the progress and engaging in a dialogue about the initial findings and improvement needs are important to building the capacity of the client and paving the way to faster implementation of reform. In some instances, the client may even begin making changes before the completion of the assessment, using the partial findings and suggestions provided by the team. This approach also works to build trust, ultimately facilitating the completion of the assessment. In the interests of clarity and consistency, it is helpful to prepare a one-page summary outlining the purpose, methodology, and envisioned timelines to share with staff and others who will be involved in the assessment.

Identification of client counterpart and assessment coordinating individual or team. Coordinating the data collection process can be time consuming and requires a high level of engagement with the client. To facilitate this process, the Bank team is advised to request that the client identify an individual or team of people with whom the Bank team can coordinate the various assessment tasks. The more courts that are included in the assessment across various locations, the more important it is to have a clear coordination mechanism in place that facilitates data collection and client feedback communication. The client’s coordinating team/individual should have access to judges and court/other relevant staff and counterparts, and the capacity to arrange for interviews and meetings, coordinate with the Bank’s team missions, and work on the ground and via e-mail.

NOTE: The team is advised to use the form below to ensure contact information is up-to-date, especially when more than one entity is involved. When completed, the team should also share it with the client to facilitate communication between all those involved in the assessment.

ASSESSMENT PREPARATION	
Assessment Contact Information	
1	Address of court/judiciary
2	Official working days & hours
3	Key counterpart -Name: -Title: -Telephone #: -Mobile #: -E-mail:
4	Ministry of Justice (MOJ) or judiciary coordinating committee/ group/individual Individual contact info: Members of committee (names and best way to contact each): 1) 2) 3) 4) 5) 6) 7) 8) 9) If the committee meets on a regular basis, state the frequency of the meetings: Key contact on the committee & contact info:

5	World Bank Assessment Team <i>(Bank team contact information should be provided to the client to facilitate communication.)</i>	Name: contact info: Name: contact info: Name: contact info: Name: contact info: Name: contact info: Name: contact info: Name: contact info: Name: contact info:
6	Court(s)/agencies to be assessed (to be determined by the client with input from the Bank, as needed)	

PHASE I

Legal Framework Review

Phase I of the assessment focuses on reviewing and assessing the legal and regulatory framework that governs the handling of commercial cases. This step allows for a better understanding of how the laws and regulations may be affecting—negatively or positively—the processing of commercial cases as well as user access.

IMPLEMENTING PHASE I

The successful completion of this portion of the assessment depends on two factors: 1) access to all relevant laws, regulations, and internal rules in a language that is accessible to the team; and 2) the assessment team's legal expertise and capacity to analyze and map legal processes as envisioned by the law. This phase can begin in conjunction with Phase II. Obtaining copies of laws and regulations may be difficult and time consuming in many countries, as some judiciaries may not have or be able to provide laws electronically, while others may even have difficulty providing them on paper. In many cases, the laws will not exist in English or another language assessment team members can read well, which will require the allocation of additional time and resources for translation. Once available and depending on the complexity of the country's legal framework and the legal expertise of the team, an analysis of the legal framework will be conducted, the results of which will serve as the basis for the recommendations.

Phase I is a significant part of the assessment in that it clarifies how and why processes are carried out in a certain way. It also determines whether the actions of the court or enforcement agency are legally required or internally created; how users have access (including access to interpretation, legal assistance, and fee waivers); and whether the legal framework is outdated, does not support modernization (including electronic solutions) and reform activities, and is not in line with best practices. In addition, understanding the legal framework prior to conducting the process mapping required in Phase III will not only expedite the latter, but also enable the identification of targeted changes or improvements both legally and administratively.

In some cases, the review may involve an examination of particular laws and/or draft legislation. This may be requested by the client, who is looking for advice on certain draft legislation and/or to better understand the impact of some proposed legislation. It may also be necessary when a draft law is likely to be passed in the foreseeable future to ensure that the assessment is still relevant.

METHODOLOGY

1. Obtain copies of all laws and regulations, including drafts that may be pending final adoption, selected decrees and court rules, and any other legally binding orders, etc.
2. Conduct a review and analysis of the legal and regulatory framework.
3. Develop a process map for each major case event (i.e., filing, notifications, etc.), based on the legal requirements.

MAJOR FACTORS TO BE CONSIDERED

- The review should be conducted by a team member with a legal background/education and good knowledge and understanding of the litigation process in general, and by someone who understands the organizational impact of the legal framework.
- The legal review should be completed prior to conducting the “Case Workflow” (i.e., before process maps of the actual as-is process required in Phase III are developed).
- The legal review and analysis is time consuming and may require an assessment of the laws in multiple languages.
- The potential for delays in this phase exists when laws must be translated into English.
- Identifying and engaging with skilled translators should be considered early on in the process.
- The team should be cognizant that developing a process map for each process that is based purely on the law already requires considerable time; depending on the complexity of the laws and the processes, this can take anywhere from a few days to a few weeks.

A. Laws and Regulations to be Reviewed

PURPOSE

In order to have a solid understanding of the legal framework governing the handling of commercial cases, specific laws and regulations that address the various processes must be reviewed and analyzed.

- The list provided below is **illustrative**, and additional laws may need to be obtained and reviewed, depending on the nature of the legal framework in each country.
- The team should request not just the current laws, regulations, and internal rules, but also any pending drafts.
- Where official legal commentaries exist, they should also be requested and reviewed to assist in the analysis of the current situation and options for changes.
- The list provides the assessment team with an overview of the type of issues that must be assessed.
- The list is a tool that allows the team to manage the legal review process by keeping track of which laws/regulations or local decrees or orders were obtained. The list should be adjusted based on what is needed in a particular jurisdiction.
- The list should be shared with the client to facilitate the collection and review process and to allow the team and client counterparts to manage and discuss progress.

PHASE I – LEGAL FRAMEWORK REVIEW – REQUEST FORM

Laws & Accompanying Regulations (federal and local, if applicable)		Check All That Are Available	
		English (or other language)	Official Language
1	Constitution		
2	Civil (commercial) and enforcement procedures		
3	Notaries		
4	Company law		
5	Alternative dispute resolution (ADR)/ mediation/arbitration/ reconciliation laws		
6	Experts		
7	Evidence (commercial and civil)		
8	Court fees		
9	Electronic transactions		
10	Electronic signatures and payments		
11	Law establishing commercial courts		
12	Commercial procedures		
13	Lawyers/regulation of the law practice		
14	Interpretation		
15	Bailiffs (enforcements officers and notifiers)		
Ministerial, Supreme Court, Judicial Council Decrees/Orders		English (or other language)	Official Language
1	Establishing commercial courts		
2	Establishing judicial panels		
3	Establishing qualifications required of commercial judges		
4	Establishing time standards (for case processing)		
5	Establishing performance standards for judges		
6	Governing ADR services provided (if any)		
7	Local court rules (commercial courts)		
8	Establishing case processing procedures and guidelines		
9	Regulating the practice of law		
Administrative Orders/Decrees		English (or other language)	Official Language
1	Establishing the commercial courts		
2	Establishing the qualifications of mediators or whoever is conducting ADR		
3	Organizational structure of the courts		
4	Qualification of judges (if any)		
5	Qualifications/terms of reference for ADR providers (if any)		
6	Establishing the performance evaluation process for judges		
7	Establishing the performance evaluation process for administrative staff		
8	Other		

Policies & Procedure Manuals		English (or other language)	Official Language
1	Court services/court support		
2	Notaries		
3	Registration		
4	Notification		
5	Hearings		
6	Execution/enforcement		
7	Sale of property (auctions, etc.)		
8	ADR (if offered)		

B. Legal Analysis

PURPOSE

The purpose of this review is to better understand the court’s legal/legislative environment and how the laws and regulations may be affecting, negatively or positively, the processing of commercial cases.

WHEN UNDERTAKING THIS REVIEW, THE TEAM SHOULD:

1. Pay particular attention to what the laws allow or require with regard to each step in the case process, from registration to the enforcement of judgments and sale of property.
2. Use the list of topics outlined below as a guide when reviewing the laws—the list points to issues that should be reviewed closely when analyzing each law.
3. Focus on identifying legislative and rule impediments to the efficient processing of cases, that is, timelines, rules for postponements, complaints and appeal options, etc.
4. Communicate with the client, as needed, to obtain clarifications. In many cases, the laws are written in such a way that it is difficult for team members to fully understand what is intended by certain provisions. Having open communication channels with counterparts and access to judges or others with a good understanding of the laws is necessary for successfully completing this task.

ONCE COMPLETED, THIS REVIEW WILL:

- A. Serve to facilitate the analysis of how the laws are impacting the processing of commercial cases by identifying legally created bottlenecks and ineffective procedures throughout the entirety of the case process, from filing to enforcement
- B. Enable the assessment to analyze the laws in light of international best practices and provide targeted recommendations
- C. Enable the team to develop legal “process maps” outlining in detail the legal procedural requirements
- D. Allow the team to more efficiently conduct an on-site “walk-through” or a Phase III process-mapping exercise and verify and identify whether the processes are legally required or a result of internally created practices

GUIDANCE

The form below is intended to draw the team’s attention to particular issues within each law that may affect the efficiency and effectiveness of case processing. The list of issues is not necessarily inclusive but is intended to serve as a guide to the team while conducting the legal review and analysis.

PHASE I – LEGAL FRAMEWORK REVIEW

1. Civil Procedures Law/Code

Key Areas to be Assessed	
Enactment & review	<ul style="list-style-type: none"> - When was the law enacted? - Has the law been amended? When? - Which entity(s) is responsible for reviewing and amending laws? - Does the law have implementing regulations? - How are laws amending laws—describe if possible.
Jurisdiction	<ul style="list-style-type: none"> - Jurisdiction of the courts: threshold (major, minor, expedited courts, etc.) and subject matter - Commercial court—subject matter and threshold for minor and major cases
Definition of commercial dispute	Does the law define what constitutes a commercial dispute?
Filing/registration procedures	<ul style="list-style-type: none"> - Documents required, including power of attorney (POA) and notarized documents - Evidence required at time of filing, if any - Where registration is conducted and the filing process - Fees assessed and by whom? - Electronic payments allowed? - Electronic filing allowed? - Judicial panel assignment—how are cases assigned? How are judges assigned? - Time frame for first hearing—when and how is it set? - File completion review undertaken? If yes, who reviews the files? What is the process? - Time frame for notification - Documents required for notification request - Process for alternative notification? Electronic notification? - Postponement allowed? Any limitation on granting postponement? - Can a party request an expert at the time of filing? What effect, if any, does the request have on the case process?
Power of attorney (POA)	<ul style="list-style-type: none"> - Requirement for executing a POA - Process required - Documents required - How long does it take to execute a POA? - What is the cost, and how is it calculated and by whom?
Notarized documents	<ul style="list-style-type: none"> - Must contracts be notarized? - If yes, how are contracts notarized? What is the cost and how is the cost assessed? - Any other documents that must be notarized in order for the courts to accept them?

<p>Expedited cases</p>	<ul style="list-style-type: none"> - Does the law define expedited lawsuits? - Where does a party file the case and what is the filing process? - What documents are required at the time of filing? - Is there a court dedicated to handling an expedited case? - Expedited judges—do they exist? - Are judges assigned to expedited courts on a permanent or temporary basis? - What are the powers/authority of the court? - What are the fees, if any, that are required to file an expedited case? - Request for pre-judgment attachment—how can a party request it? What is the process and cost? Where? What effect does the request have on the case process?
<p>Pre-judgment attachment (movable property)</p>	<ul style="list-style-type: none"> - When can a party request it? - What are the documents required? - How to request attachment and where to file/make the request? - What is the effect of requesting attachments on the first hearing date and notification process? - Attachment process—how is property attached and by whom and when (time limitation)? - What are the fees? How are they assessed and by whom? - Where is the property stored? - If property is not moved, how is it protected? - Is a custodian appointed to guard the property that was not moved? How is the custodian appointed and by whom? Are custodians paid for their services?
<p>Notification procedures</p>	<ul style="list-style-type: none"> - What documents are required to begin notification? - What is the process for notifying defendant(s)—who and how? - What are the time limitations for completing notification? - What is the effect of unsuccessful notification? - Alternative notification methods (publication and other methods)—what is allowed, what are the requirements, what are the process and procedures, what is the role of the judge, if any, in the process? - E-notification—is it provided for and allowed?
<p>Hearings</p>	<ul style="list-style-type: none"> - What types of hearings are provided for? - How are hearings scheduled? And by whom? - What kind of notification is provided? E-notification allowed? Phone calls or text messages allowed? - What is the effect of parties not appearing? - Postponements—do they require a hearing? - What time standards are in place, if any?

Continuances	<ul style="list-style-type: none"> - Does the law define when they can be granted? Any requirements that must be met before granting? - Are there limitations for granting continuances? - What kind of notice is required to parties? - What is the effect of granting a continuance? - How are continuances requested—by the parties? By court?
Judgments	<ul style="list-style-type: none"> - What is the process for issuing final judgments? - What are the time limitations for issuance of judgments? - How are judgments issued? Process for announcing the judgment—who and how? - How do parties receive notice that a judgment is issued? - Signing the judgment—who must sign and what is the process? - When is a judgment executable? - How can parties obtain a copy of the judgment? - Are there any restrictions as to who can obtain a copy, if any? - Are judgments published? E-publication provided for?
Appeals	<ul style="list-style-type: none"> - Are appeals allowed in all cases? - What are the time frames for appealing a first-instance-level case? - What are the time frames for appeals of an appellate court judgment?
Execution/enforcement	<ul style="list-style-type: none"> - What is an executable judgment? - What is the process for beginning the procedure? Which agency is responsible? - Expedited execution—if available, what is the process? - If and when execution requested, does the request constitute a new case? - What documents are required to file for execution of judgment? - What is the cost? How is it assessed and by whom? - Process for executing a judgment (movable property)—how and by whom? - Does the law allow for private enforcement? If so, what is the process and who oversees it? - Does the law clarify when a judgment has been successfully executed? - Can parties offer a settlement? Alternative settlement? If yes, when and how? - Attached property—does the law provide for how it is moved and sold? - Auction/sale of property to satisfy a judgment—when, who, and how? - Is the auction undertaken by the court (who) or by private auctioneer? - Does the law provide guidelines on what is allowed or required if the auction is not successful? Can the auction be postponed or held again? What are the time frames? - Distribution of proceeds of a sale—who, how, and when?

Translation/interpretation	<ul style="list-style-type: none"> - Are the courts required to provide translation services to litigants who can't communicate in the official language of the court? - Who is required to make the request? - Who bears the cost of the translation?
2. ADR Law	
Enactment & review	<ul style="list-style-type: none"> - When was the law passed and when was it last amended? - Does the law have implementing regulations?
Services	<ul style="list-style-type: none"> - Does the law allow for the use of ADR mechanisms? - If yes, which services (mediation, arbitration, etc.) are provided for and are they mandatory? - If ADR is mandatory, when is it required in the process? - What type of cases are subject to ADR? - Does the law provide for court-annexed and/or court-provided ADR services? If yes, which type?
Cost	<ul style="list-style-type: none"> - Are ADR services provided free of cost or are they fee based? - If the law provides for more than one type of service, then what is the cost for each? - If cost based, then how are the fees calculated and who pays? - Are e-payments allowed?
Mediation	<ul style="list-style-type: none"> - Is it voluntary or mandatory? - If voluntary, what is the authority of the judge, if any, in recommending it? When does it take place? - If mandatory, then when is it required? - Does the law provide for a timeline for completion? - If mediation fails, what happens to the dispute? - Are the settlement agreements final and enforceable? Can they be appealed? - If it is not court-annexed mediation, who is mediating cases? How are mediators selected? - If it is court annexed/provided mediation, how are mediators selected? Does the law provide selection criteria? Are the criteria clearly defined? - Evaluation of mediators—does the law provide for performance evaluations? Standards?
Other ADR services (arbitration, conciliation, etc.)	<ul style="list-style-type: none"> - What is offered and how is it offered? - What types of case are handled?
Small claims court	<ul style="list-style-type: none"> - Does the law provide for small claims courts? - If yes, what is the court's jurisdiction? What is the court's subject matter and threshold? - Are the Judgments final and executable? - Can the judgments be appealed? Where and when? - Fees—are they assessed and how? - Does the court allow or provide for ADR? If so, what kind of service and what is the cost? When is it provided? What is the effect of resolving the dispute?

3. Court Fees Law	
Enactment & review	<ul style="list-style-type: none"> - When was the law passed and when was it last reviewed and amended? - Does the law have implementing regulations?
Cap on case filing fees	<ul style="list-style-type: none"> - Does the law impose a cap on filing fees in: <ol style="list-style-type: none"> 1) Civil cases? 2) Commercial cases (minor and major)? - If yes, what is the cap in each type of case?
Assessment of filing fees	<ul style="list-style-type: none"> - Are there guidelines on how to assess filing fees for each case type? - Who assesses the fees? - Are e-payments provided for and allowed? If not, how are filing fees paid?
Objecting to assessed case filing fees	<ul style="list-style-type: none"> - Are parties provided with the right to object to the fees assessed? - If yes, how and what is the process? - Who has the authority to reduce the fees?
Exemptions from case filing fees	<ul style="list-style-type: none"> - Does the law provide for any exemptions from paying filing fees? If so, what type of cases are exempted from filing fees? - What documents are required, if any, when requesting an exemption? - What is the process for requesting an exemption and who has the authority to grant it?
Waivers, reductions, and postponements of case filing fees	<ul style="list-style-type: none"> - Does the law have a waiver provision? - Does the law provide for a waiver scheme? How, what is required, how long does it take to issue a waiver, and who decides? - Does the law allow for a reduction of fees (upon request of the party)? - What is the scheme and process required to obtain a fee reduction? How, what is required, how long does it take to grant it, and who decides? - Does the law allow for a postponement of payment of fees? - If yes, what is the scheme and process for obtaining a postponement? How, what is required, how long it takes to issue a waiver, and who decides?
Payment of case filing fees	<ul style="list-style-type: none"> - How are filing fees paid? What is the process—when and where to pay? - Does the law address /allow or prohibit e-payment?
Refunds	<ul style="list-style-type: none"> - When are refunds allowed? - Who has authority to issue a refund?
Other fees	<ul style="list-style-type: none"> - Does the law provide for payment of fees for other court services, e.g., electronic filing, etc.? - If yes, list the services.
4. Evidence Law	
Enactment & review	<ul style="list-style-type: none"> - When was the law passed and when was it last reviewed and amended? - Does the law have implementing regulations?

Evidentiary Process	<ul style="list-style-type: none"> - When is evidence presented in the case? - Are hearings required to present evidence? - Does the law provide for deliberation? Cross examination of witnesses? - Does the law have standards for submission of evidence? - Does the law provide for deadlines for entering evidence into the record? - What is the authority of judges with regard to evidentiary matters? - Is there a separate law governing evidence in commercial disputes? If so, this law must be reviewed. - Does the law allow for early evidence disclosure? - What is the timeline for disclosure of evidence? - What is the timeline for evidentiary deliberation?
5. Experts	
Enactment & review	<ul style="list-style-type: none"> - When was the law passed and when was it last reviewed and amended? - Does the law have implementing regulations?
Request, selection, & appointment	<ul style="list-style-type: none"> - Who can request an expert and when (any limitation on request?) - Can the court appoint an expert on its own? - Does the judiciary employ experts as staff? - If yes, does the law provide for hiring criteria/qualifications? Evaluation criteria? - Does the judiciary keep and control a register for experts?
Expert fees	<ul style="list-style-type: none"> - Who bears the expert's fees? - How is the expert fee assessed and paid? When is it paid? - Is e-payment allowed? - If not, then how are the fees paid?
Expert Reports	<ul style="list-style-type: none"> - How are expert reports presented? In open court/hearings, what happens during hearings and can the experts be questioned by the court and/or the parties? - Does the law outline any standards for how reports are prepared and presented? - Does the law provide for deadline (time frame) for presenting reports? - Does the law allow for continuances for presenting reports? Any standards that must be met? How many continuances may be granted for this purpose? - Does the law provide for penalties for failing or delaying in presenting the report? - Are reports filed with the court clerks or are they presented in a hearing in open court, etc.? - What is the authority and role of the judge?
Performance	<ul style="list-style-type: none"> - Does the law provide for a code of conduct or practice regulating the work of experts?

6. Electronic Transaction & Signature

Enactment & review	<ul style="list-style-type: none">- When was the law passed and when was it last reviewed and amended?- Does the law have implementing regulations?
Electronic signatures	<ul style="list-style-type: none">- Does the law provide for the use of e-signatures for authenticating documents?- Does the court require e-signatures for electronic court filings?
Electronic filing	<ul style="list-style-type: none">- Does law permit court filings to be accepted in electronic format?- Does law permit court records (case files) to be maintained exclusively in electronic format?
Electronic payment	<ul style="list-style-type: none">- Does law permit the receipt of court fees and other payments by electronic transfer (e.g., credit card, debit card, electronic funds transfer)?
Electronic service/notification	<ul style="list-style-type: none">- Does law permit service of official court notices by electronic media (in lieu of paper document delivery)? Under what conditions is this capability used?

C. Process Mapping Based on the Legal Framework

PURPOSE

After having reviewed the laws, the team should next develop an initial process map depicting each step required and/or permissible by law for each case process, from registering a case to enforcing a judgment, including the required timelines.

Developing these maps will assist the team in a number of ways. It will help to: 1) clarify all legal processing requirements; 2) identify areas that may be vague and thereby potentially lead to different interpretations and applications by judges; and 3) identify areas of the laws that would need to be amended as well as areas where the courts can develop improved internal processes. Having these documents will also enable the team to conduct the subsequent “process walk-through” more efficiently and allow them to differentiate between what is legally required and what has been internally applied by the courts. (See Annex 1, Illustrative Legal Process Map)

These sets of process maps will specifically feed into three other tasks: 1) the subsequent development of the “as-is work-flow maps” for each process; 2) the overall analysis of the processes used; and 3) the development of targeted and realistic recommendations for change.

METHODOLOGY: 1) detailed review of relevant laws, regulations, decrees, orders, and court rules.

WHILE UNDERTAKING THIS TASK, THE TEAM SHOULD:

1. Allocate ample time for its completion and be very detail oriented
2. Carefully note where the laws are vague or do not address an issue altogether
3. Verify legal ambiguities with knowledgeable persons at the courts (i.e., commercial court judges)
4. Ensure that a process map is completed for all the case processes, including:
 - a) Registration
 - b) Notification/service of process
 - c) Pre-judgment attachment of movable property
 - d) Alternative dispute-resolution (ADR) services and processes if used and by type of service provided
 - e) Court hearings
 - f) Experts—request, cost, judicial authority, and process
 - g) Issuance of judgments
 - h) Execution/enforcement of judgments, including:
 - Sale of attached property by public auction
 - Distribution of the sale proceeds

The tasks outlined on the following pages are intended to aid in capturing the legal processing requirements in sequence. This information can then be more easily transposed into process maps. The lists and maps together allow for a well-developed validation process with local legal experts, a basis for a legal analysis of inefficiencies, and options for improvements.

a. Registration

REGISTRATION							
Step Description	Documents Required	Who is Responsible for Initiating Action	Who is Responsible for Completing Action	Time Limitation	Cost	Specific Article/Section in the Law	
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b. Notification

NOTIFICATION/SERVICE OF PROCESS							
Step Description	Documents Required	Who is Responsible for Initiating Action	Who is Responsible for Completing Action	Time Limitation	Cost	Specific Article/Section in the Law	
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c. Pre-judgment attachment

PRE-JUDGMENT ATTACHMENT OF MOVABLE PROPERTY							
Step	Step Description	Documents Required	Who is Responsible for Initiating Action	Who is Responsible for Completing Action	Time Limitation	Cost	Specific Article/Section in the Law
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d. ADR (if used and by type, e.g., mediation, conciliation, etc.)

ADR							
Step Description	Documents Required	Who is Responsible for Initiating Action	Who is Responsible for Completing Action	Time Limitation	Cost	Specific Article/Section in the Law	
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e. Court hearings, experts, and continuances

COURT HEARINGS, EXPERTS, AND CONTINUANCES							
Step Description	Documents Required	Who is Responsible for Initiating Action	Who is Responsible for Completing Action	Time Limitation	Cost	Specific Article/Section in the Law	
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f. Issuance of judgments

ISSUANCE OF JUDGMENTS							
Step Description	Documents Required	Who is Responsible for Initiating Action	Who is Responsible for Completing Action	Time Limitation	Cost	Specific Article/Section in the Law	
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g. Execution/enforcement of judgment

EXECUTION/ENFORCEMENT OF JUDGMENT							
Step Description	Documents Required	Who is Responsible for Initiating Action	Who is Responsible for Completing Action	Time Limitation	Cost	Specific Article/Section in the Law	
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h. Sale of attached movable property by public sale

SALE OF MOVABLE PROPERTY BY PUBLIC SALE							
Step	Step Description	Documents Required	Who is Responsible for Initiating Action	Who is Responsible for Completing Action	Time Limitation	Cost	Specific Article/Section in the Law
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PHASE II

Institutional Information

Phase II entails collecting detailed information that will serve to provide the Bank team with a foundational understanding of the organization as a whole and its capacity.

LIST OF THE TYPES OF INFORMATION TO BE COLLECTED:

- A. Organizational structure and management arrangements (e.g., organization, staffing, strategic planning, performance management, and budget)
- B. Judicial cadre and courts (e.g., judicial panels, commercial court jurisdiction, and judicial rotation, etc.)
- C. Physical facilities and infrastructure
- D. Automated systems
- E. User access to information and services
- F. Court access to user feedback

METHODOLOGY FOR COLLECTING THE INFORMATION

The Bank team will need to collect organizational documents and data and to arrange a number of targeted interviews and in-depth meetings with commercial court/bench judges, court support staff, and other administration staff as well as management teams. Based on the subject matters addressed, the team should request the assistance of the client in scheduling these meetings, provide ample notice and reasons for the meeting, and furnish a draft agenda with a summary of the subject matters to be discussed—the more detailed the information the better prepared the interviewees will be. This task is time consuming because of the difficulty in coordinating and arranging the meetings.

The willingness to meet may also be an issue due to busy schedules and a disinclination to share information with outsiders. As such, the assessment team should plan ahead by allowing sufficient time for the client to coordinate these meetings. Flexibility is required and the team must be as accommodating as possible to the judges and staff.

VERIFICATION

The information provided during the initial meetings will often have to be verified and expanded upon, and at times, additional issues may need to be clarified further. This process requires flexibility and time.

A. Organizational Structures and Management Arrangements

PURPOSE

When assessing a commercial court system, it is necessary to understand the organizational and management arrangements in place. For instance, whether the courts are managed by the Ministry of Justice or a judicial council will not only influence the type of changes recommended but will also help identify who may affect such changes and who must be interviewed during the assessment. It is critical to understand the type and extent of the authority exercised over the courts, judges, and staff; the overall organizational structure; the existing internal capacity to support efficient processes; and the interplay between the various entities within the judiciary in order to develop targeted and realistic recommendations that are based on the actual local structures, needs, and capacity.

Another significant area that must be addressed is the existence of a strategic vision and goals that the organization is aiming to achieve (i.e., whether a strategic plan is in place). Absent a strategic direction, achieving medium- and long-term improvements can be problematic, as court resources may be diverted to other priorities, which may be detrimental to achieving sustainable improvements and results. In addition to guiding the court’s activities, having clear goals is also important for setting performance standards and developing a court culture that is built on understanding and striving to achieve a unified vision.

METHODOLOGY: 1) desk review of court documents and data; and 2) interviews with judges, court staff, and other agency staff.

PHASE II – FOUNDATIONAL INFORMATION		
Organizational Structure & Management Arrangements		
1	Organizational chart of the judiciary/MOJ	Available: Not available: <i>If yes, then attach a copy of any recent or planned chart.</i> Any recent or planned changes? Yes: No: If yes, describe the changes.
2	Describe the supervision authority of the following entities/persons.	Judicial Council (if any): Court Presidents: Judicial Inspection Department: Minister of Justice: Others (explain):

3	High Judicial Council (if any)	<p>Total # of members:</p> <p>Who appoints the members?</p> <p>Are members appointed based on position held? If not, then what is the basis of appointment?</p> <p>How long (term of services)?</p> <p>What are the duties & responsibilities of the council?</p> <p>Does the council have a Secretariat?</p> <p>Support staff? How many?</p>
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Staffing

A Experts

1	Number of all judges (including commercial court judges) at the national level for at least the past 3 years	<p>Year: Total#:</p> <p>Year: Total#:</p> <p>Year: Total#:</p>
	Total # of first-instance-level judges (including commercial court judges)	<p>Year: Total#:</p> <p>Year: Total#:</p> <p>Year: Total#:</p>
2	Number of dedicated commercial court judges at first-instance level	<p>Year: Total#:</p> <p>Year: Total#:</p> <p>Year: Total#:</p>
3	Number of judges who serve on commercial courts in addition to another court (first-instance level)	<p>Year: Total#:</p> <p>Year: Total#:</p> <p>Year: Total#:</p>
4	Length of assignment at the commercial courts (first-instance level)	
5	How are the commercial court judges selected?	

6	Total number of female judges at the commercial courts	
7	Total # of appeals courts judges nationally for the past 3 years	Year: Total#: Year: Total#: Year: Total#:
8	Total # of supreme/cassation court judges	# of Judges:
9	Number of female judges by court level (for the past 3 years)	First Instance: Appeals: Cassation: Administrative: Other courts:
B Administrative Staff		
1	Total # of administrative staff at the national level	Total #: Total # of full-time staff: Total # of part-time staff: Total # of contract staff:
2	Total # of administrative staff per court level	First Instance: Appeals: Cassation: Administrative: Other courts:
3	Total # of female staff per court level	First instance: Appeals: Cassation: Administrative: Other courts:

4	Total # administrative staff per court type	Civil: Commercial: Family: Bankruptcy: Other courts:
5	Total # of female staff per court type	Civil: Commercial: Family: Bankruptcy: Other courts:
Strategic Plan		
1	Strategic plan developed?	<p>Yes: No:</p> <p><i>If yes, obtain a copy.</i></p> <p>When and how was the plan developed? Who was involved?</p> <p>What is the period that the strategic plan covers?</p> <p>Has an implementation plan(s) been developed?</p> <p>How often are implementation plans reviewed and updated?</p> <p>Who oversees implementation of the strategic plan?</p> <p>Who reports on the progress of the strategic plan, to whom and how often?</p> <p>How often is the strategic plan reviewed?</p> <p>Is the strategic plan published? Where?</p>
2	If no strategic plan is in place, what guides the judiciary in long-term planning and performance management?	Explain

Performance Management			
1	Have performance standards been developed? Explain.	For the organization? Yes: _____ No: _____ For the judges? Yes: _____ No: _____ For the support staff? Yes: _____ No: _____	
2	Has a performance management system been developed?	Yes: _____ No: _____ If yes, describe the system and whether it is fully or partially functioning.	
3	Is the performance management system automated?	Yes: _____ No: _____ If yes, describe the level of automation and function.	
Budget			
1	Fiscal year	From: _____ To _____	
2	Who holds and manages the budget (for the past 3 years)?	Year: _____ Person/entity: _____ Year: _____ Person/entity: _____ Year: _____ Person/entity: _____	
3	What kind of input do the courts have in the budget development process? How is the court's input captured/collected?		
4	What is the overall budget allocation to the judiciary for the past 3 years?	Year & allocation: _____ Year & allocation: _____ Year & allocation: _____	
5	What is the budget allocation to commercial courts for the past 3 years?	Year: _____ %: _____ amount allocated: _____ Year: _____ %: _____ amount allocated: _____ Year: _____ %: _____ amount allocated: _____	

6	What is the percentage (%) of budget allocation to:	a) staff by court type and location: b) equipment & supplies: c) other court services: d) capital investment: e) IT & automation: f) training & professional development of judges and staff: g) infrastructure: h) legal aid (if any):
7	Revenues (from court fees, etc.) —describe/list.	

B. Courts and Judges

PURPOSE

This information is collected to provide a better understanding of the human resource capacity at the commercial court(s).

METHODOLOGY: 1) review of laws; 2) review of human resources data; and 3) interviews with judges and court staff.

PHASE II – FOUNDATIONAL INFORMATION		
Courts & Judges		
A Court Information		<i>(1st Instance & Appeals Levels)</i>
1	Have specialized commercial court(s) or benches been established?	Yes: _____ No: _____
2	Were the commercial courts/ benches established by law or a decree?	Yes: _____ No: _____ <i>If yes, please attach a copy of the decree/law.</i>
3	When were the commercial court(s) or benches established?	

4	How many courts/ benches were established?	
5	What is the jurisdiction of the commercial courts/benches?	Geographic: Subject matter:
6	What is the jurisdictional threshold for commercial disputes?	Minor cases: Major cases: Other:
7	Indicate number of existing commercial courts/ benches & geographic distribution. <i>(If assessing more than one city, please list all courts in each city.)</i>	Minor cases: Major cases:
B Judicial Panel Info		<i>(Commercial Courts: First-Instance Level Only)</i>
1	Total # of judges at commercial courts (include # of female judges)	
2	Total # of commercial panels (if the court operates by panels)	Major cases: Minor cases (if the cases are handled by panels):
3	Total # of judges per panel	Major panels: Minor panels (if the cases are handled by panels):
4	Total # of support staff in all commercial courts (major & minor) by location	
5	Total # of staff supporting panels by type (major & minor)	# of staff in major panels: # of staff in minor panels:
6	To whom does the staff report?	
7	Is the staff performance evaluated by the judges?	
C Judicial Rotation/Transfer		
1	Are judges regularly rotated/ transferred between the various types of courts?	Yes: _____ No: _____ If yes, explain-
2	How often are judges rotated/ transferred?	

3	<p>What is the basis for rotation/ transfer?</p> <p>Is it based on specialization or are they rotated to other courts and panels regardless of expertise (commercial, criminal, etc.)?</p>	Explain:
4	Who recommends the rotation?	
5	Who approves the rotation?	
6	What is the minimum # of years a judge must serve in one court/ position before being rotated?	
7	On average, how many years does a judge serve in the commercial courts before being transferred to a non-commercial court?	

D Judicial Year

1	Duration	From:	To:
2	Judicial holidays	From:	To:
		From:	To:

E Training & Professional Development

Judges

1	Who/what entity is in charge of the professional development of judges (assessing needs, developing and implementing training, etc.)?	
2	What percentage of the budget is allocated to judicial training (for the past 3 years)?	Year: %: Year: %:
3	How are training needs determined/assessed?	
4	Is feedback on training needs obtained from judge?	Yes: %: If yes, how is feedback obtained? How often is feedback obtained?
5	Is there a training plan for judges?	Yes: No: If yes, specify the plan's duration. If yes, is the plan regularly reviewed and adjusted based on feedback by judges?

Preparatory training		
1	Are all judges required to complete induction/preparatory training prior to beginning their service?	Yes: _____ No: _____ If yes, describe the training and its duration.
2	Are commercial court judges required to complete preparatory training prior to being assigned to the commercial court?	Yes: _____ No: _____ If yes, describe the training and its duration.
Specialized training		
1	Do commercial court judges receive specialized training?	Yes: _____ No: _____ If yes, describe the training. If, yes, is it mandatory? If yes, how often—every year or every other year, etc.?
2	Do other specialized judges (e.g., bankruptcy, family, etc.) receive specialized training?	Yes: _____ No: _____ If yes, is it mandatory? If yes, how often?
Continuing judicial training		
1	Are all judges offered continuing training?	Yes: _____ No: _____ If yes, is the training mandatory? How often is it required? Yearly?
2	Are commercial court judges required to complete continuing training?	Yes: _____ No: _____ If yes, how often? Who provides the training?
3	Is training a factor that is considered in the judges' yearly performance evaluation?	Yes: _____ No: _____ If yes, explain.

On-the-job training (practical training)	
1	<p>Is on-the-job/practical training provided to all judges?</p> <p>Yes: _____ No: _____</p> <p>If yes, is it a part of a formalized program or is it informally implemented?</p> <p>If formalized, describe the program.</p>
2	<p>Is on-the-job training provided to commercial court judges?</p> <p>Yes: _____ No: _____</p> <p>If yes, how long do judges train?</p> <p>Is it required prior to sitting on the bench or after?</p>
3	<p>Has a mentoring program for judges been developed?</p> <p>Yes: _____ No: _____</p> <p>If yes, briefly describe the program.</p>
Overseas training	
1	<p>Has an overseas training program (where judges are provided the opportunity to train with other judges abroad) been developed?</p> <p>Yes: _____ No: _____</p> <p>If yes, describe the program.</p> <p>How long has the program been in place?</p>
Court Staff	
1	Who /what entity is in charge of professional development and training of staff?
2	What percentage of the budget is allocated to staff training (for the past 3 years)?
3	How are training needs determined/assessed?
4	<p>Is feedback on training needs obtained from staff?</p> <p>Yes: _____ No: _____</p> <p>If yes, how is feedback obtained?</p> <p>How often is it obtained?</p>

5	Is there a training plan for staff?	Yes: _____ No: _____ If yes, how often is the plan reviewed and updated?
Continuing training		
1	Is all staff offered continuing training?	Yes: _____ No: _____ If yes, is the training mandatory? How often is it required? Yearly?
2	Is training a factor that is considered in the staff's yearly performance evaluation?	Yes: _____ No: _____
3	Has a mentoring program for staff been developed?	Yes: _____ No: _____ If yes, briefly describe the program.
On-the job training (practical training)		
1	Is on-the-job/practical training provided to all staff?	Yes: _____ No: _____ If yes, is it a part of a formalized program or is it informally implemented? If formalized, describe the program.
2	Is on-the-job training provided to commercial court staff prior to serving on the court?	Yes: _____ No: _____ If yes, how long do staff members train?
3	Has a mentoring program for staff been developed?	Yes: _____ No: _____ If yes, describe the program.
Overseas training		
1	Has an overseas training program (where staff are provided the opportunity to train with other court staff abroad) been developed?	Yes: _____ No: _____ If yes, describe the program. How long has the program been in place?

C. Physical Facility and Infrastructure

PURPOSE

The condition and layout of the court’s physical infrastructure particularly impacts the efficiency of court procedures and the ease of use and access. At times, minimal changes that do not require substantial resources and effort can significantly improve the way the courts are processing cases and delivering services. For instance, establishing an information desk or relocating an existing one to an area that is visible to the public upon entering the court building, or posting additional signs in different languages, may provide the type of assistance that self-represented and other users might find very helpful. In many courts, the infrastructure capacity may also impact how the cases are processed; there may be an insufficient number of courtrooms, for example, which could contribute to delays in scheduling hearings, or the courtrooms may be located in remote areas, thus making it hard for litigants to access the court and difficult for experts and parties to appear in a timely fashion.

Having detailed information about infrastructure and service capacity is essential when analyzing what needs to improve and how.

METHODOLOGY: 1) On-site assessment.

Note: For each court building, complete the table below.

PHASE II – FOUNDATIONAL INFORMATION		
Physical Facility & Infrastructure - Court Building		
A Accessibility		
1	Is parking available for the public?	Yes: _____ No: _____ If yes, describe the condition (is parking sufficient for the public, is it convenient for users, etc.). If no, where are court users parking?
2	Were the commercial courts/ benches established by law or a decree?	Yes: _____ No: _____ If yes, provide details:
3	Does the building have security?	Yes: _____ No: _____ If yes, provide details:
4	Is the building handicapped accessible (ramps available)?	Yes: _____ No: _____ If yes, describe their condition of the ramps and if they are being used.
5	How many entrances are available for public use?	

6	Do lawyers have separate entrances?	Yes:	No:
7	Does the building have separate entrances for judges?	Yes:	No:
		If yes, are the entrances visible to the public?	
		Are the entrances for judges secure?	
B Assistance to Litigants & Lawyers			
1	Does the building have one-stop-filing of cases for court users?	Yes:	No:
2	Information desk	Yes:	No:
		If yes, how many staff members are providing assistance?	
3	Signage	Are the signs:	
		<ul style="list-style-type: none"> - Clear? - Easily seen by the public? - Available in multiple languages? - Sufficient to guide users? 	
4	Does the building have dedicated space for lawyers' use?	Yes:	No:
		If yes, is Internet access available?	
		Describe the space.	
5	Does the public have dedicated space for its use (waiting areas, etc.)?	Yes:	No:
		If yes, describe the space.	
C Condition & Features			
1	Describe the overall condition of the building.		
2	Number of floors		
3	Number of floors with courtrooms		
4	Staircases	Describe location:	
		Total #:	
		Accessibility of stairs—can they be easily found?	
		Condition of stairs	

5	Are elevators available?	Yes: _____ No: _____ Describe the condition. Are they all in working condition? Describe the capacity and if they sufficiently meet the needs of the public. Are the stairs visible and easily found by the public? Do judges have separate elevators?
6	Emergency exits	Yes: _____ No: _____ If yes, how many?
7	Fire detection/prevention system	Yes: _____ No: _____ Is the detection system in working condition?
8	Basement	Yes: _____ No: _____ Condition: _____
9	Power generator	Yes: _____ No: _____ Location: _____
10	Does the building have adequate restrooms for public use (women and children)?	Yes: _____ No: _____ Accessibility to the public: _____
11	Are there additional court buildings/annexes that have commercial courts?	Yes: _____ No: _____ If yes, how many? Location: _____

D. Automated Systems

PURPOSE

Automated systems support and contribute to the efficient processing of cases by streamlining many clerical tasks and recordkeeping activities. More importantly, automation can provide accurate court performance data that enable court managers to establish and monitor court performance goals. Another important benefit of automated systems is the ability to disseminate court and case information to litigants and the public over the Internet (this capability is assessed separately in the Access to Court Information section). The level of automation differs in every judiciary, depending on the available resources, planning, technical capacity, and strategic direction, among other factors. Detailed information must be obtained in order to determine existing

automation capacities, the types of automated services already being delivered to court users and made available to judges and court staff, and any plans for automating or enhancing current systems at the court and user levels.

Having this type of information will enable the team to analyze the current local technical capacities and to determine targeted recommendations to either develop systems and/or enhance current ones.

METHODOLOGY: 1) interviews with case management system and/or IT staff; 2) interviews with judges and court support staff; 3) review of user manuals and court staff training materials; and 4) review of development and technical systems documentation.

PHASE II – FOUNDATIONAL INFORMATION		
Automated Systems		
1	Does the judiciary have an automated case management system (CMS)?	Yes: _____ No: _____
2	Do judges use the system?	Yes: _____ No: _____
3	Does court support staff use the system?	Yes: _____ No: _____
4	Does management use the system (e.g., generate statistical reports)?	Yes: _____ No: _____
5	If a CMS is in place, do judges and staff rely on paper files in addition to electronic files	Yes: _____ No: _____ If yes, which functions are still undertaken in paper format?
CMS-Current Core Capacities		Planned For (date)
Processes		
1	Basic case filing	
2	Calculation and receipt of court fee	
3	Notification	
4	Attachment of property	
5	Experts	
6	ADR processes	
7	Hearing scheduling	
8	Judicial decisions and judgments	
9	Sale of property by public sale/auction	

10	<p>Are all these functions linked electronically in one system?</p> <p>Is data shared and are all functions linked electronically in one integrated system, or are there multiple independent systems with little or no electronic data sharing?</p>	<p>Yes: No:</p> <p>Explain:</p>	
11	<p>Which of these processes are linked in the system?</p>	- - - - -	
<p>Additional Functions Supplemental to Core Capacities</p>		<p>Exists</p>	<p>Planned For (date)</p>
1	<p>Electronic document management system?</p> <p>If so, are electronic documents regarded as official case records?</p>	<p>Yes: No:</p>	
2	<p>Is the system linked to other agencies (police, etc.)?</p>	<p>Yes: No:</p> <p>If yes, which agencies?</p>	
3	<p>Automated back-office functions:</p> <p>a) Budget & finance management</p> <p>b) Payroll</p> <p>c) Human resources</p> <p>d) Procurement and asset management</p> <p>e) Other automated functions</p>	<p>Yes: No:</p> <p>Yes: No:</p> <p>Yes: No:</p> <p>Yes: No:</p>	
4	<p>Automated judicial support functions:</p> <p>a) Laws database</p> <p>b) Court decisions database</p> <p>c) Text search functions</p> <p>d) Judicial decision-making support</p>	<p>Yes: No:</p> <p>Yes: No:</p> <p>Yes: No:</p> <p>Yes: No:</p>	
5	<p>Performance management reports</p>	<p>Yes: No:</p>	

6	Key reports generated by the CMS	<p>Types</p> <ul style="list-style-type: none"> - - - - - - - <p>How frequently are the reports generated?</p> <p>Who is using the report(s) and for what?</p> <p>Are court management decisions informed by CMS reports?</p> <p>Are any report(s) published for public review/access?</p>
CMS Development		
1	<p>Was the CMS developed in-house or was its development outsourced?</p> <p>Who/what entity is in charge of developing the CMS?</p>	
2	<p>What software platforms are used (e.g., database management system, programming language/environment, other key software products employed)?</p>	
3	<p>Were end users (judges/court staff) involved in the development of the CMS?</p>	<p>Yes: _____ No: _____</p> <p>If yes, explain how they were involved.</p>
4	<p>If no CMS is in place, are there any plans to develop a system?</p>	<p>Yes: _____ No: _____</p> <p>Explain.</p>
CMS Enhancements/Upgrades		
1	<p>Who is in charge of upgrading the CMS?</p>	
2	<p>Has the judiciary established a mechanism for obtaining user feedback (from judges, staff, and litigants)?</p>	<p>Yes: _____ No: _____</p> <p>If yes, explain the mechanism used (e.g., focus groups, working groups, etc.).</p>
3	<p>Describe the specific automated systems improvements or upgrades that are planned during the next 12 months.</p>	

E. User Access to Information

PURPOSE

Providing access to information (i.e., court services and procedures, laws, required forms, etc.) to lawyers and litigants, especially those who are not represented, can improve their experience at the courts as well as help reduce delays and increase transparency and accountability. Having access to information educates users and allows them to better understand how to navigate the courts, which may in turn facilitate the work of the judges and staff and increase user trust.

The type of information collected in this section will enable the team to identify what information is currently being provided to the public; how it is provided (i.e., in traditional paper documents or electronically, online, etc.); and whether there is a strategy and mechanisms for identifying and meeting the needs of the court users, among other objectives.

METHODOLOGY: 1) website assessment; 2) court information/customer services center or desk assessment; 3) interview with court staff and court users; and 4) observations.

PHASE II – FOUNDATIONAL INFORMATION	
1. User Access to Information <i>(paper & electronic formats)</i>	
Does the judiciary have a website?	Yes: _____ No: _____ URL: _____ Language(s) offered in website content: _____ List the categories of information provided to court users: - _____ - _____ - _____ - _____ - _____
Who is responsible for maintaining and updating the website?	_____
How often is the website updated?	_____
Does the website provide users with access to court forms?	Yes: _____ No: _____ a) If yes, which forms are available? b) Are the forms clear and easy to understand?

<p>Does the website provide users with access to informational materials explaining court processes and filing requirements, etc.?</p>	<p>Yes: _____ No: _____</p> <p>a) If yes, describe what is provided.</p> <p>b) Are the documents clear and easy to understand?</p>
<p>Does the website provide access to laws?</p>	<p>Yes: _____ No: _____</p> <p>If yes, what is available and in which languages? List.</p>
<p>Are court judgments published on the website?</p>	<p>Yes: _____ No: _____</p>
<p>Does the website allow for creating a unique and private user profile and for editing the profile?</p>	<p>Yes: _____ No: _____</p>
<p>Are users provided with access to e-services?</p>	<p>Yes: _____ No: _____</p> <p>a) If yes, what type of e-services?</p> <p>b) Describe (e.g., e-filing, access to case information, etc.).</p> <p>c) Are the submitted electronic forms automatically processed by the CMS?</p> <p>d) How long have the services been provided?</p>
<p>Do court users have access to e-services for routine case-related correspondence?</p>	<p>Yes: _____ No: _____</p>
<p>Does the system support official court communication with customers via e-mail, text messages, Twitter, Facebook, or other electronic social media?</p>	<p>Yes: _____ No: _____</p> <p>If yes, what modes are supported and in which languages?</p>
<p>Are court judgments published on the website?</p>	<p>Yes: _____ No: _____</p> <p>If yes, what is available and in which languages?</p>

2. Non-Electronic Access

<p>Do court users have access to information in <i>paper format</i>?</p>	<p>Yes: No:</p> <p>a) If yes, what is available (informational brochures, forms, etc.)?</p> <p>b) Is the information available in multiple languages? Which?</p> <p>c) Is it clear and easy to understand?</p> <p>d) Are courts users utilizing the information (based on observations)?</p>
<p>Do court users have access to laws in <i>paper format</i>?</p>	<p>Yes: No:</p> <p>a) If yes, what is available and in which language? List.</p> <p>b) Are the laws easily accessible to users (and for free)?</p>

3. Access to Services/Assistance

<p>Do court users have access to a customer/information service desk?</p>	<p>Yes: No:</p> <p>a) Is the Information Desk easily seen and found upon entering the building?</p> <p>b) Describe its condition.</p> <p>c) Do the desk staff have access to an automated system?</p> <p>d) How many staff members are manning the desk?</p> <p>e) What is the function of the staff?</p> <p>f) Do staff members speak more than one language?</p> <p>g) Do staff members appear to be helpful to the public?</p> <p>h) Are they courteous?</p> <p>i) Have the staff members been trained in customer service?</p>
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Do users have access to a law library?	a) Litigants: Yes: _____ No: _____ b) Lawyers: Yes: _____ No: _____
Do users have access to a daycare or dedicated area for children?	
4. Other	
Does the judiciary have a Communication Department/ Divisions?	Yes: _____ No: _____ a) If yes, describe duties & responsibilities of the Department. b) Total # of staff: Management : _____ Support staff: _____ c) What type of collaboration do they have with other government entities?
Has a Communication Plan and/or Strategy been developed?	Yes: _____ No: _____ a) Who is responsible for implementing the Plan? b) Is the Plan reviewed regularly? How often?

F. Court Access to User Feedback

PURPOSE

To ensure the delivery of services that meet the needs and demands of users, courts must have access to regular feedback from litigants, lawyers, and the business community. By utilizing various methods and tools such as user surveys, focus groups, etc., the court is able to not only identify what is needed but also address any problems or issues as they arise more quickly, thus enabling the delivery of more effective services. User feedback is important for both regularly identifying needs and obtaining feedback prior to launching new services or tools. Getting this type of feedback allows the court the opportunity to fine tune the service/tool before launching it while also educating the public on the utility and benefit of using the Tool. Engaging with users on a regular basis is also beneficial for generally raising their awareness of the suite of services provided or planned for by the court.

METHODOLOGY: 1) interviews with court staff, lawyers, and members of the business community; and 2) document review (surveys, communication strategy, etc.).

PHASE II – FOUNDATIONAL INFORMATION

Court Access to User Feedback

1	Does the judiciary obtain feedback from court users?	<p>Yes: _____ No: _____</p> <p>If yes, how? (Describe methods/tools used.)</p> <p>-</p> <p>-</p> <p>-</p> <p>-</p> <p>How often is feedback obtained and analyzed?</p>
2	Does the court obtain feedback prior to launching new services and tools?	<p>Yes: _____ No: _____</p> <p>If yes, describe.</p>
3	Does the court utilize user surveys?	<p>Yes: _____ No: _____</p> <p>a) How often are they administered?</p> <p>b) Are they developed and administered in-house or is this activity outsourced?</p> <p>c) What issues are usually surveyed?</p>
4	How are the user survey results used by the court?	
5	Are the survey results published?	<p>Yes: _____ No: _____</p> <p>If yes, are they published on the website? Annual reports?</p>
6	Does the court use focus groups?	<p>Yes: _____ No: _____</p> <p>a) If yes, how often are they held?</p> <p>b) What issues have been addressed by focus groups?</p>
7	Does the judiciary have a mechanism for engaging with the legal community?	<p>Yes: _____ No: _____</p> <p>Roundtable discussions?</p> <p>Focus groups?</p> <p>Informal meetings?</p> <p>Conferences?</p>
8	How, if at all, does the judiciary engage with the business community?	

PHASE III

WORK PROCESSES

Phase III focuses on obtaining on-site, detailed information on how commercial cases are actually processed, from the registration of a case to the enforcement of a judgment, at each court location.

The information compiled will supplement the legal review and analysis completed in Phases I and II and serve to provide the team with a more complete and realistic picture of the current processes, practices, systems, and resources that are in place.

The information obtained in this phase will also enable the team to develop an “as-is” picture of every court and enforcement process, which will clarify actual bottlenecks and support the development of recommendations that address not just the legal frameworks but administrative court processes and practices also, as well as local variations among the courts and agencies assessed.

METHODOLOGY

1. Conducting a “walk-through” for each process from case registration to completion of the enforcement of judgments
2. Capturing detailed information on the scope of services, systems, staffing capacity, and infrastructure
3. Verifying the information obtained during the walk-through
4. Developing the “as-is” process map for each process, capturing user action as well as court action at each step

A. The Walk-Through

PURPOSE

On-site review of how a case is processed throughout the court is a necessary element, without which the final analysis will not be detailed enough to provide practical and realistic recommendations. This part is especially important for capturing what court users will experience, and it maps actual processes used on the ground as opposed to guidelines or perceptions.

To obtain this information, the team should conduct a walk-through whereby members will essentially pretend to be a party that is filing a case, attending hearings, enforcing a judgment, etc. Detailed information on the actions that staff members and judges are using to complete these processes should also be captured during the walk-through. The purpose of the walk-through is twofold:

1. To enable the team to develop the actual work flow maps; and
2. To obtain information on the accessibility of supporting systems, staffing capacity, infrastructure, and actual user experience.

PREPARATION

The team is advised to discuss this approach in detail with the client. Because the client must dedicate some time and effort to this part of the assessment (e.g., staff to accompany the assessment team and arrange and participate in meetings), it is important to fully explain in advance what will be required of the client and how long the process may take. Client engagement throughout this task is essential. An initial meeting with the relevant unit managers to explain the purpose and type of information to be collected is helpful before the process begins.

CONDUCTING THE WALK-THROUGH

The team must do the following:

1. Go step-by-step through the entirety of a commercial case process (from filing to notification to enforcement of judgments, etc.).
2. Observe and inquire as to how processes are undertaken and completed; who is responsible for completing a process and decisions; where actions and decisions occur; how long it takes to complete a process; the documents required; and the cost associated with the particular process and how and when payment is made.
3. Capture all internal processes used by the court staff.
4. Capture all actions that users must take to complete each process.

Additional Information. The team must also observe and gather information pertaining to actual infrastructure and human resource capacities, among other features. This information, which can be captured using the form below, is intended to provide a full and realistic picture of not only the processes but all supporting systems and resources in place. Court infrastructure and resources often tend to significantly influence processing ease and user experience. Having all of this information will form the basis of the overall analysis, leading to the development of targeted and locally relevant recommendations.

Verification. The team will capture many processes and other supporting information from different sources, some of which may have to be verified. Verification should be undertaken by meeting with individual staff members and judges and asking for clarification or further explanation. Ensuring that the information gathered is reliable and correctly reflects what is happening on the ground will require advance planning with the client as well as flexibility in setting up meetings and accommodating the staff's schedules. The team should allocate ample time for this task.

METHODOLOGY: 1) observations; 2) staff queries; 3) collection of forms and templates used by the courts; and 4) screen shots of processes as captured by the automated CMS.

TEAM COMPOSITION

The team should include at least two staff members with knowledge of court processes in order to produce two particular forms (attached below for each process):

1. One that captures information on infrastructure and service capacity; and
2. A second that is intended to outline all the steps required to initiate and complete a process.

Information for both forms will need to be collected simultaneously by at least two team members.

1. Filing/Registering a Case

PURPOSE

The process of registering a case may be entirely initiated and completed electronically in some judiciaries. In others, it may require litigants and lawyers to go to the courthouse, obtain certified copies of power of attorney and/or contracts, and interact with more than one court staff in different locations in order to simply file a case. The efficiency with which a court handles this initial step depends on the legal requirements, internally created procedures, level of automation, and capacity of staff, among other factors.

In order to fully understand how filing is undertaken in a judiciary, the quality of the support systems provided to litigants, and how efficient and effective the process is, detailed information about what is required of parties and what is provided by the court must be gathered and analyzed. In addition to enabling the team to conduct a thorough analysis, this information will also support the development of a reliable “as-is” flow chart and feed into the overall analysis.

METHODOLOGY: 1) observation; and 2) interviews with staff, judges, business lawyers, and litigants.

a. Scope of services and capacity

(Additional copies of this form should be made and completed for each building housing commercial courts.)

PHASE III – ON-SITE DATA COLLECTION	
Main Court Building - Entrance	
1	Is the building accessible to handicapped persons? Are ramps available to users? Yes: _____ No: _____
2	Describe the overall condition of the building and number of floors, stairs, and elevators.
3	Is there an Information Desk? Yes: _____ No: _____
4	Is the staff helpful and providing information to court users? Yes: _____ No: _____
5	Is informational material about court/ processes available to the public? In what formats? Yes: _____ No: _____ If yes, describe.
Filing a Case	
1	Is e-filing provided? Yes: _____ No: _____ If yes, what options are provided to court users and lawyers? What is required to access e-filing (of court users and lawyers)? What is the cost for using e-filing, If any?

2	Is there a one-stop filing?	Yes:	No:
		If no, describe.	
3	Is the filing process automated or manual?	Yes:	No:
		If no, describe.	
4	Is e-payment of court fees available?	To Lawyers:	
		To Parties:	
5	Are e-payment options available to indigent users?	Yes:	No:
		If yes, describe.	
6	Once a case is filed, do users have electronic access to case information?	Lawyers:	
		Parties:	
7	Signage	Are signs available throughout the building?	
		Yes:	No:
		Are the signs clear?	
		Yes:	No:
		Are the signs easily read and understood?	
		Yes:	No:
		What is the language of the signage:	
		Are the signs easily found?	
		Yes:	No:
8	Is there a lawyer's lounge/waiting area?	Yes:	No:
		-Seating capacity:	
		-Access to the Internet:	Yes: No:
		PC accessible to lawyers?	Yes: No:
		-If yes, how many PCs?	
		If any services are provided to the lawyers, describe:	

9	<p>Is there a waiting room/area available for court users?</p>	<p>Yes: No:</p> <p>If yes, is there more than one room?</p> <p>If yes, where is the waiting room located? Can users easily locate it?</p> <p>Describe the room's condition.</p> <p>Are PCs available?</p> <p>Is there Internet accessibility?</p>
10	<p>Is typing support available for court users to complete their documents electronically?</p>	<p>Yes: No:</p> <p>Where is the typing area located?</p> <p>Can court users find it easily?</p> <p>Describe the overall conditions.</p> <p>Is the service free or cost-based?</p> <p>Are printers available?</p> <p>Are the printers in working condition?</p>
11	<p>Are photocopiers available to court users?</p>	<p>Yes: No:</p> <p>If yes, how many are available?</p> <p>Describe their condition.</p> <p>Can users use them for free or are they fee-based?</p>
12	<p>Are there additional court buildings/annexes that house commercial courts?</p>	<p>Yes: No:</p> <p>If yes, how many?</p> <p>Location:</p>

b. Workflow: Registration

(Detail every step required of a party and court staff to successfully file/register a new commercial case.)

PHASE III – ON-SITE DATA COLLECTION							
Filing/Registration							
Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?	
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2. Notification of Parties/Service of Process

PURPOSE

The process of notifying/serving parties can be fraught with delays that negatively impact the overall efficiency of the case process. Efficiency in serving parties depends on a number of factors, including existing legal requirements and internally developed procedures, as well as the lack of a reliable postal/address system in some countries, where people must rely exclusively on the use of post office boxes, which is problematic when attempting notification.

In order to fully understand how notification is carried out and its impact on the overall case process, detailed information that realistically and accurately reflects the way in which the judiciary is providing notification to litigants must be reviewed.

METHODOLOGY: 1) personal observation; and 2) interviews with staff, judges, litigants, and lawyers.

a. Scope of services and capacity

PHASE III – ON-SITE DATA COLLECTION	
Notification	
1	<p>Who is responsible for notification?</p> <p>-Court?</p> <p>-Litigants?</p> <p>-Both?</p> <p>Explain</p>
2	<p>Is notification outsourced by the court to a private entity?</p> <p>Yes: _____ No: _____</p> <p>Describe.</p>
3	<p>Is notification automatic after filing is completed or must a separate request be made?</p>
4	<p>Is e-notification allowed?</p> <p>Yes: _____ No: _____</p>
5	<p>Is the notification office at the courts located in close proximity to where filing was completed?</p> <p>Yes: _____ No: _____</p> <p>Describe.</p>
6	<p>Does the number of notification staff appear to be sufficient?</p> <p>Yes: _____ No: _____</p> <p>Describe.</p> <p><i>Please indicate the total number of staff.</i></p>
7	<p>What are the qualifications and requirements for becoming a notifier?</p>

Training	
1	What type of training do notifiers receive—induction and ongoing training?
2	Who provides the training?
3	How are the training needs determined? By whom and how often?
4	Has a training plan been developed? Yes: _____ No: _____ If yes, describe.
Performance	
1	Has the court developed performance standards for notifiers? Yes: _____ No: _____ If yes, describe.
2	Who supervises the performance of notifiers?
3	How are notifiers evaluated?
4	Are notifiers evaluated regularly? How often?
Notification Process	
1	Are the notifiers using any IT equipment in their work (iPad, etc.)? Yes: _____ No: _____ If yes, describe.
2	How are addresses verified?
3	Has an automated system for notifiers been developed and is it being used? Yes: _____ No: _____ Describe the functions of the system.
4	Describe the notification requirements. Who can accept requests? What is the maximum number of attempts? Describe the use of alternative notifications.
5	What is the cost, if any, for notification?
6	What is the cost for alternative notification and who bears the cost?
7	Is e-payment available for paying notification fees? Yes: _____ No: _____
8	Is the automated system linked to other court entities? Yes: _____ No: _____ If yes, describe.
9	Once notification is completed, how are the plaintiff and the courts notified?

10	How are the parties notified of hearings and case events after the initial notification that a case has been filed?	
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b. Workflow:

(Detail every step required of a party and court staff to successfully complete the notification process.)

PHASE III – ON-SITE DATA COLLECTION							
Notification							
Step	Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?
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3. Pre-Judgment Attachment of Movable Property

PURPOSE

Real and movable property is often a part or the subject of a dispute in commercial cases, and its disposition or destruction is a risk that must be guarded against. To ensure that parties do not destroy or dispose of such property, parties request that the court attach the property pending the resolution of the lawsuit. This pre-judgment attachment ensures that the court has control over the property throughout the case as well after a judgment is issued and enables the court to use it to satisfy the judgment at the enforcement phase, if need be. .

METHODOLOGY: 1) observation; and 2) interviews with staff, judges and litigants, and lawyers.

a. Scope of services and capacity

PHASE III – ON-SITE DATA COLLECTION		
Pre-Judgment Attachment of Movable Property		
1	When can the request to attach be made?	
2	Where must the request be made? And to whom?	Describe.
3	What documents are required?	
4	If the request is made to an “expedited judge,” where does this take place and when?	
5	Can the request be made electronically?	Yes: No: If yes, is it available to lawyers and parties?
6	What costs/fees are required, if any?	
7	How are the fees assessed and by whom?	
8	Is e-payment of fees available?	Yes: No:
9	How is the notice of completion of attachment sent to the parties and the court?	

10	Is the notification office at the courts located in close proximity to where filing was completed?	
11	Does the judiciary have a warehouse where property is stored?	Yes: No:
12	If property is kept in a warehouse, how is it kept? Is it tagged to avoid loss?	
13	If property is not kept at a warehouse, how is it kept safe?	<p>Explain:</p> <p>a) If a custodian is appointed, who appoints him/her and how?</p> <p>b) Are there any limitations on who can be appointed?</p> <p>c) Are custodians paid a fee? If so, who determines the fee and are there guidelines governing such fees?</p>
14	Is attached property tagged?	<p>Yes: No:</p> <p>Explain.</p>
15	Does the court have guidelines/regulations governing the attachment process—tagging, movement, etc.?	<p>Yes: No:</p> <p>Explain.</p>

b. Workflow:

(Detail every step required of a party and the court staff to successfully attach movable property at the pre-judgment phase.)

PHASE III – ON-SITE DATA COLLECTION							
Pre-Judgment Attachment of Movable Property							
Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?	
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4. ADR Services

PURPOSE

The need for and use of ADR in its many applications have increased around the globe for a range of reasons. In response, more courts are offering a suite of services to litigants, such as court-annexed mediation and conciliation in select case types. Regardless of the type of ADR provided or allowed, such services provide a range of alternative options to court users and can increase court efficiency on a practical level. The range of ADR services provided by a court can be broad, and a detailed assessment of each option is required.

Note: This section is only applicable if the judiciary offers or allows the use of any type of ADR services. If no such services are provided or allowed, the team should make a notation to that effect in the assessment report and proceed with the next section of the tool.

METHODOLOGY: 1) personal observation; and 2) interviews with staff and judges.

a. Scope of services and capacity

PHASE III – ON-SITE DATA COLLECTION	
ADR Services: Mediation/Conciliation	
1	<p>Is mediation/conciliation offered?</p> <p>Yes: _____ No: _____</p>
2	<p>Is mediation/conciliation permissible or mandatory?</p> <p>List the type of cases where mediation/conciliation is permissible and those where it is mandatory.</p> <p>a) Permissible:</p> <p>b) Mandatory:</p>
3	<p>If mediation/conciliation is mandatory, when is it required in the process?</p> <p>Describe if the court requires it at different stages in the process for different case types.</p>
4	<p>Is mediation/conciliation provided by the court?</p> <p>Yes: _____ No: _____</p> <p>a) If no, how are mediators selected?</p> <p>b) Who selects the mediators?</p> <p>c) Who bears the cost?</p> <p>d) What is the role of the judge, if any, in the selection process?</p> <p>e) How are the files handled? And who has access to them?</p>

Court-Provided Mediation/Conciliation		
1	How are mediators hired?	Explain.
2	Does the court have hiring qualifications and selection criteria?	<p>Yes: _____ No: _____</p> <p>a) If yes, are the qualifications set by a law or developed by the court?</p> <p>Describe the qualifications.</p> <p>b) Are the qualifications set sufficient, relevant, and detailed?</p> <p>Yes: _____ No: _____</p> <p>If no, explain.</p>
3	How many mediators are employed by the court?	
4	To whom do mediators report?	<p>Technical issues:</p> <p>Administrative issues:</p>
5	How many mediators participate in a case?	
6	Where is mediation held?	<p>Describe the location (easily accessed by litigants).</p> <p>Describe the condition of space (sufficient and conducive to mediation).</p>
7	Are mediators using PCs or laptops?	<p>Yes: _____ No: _____</p> <p>If yes, describe how they are using PCs/laptops.</p>
8	How is mediation/conciliation carried out?	
9	What type of support do mediators receive? What is the number of support staff?	
10	If mediation fails, do judges have access to the mediation file?	<p>Yes: _____ No: _____</p> <p>If yes, describe.</p>

11	Is the service provided for free?	Yes: _____ No: _____ If no, how is the cost assessed and by whom? Who bears the cost? How are the fees paid? And when?
12	Where are closed mediation files filed?	
13	Are the files electronically archived?	Yes: _____ No: _____
Training: Mediators		
1	Are mediators required to attend preparatory training?	Yes: _____ No: _____ If yes, how long is the training and what are the subjects covered?
2	Are mediators required to attend yearly training?	Yes: _____ No: _____
3	Do mediators receive any formal or informal on-the-job training?	Yes: _____ No: _____ If yes, explain
4	Is training a factor that is considered in their performance evaluations?	Yes: _____ No: _____
5	How are training needs determined, who determines them, and how often?	
Training: Support/Administrative Staff		
1	Are staff members required to attend preparatory training?	
2	Are staff members required to attend yearly training?	
3	Do members of staff receive any formal or informal on-the-job training?	
4	Is training a factor that is considered in their performance evaluations?	
5	How are training needs determined, who determines them, and how often?	

Performance Management	
1	How is the performance of mediators evaluated?
2	Does the court have performance standards for mediators?
3	How often are mediators evaluated and by whom?
4	Whom do mediators report to on technical issues?
5	How is performance of staff evaluated?
6	Does the court have performance standards?
7	How often are staff members evaluated and by whom?
8	To whom does staff report?
Infrastructure	
1	<p>Is mediation held at the courthouse? Yes: _____ No: _____</p> <p>If no, where is mediation held?</p> <p>Is the location in close proximity to the courthouse?</p>
2	<p>Describe the facilities where mediation is held (capacity, condition, etc.).</p> <p>1) At the courthouse:</p> <p>2) Outside of the courthouse:</p>
Automation	
1	<p>Are mediators and staff supported in their work by automated systems? Yes: _____ No: _____</p> <p>If yes, explain.</p> <p>Are they linked with all other entities in the court?</p> <p>Yes: _____ No: _____</p> <p>If no, list which entities they are linked with:</p>
2	<p>Is the entire mediation process fully automated? Yes: _____ No: _____</p> <p>If no, describe the level of automation.</p>
3	Who managed the development of the system?

4	Were mediators and support staff involved in the development of the automated system?	Yes:	No:
5	Is the automated system regularly updated?	Yes: If yes, how often? And by whom?	No:
Access to Information about Mediation/Conciliation Services			
1	Is information provided to the public on mediation/conciliation?	Yes: If yes, describe what is offered. Describe the format (paper or electronic or both).	No:
2	Is the information provided clear and detailed?	Yes: If no, explain.	No:
3	Is the information provided in multiple languages?	Yes: If yes, list the languages:	No:
4	Is the information helpful to court users?		
ADR Services: Arbitration			
1	Is arbitration provided for/ allowed by law?	Yes:	No:
2	Is arbitration limited by case types?	Yes: If yes, list the case type where it is permitted.	No:
3	Does the law limit the way in which arbitrators are selected?		
4	How is cost assessed and by whom?		
5	Does the judiciary have court-annexed arbitration?	Yes: If yes, explain.	No:
6	If it is court annexed, how are arbitrators hired? What are the qualifications?		
7	Are the qualifications set by law or by the court?		
8	Are the qualifications relevant and sufficient?		
9	How are the arbitrators evaluated? And by whom?		
10	Can arbitration decisions be appealed?	Yes: If yes, explain.	No:

b. Workflow:

(For each type of ADR service provided, complete a separate workflow detailing what is required of parties and court staff from start to completion.)

PHASE III – ON-SITE DATA COLLECTION							
Mediation/Conciliation							
Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?	
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5. Court Hearings/Experts/Continuances

PURPOSE

The hearing phase embodies the bulk of a case and sheds light on how efficient and effective a court may or may not be. Many times, the courts will have developed certain practices that do not necessarily contribute to enhancing efficiency but instead lead to delay (e.g., granting excessive continuances and requiring a hearing to submit documents to the courts). In other cases, the laws may be vague, leaving judges to interpret them differently and develop inconsistent practices across the various courts. Other factors that may negatively impact efficiency include the way in which courts handle experts in commercial cases as well as the infrastructure capacity and support systems in place.

To identify inefficient practices during the hearing phase, the team must obtain detailed information on how hearings are organized and conducted, what is required of parties, and the current practices for granting continuances and dealing with experts (whether court appointed or selected by the parties).

METHODOLOGY: 1) observation; 2) interviews with staff and judges; and 3) interviews with court users, including parties and lawyers.

a. Scope of services and capacity

(For each building housing a commercial court, complete the form below.)

PHASE III – ON-SITE DATA COLLECTION	
Hearings	
Courtrooms <i>(Main Building)</i>	
Courtrooms for Major Cases	
1	Total # of courtrooms dedicated to major commercial cases
2	How many judges preside over a major case?
3	If more than one judge presides in a case, what is the role of each judge in preparing the case and during the hearing?
4	Describe the following for each courtroom: <ul style="list-style-type: none"> Courtroom #1 1) Condition: 2) Seating capacity: 3) Layout: 4) Air-conditioned? 5) Ventilated? 6) Soundproofed?

4	<p>Describe the following for each courtroom: (continued)</p>	<p>Courtroom #2</p> <ol style="list-style-type: none"> 1) Condition: 2) Seating capacity: 3) Layout: 4) Air-conditioned? 5) Ventilated? 6) Soundproofed <p>Courtroom #3</p> <ol style="list-style-type: none"> 1) Condition: 2) Seating capacity: 3) Layout: 4) Air-conditioned? 5) Ventilated? 6) Soundproofed <p>Courtroom #4</p> <ol style="list-style-type: none"> 1) Condition: 2) Seating capacity: 3) Layout: 4) Air-conditioned? 5) Ventilated? 6) Soundproofed 	
5	<p>Do judges have a separate entrance into the courtroom?</p>	Yes:	No: If no, explain how they enter the courtroom.
6	<p>Is a hearing roll posted? If so, where?</p>	Yes:	No: Location:
7	<p>Is the hearing roll visible to court users?</p>	Yes:	No: If no, explain.
8	<p>Is the hearing roll typed, electronically generated, or handwritten?</p>		
9	<p>How is the hearing roll prepared if it is not electronically generated?</p>		
10	<p>Are hearings provided specific time slots?</p>	Yes:	No:

11	Are hearings called in the same order as that in the hearing roll?	Yes: _____ No: _____ If no, explain how cases are being called in the courtroom.
12	Do judges have access to and are they using PCs or laptops during the hearing?	Yes: _____ No: _____ Explain how the PCs/laptops are being used.
13	Is the court clerk using a PC/laptop during the hearing?	Yes: _____ No: _____ If yes, then explain how s/he is using the PC/laptop (for what).
14	Do the judges and clerks have access to a printer(s)?	Yes: _____ No: _____ How many printers are in the courtroom? Describe the condition of the printers.
15	Do judges and clerks have access to a scanner?	Yes: _____ No: _____ How many scanners are in the courtroom? Describe the condition of the scanners.
16	Are there screens in the courtroom displaying which case is being called and any other information?	Yes: _____ No: _____ If yes, how many? Are they easily seen by litigants? What type of information is displayed?
17	Are lawyers and parties allowed to use laptops?	Yes: _____ No: _____
18	How is evidence presented?	
19	Are electronic documents allowed or used?	Yes: _____ No: _____
20	Are video hearings allowed and used (VC)?	Yes: _____ No: _____
21	How are postponements handled? Who can request?	
22	How are expert hearings handled?	
23	Is a bailiff present in the courtroom?	Yes: _____ No: _____ If yes, what is his role? Is he effective?

24	Is order kept in the courtroom?	Yes: Explain	No:
25	Is additional security available?	Yes: If yes, explain.	No:
Courtrooms for Minor Cases			
1	Total # of courtrooms dedicated to <i>minor</i> courts/panels		
2	How many judges preside over a minor case? Describe the following for each minor courtroom:	Courtroom #1 1) Condition: 2) Seating capacity: 3) Layout: 4) Air-conditioned? 5) Ventilated? 6) Soundproofed?	
		Courtroom #2 1) Condition: 2) Seating capacity: 3) Layout: 4) Air-conditioned? 5) Ventilated? 6) Soundproofed?	
3	Do judges have a separate entrance into the courtroom?	Yes: If no, explain how they enter the courtroom.	No:
4	Is a hearing roll posted? If so, where?	Yes: Location:	No:
5	Is the hearing roll visible to court users?	Yes: If no, explain.	No:
6	Is the hearing roll typed, electronically generated, or handwritten?		
7	Are hearings provided specific time slots?	Yes:	No:
8	Are hearings called in the same order as that in the hearing roll?	Yes: If no, explain how cases are being called in the courtroom.	No:

9	Do judges have access and are they using PCs or laptops during the hearing?	Yes: _____ No: _____ Explain how the PC/laptops are being used.
10	Is the court clerk using a PC/laptop during the hearing?	Yes: _____ No: _____ If yes, explain how they are using the PC/laptop (for what).
11	Do the judges and clerks have access to a printer(s)?	Yes: _____ No: _____ How many printers in the courtroom? Describe the condition of the printers.
12	Do judges and clerks have access to a scanner?	Yes: _____ No: _____ How many scanners are in the courtroom? Describe the condition of the scanners.
13	Are there screens in the courtroom displaying which case is being called and any other information?	Yes: _____ No: _____ If yes, how many? Are they easily seen by litigants? What type of information is displayed?
14	Are lawyers and parties allowed to use laptops?	Yes: _____ No: _____
15	How is evidence presented?	
16	Are electronic documents allowed or used?	Yes: _____ No: _____
17	Are video hearings allowed and used (VC)?	Yes: _____ No: _____
18	How are postponements handled? Who can request?	
19	How are expert hearings handled?	
20	Is a bailiff present in the courtroom?	Yes: _____ No: _____ If yes, what is his role? What is he doing?
21	Is order kept in the courtroom?	Yes: _____ No: _____ Explain.
22	Is additional security available?	Yes: _____ No: _____ If yes, explain.

a. Workflow: Major Commercial Hearings

(Please obtain detailed information on how hearings are held, etc., in major cases, including what is required of parties and court staff.)

PHASE III – ON-SITE DATA COLLECTION							
Major Commercial Hearings							
Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?	
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b. Workflow: Minor Commercial Hearings

(Please obtain detailed information on how hearings are held, etc., in minor cases, including what is required of parties and court staff.)

PHASE III – ON-SITE DATA COLLECTION							
Minor Commercial Hearings							
Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?	
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6. Issuance of Judgments

PURPOSE

The process of writing and issuing judgments may vary widely. Its range can extend from a complicated and time-consuming process requiring that judgments be signed by all panel judges followed by a hearing and the announcement of the judgment in open court, to a much simpler process in which judgments are made available online with an electronic notice provided to the parties. Obtaining copies of the judgment in some judiciaries can impact efficiency and be cumbersome and unnecessarily complicated for the parties and the court, particularly when there is a limitation on the number of copies provided and to whom, or other such constraints.

METHODOLOGY: 1) observation; 2) interviews with judges and court staff; and 3) interviews with court users.

a. Scope of services and capacity

PHASE III – ON-SITE DATA COLLECTION		
Writing of Judgments: Major Cases		
1	Does the law provide a time frame for completing the judgment?	Yes: _____ No: _____ If yes, what is it?
2	Can judges extend the time frame for writing the judgment?	Yes: _____ No: _____ If yes, for how long? And how many times?
3	If the court sits in a panel, must all judges sign the judgment?	Yes: _____ No: _____ If no, how many must sign it?
4	If the court sits in a panel, what is the role of each judge?	
5	How are judgments written and finalized?	a) By hand? b) Electronically?
Writing of Judgments: Minor Cases		
1	Does the law provide a time frame for completing the judgment?	Yes: _____ No: _____ If yes, what is it?
2	Can judges extend the time frame for writing the judgment?	Yes: _____ No: _____ If yes, for how long? And how many times?
3	If the court sits in a panel, must all judges sign the judgment?	Yes: _____ No: _____ If no, how many must sign it?
4	If the court sits in a panel, what is the role of each judge?	
5	How are judgments written and finalized?	By hand? Electronically?

Issuance of Judgments: Major Cases		
1	Does the court hold a hearing to issue the judgment?	Yes: _____ No: _____ If yes, how is notice provided to the parties?
2	If a hearing is held, are the parties required to attend?	Yes: _____ No: _____ a) If yes, what is the effect of one party not appearing? b) Can the hearing be continued? c) What is the maximum number of continuances that can be granted?
3	If a hearing is required, can the court address other issues, such as attachment, enforcement, settlement options (direct payment)?	Yes: _____ No: _____ If yes, describe.
4	If no hearing is required, how is the judgment issued?	
5	How are the parties notified of the judgment?	
6	Once the judgment is issued, is it enforceable?	Yes: _____ No: _____ If no, what must the parties obtain in addition to the judgment to begin the enforcement process?
7	Can any person obtain a copy of the judgment?	Yes: _____ No: _____
Issuance of Judgments: Minor Cases		
1	Does the court hold a hearing to issue the judgment?	Yes: _____ No: _____ If yes, how is notice provided to the parties?
2	If a hearing is held, are the parties required to attend?	Yes: _____ No: _____ a) If yes, what is the effect of one party not appearing? b) Can the hearing be continued? c) What is the maximum number of continuances that can be granted?
3	If a hearing is required, can the court address other issues, such as attachment, enforcement, settlement options (direct payment)?	Yes: _____ No: _____ If yes, describe.
4	If no hearing is required, how is the judgment issued?	
5	How are the parties notified of the judgment?	
6	Once the judgment is issued, is it enforceable?	Yes: _____ No: _____ If no, what must the parties obtain in addition to the judgment to begin the enforcement process?
7	Can any person obtain a copy of the judgment?	Yes: _____ No: _____

b. Workflow:

(Detail every step required and carried out by the courts.)

PHASE III – ON-SITE DATA COLLECTION							
Writing and Issuance of Judgments							
Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?	
1							
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7. Execution /Enforcement of Judgments

PURPOSE

Enforcement mechanisms can have a significant impact on efficiency. The enforcement or execution of judgments differs from one court to another; for example, it may be the responsibility of another entity or may require the involvement and participation of law enforcement agencies. To determine how a judiciary is handling enforcement, the mechanisms used, and the overall capacity of the system, among other dynamics, detailed information about the process must be obtained and analyzed.

METHODOLOGY: 1) personal observation; 2) interviews with staff and judges; and 3) interviews with court users.

a. Scope of services and capacity

PHASE III – ON-SITE DATA COLLECTION	
Execution/Enforcement of Judgments	
1	<p>What entity is legally authorized to enforce judgments?</p> <p>a) Courts only?</p> <p>b) Private entities/bailiffs?</p> <p>c) Dual system (courts & private bailiffs)?</p>
Public Enforcement (by the Courts/MOJ)	
1	<p>Who is in charge of enforcement at the courts/MOJ?</p>
2	<p>How many enforcement agents are employed by the courts/MOJ?</p>
3	<p>What is the total number of support staff?</p>
4	<p>What is the authority of enforcement officers?</p> <p>Explain:</p> <p>a) Do they have authority to negotiate settlements?</p> <p>b) Do they have authority to accept alternative settlements?</p> <p>c) Do they have authority to accept payments?</p>
5	<p>To whom do the officers report?</p>
6	<p>How is performance evaluated?</p>
7	<p>Have the courts/MOJ developed performance standards?</p>
8	<p>Do officers use an automated system?</p> <p>Yes: _____ No: _____</p> <p>-If yes, what are the functions of the system?</p> <p>-Which enforcement processes are automated?</p>

9	How are communications carried out with other courts/MOJ entities?	-Paper based? -Electronically? -If electronically, to what extent are they electronically linked with all court/MOJ entities?
10	To what extent is the system linked with entities/agencies outside of the court and MOJ?	
11	How is enforcement cost determined? Is it regulated by law?	Explain.
12	Who bears enforcement cost?	
13	When are enforcement fees paid? And how?	
14	Is e-payment available?	Yes: _____ No: _____
15	What type of training does the staff receive?	Induction Training: Yes: _____ No: _____ Ongoing Training: Yes: _____ No: _____ On-the-job Training: Yes: _____ No: _____
16	How are the staff evaluated and how often?	Yes: _____ No: _____
17	Is training considered in the performance evaluation of the staff?	Yes: _____ No: _____
18	How do officers conduct an asset search?	
19	Are there guidelines to regulate the process of asset searches?	Yes: _____ No: _____
20	Do the courts/MOJ have access to financial institutions, commercial registries, real property registers, traffic departments, stock accounts information, etc.?	Yes: _____ No: _____ List entities allowing access and capacity to search records. If no, are there plans to develop bilateral agreements allowing such access? Explain.
Private Enforcement		
1	Is the profession regulated by law?	Yes: _____ No: _____
2	Does the court/MOJ play any role in the regulation of the profession?	Yes: _____ No: _____ If yes, explain the role.
3	Is the profession regulated by a professional organization?	Yes: _____ No: _____ If yes, explain the role.

4	Can court officers work as private bailiffs?	Yes: If yes, what are the limitations?	No:
5	Are bailiffs required to be registered/licensed?	Yes: If yes, with whom (MOJ, courts, or private professional organization)?	No:
6	Are bailiffs required to complete preparatory training?	Yes:	No:
7	Are bailiffs required to complete yearly or continuing training?	Yes:	No:
8	What type of cases can be handled by private bailiffs? Any jurisdiction limitations?	Describe.	
9	How is the cost determined? Is it regulated by law?	Explain.	
10	Who bears enforcement cost?		
11	When are enforcement fees paid? And how?		
12	Do bailiffs have access to public and financial records?	Yes: If yes, what are the limitations?	No:
Enforcement Process			
1	When can a party begin enforcement procedures?	1) Enforcement by the court/MOJ 2) Private enforcement	
2	What documents are required to begin enforcement?	1) Enforcement by the court/MOJ 2) Private enforcement	
3	Where does a party go to begin the process?	1) Enforcement by the court/MOJ 2) Private enforcement	
4	Can the request be made/ filed electronically?	Yes:	No:
5	Is electronic payment allowed?	Yes:	No:
6	Once a request is made/filed, is a hearing required?	Yes: Explain.	No:
7	Can parties offer settlement at the time of the first hearing or before the hearing?	Yes: If yes, explain.	No:
8	Does the court have procedural guidelines for enforcements officers?	Yes:	No:

b. Workflow:

(Detail every step required and carried out by the courts and the parties to successfully complete this process.)

PHASE III – ON-SITE DATA COLLECTION							
Execution/Enforcement of Judgment							
Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?	
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8. Sale of Movable Property by Public Sale/Auction

PURPOSE

Requests for attaching movable property are utilized to avoid its sale or destruction pending a lawsuit. Once a judgment has been issued and enforcement proceedings have begun, the attached property may have to be sold in order to partially or fully satisfy the judgment. The mechanism generally used by the courts to sell property is public sale/auctions. The way in which public sales are carried out differs from one judiciary to another but the goal remains the same: satisfying the judgment amount and ensuring that creditors are paid.

To determine how this process impacts efficiency, it is important to collect and analyze data on, among other issues, how property attachment is initiated, what is required, how long it takes, the legal and internal requirements for holding, postponing, or redoing the sale, who conducts the sale, and how the proceeds are distributed between the creditors.

METHODOLOGY: 1) observation; 2) interviews with staff and judges; and 3) interviews with court users.

a. Scope of services and capacity

PHASE III – ON-SITE DATA COLLECTION		
Sale of Movable Property		
1	How does the court/MOJ seize assets?	Explain.
2	What type of notice is required for the seizure of assets?	
3	What type of notice is required to conduct the sale?	
4	How does the enforcement agency provide notice of the sale?	Explain.
5	Is notice of sale/auction published in newspapers and on the court website? And how far in advance?	Explain.
6	How often are public auctions held?	
7	Can the court/MOJ include property to be auctioned with other auction listings to broaden the audience of potential bidders?	Yes: No:
8	Does the court collect data on the nature, frequency, and success of the asset liquidation processes performed by its officers?	Yes: No:
9	If the property was kept at a warehouse, what is the process for moving it?	

10	Who is responsible for moving property to the venue of the sale?	
11	Are there guidelines regulating the movement of the property?	
12	Is the sale conducted by the enforcement agency or is it outsourced to an auction house?	
13	If the sale is outsourced, does the court have guidelines regulating the sale?	Yes: _____ No: _____ If yes, do the guidelines also apply to court-conducted auctions?
14	If the sale is conducted by the court, who is in charge of conducting it?	
15	What is cost of holding the auction? How is cost assessed and by whom?	
16	How are auctions held?	a) Private auction house b) Court-conducted auction
17	Are electronic auctions allowed?	Yes: _____ No: _____ a) If yes, how are they conducted? b) Does the court have guidelines regulating e-auctions?
18	If there are an insufficient number of bidders, is the auction rescheduled?	Yes: _____ No: _____ a) If yes, what are the time frames for rescheduling? b) How many times can the auction be rescheduled?
19	If the minimum sale price is not reached, what happens?	
20	How is notice served of the new date of sale?	
21	Does the same process apply to all types of property?	Yes: _____ No: _____ If no, explain.

b. Workflow:

(Detail every step required and carried out by the courts to sell the attached property by public sale/auction.)

PHASE III – ON-SITE DATA COLLECTION							
Sale of Attached Property by Public Sale/Auction							
Step Description	Legally Required Steps	Other Internally Required Steps	Documents Required	Responsible Staff	Location	Duration – How long it does it take to complete step?	
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B. The Process Map

PURPOSE

Process maps provide a clear picture of how the court is operating and processing cases. Developing the maps facilitates the identification of specific areas that may be causing delay thereby allowing the assessment team to provide the client with targeted recommendations for improving for each case process (from filing to enforcement of judgments). Often times, the client may not be aware of the effect of certain practices on the efficiency of the case process. Developing process maps is useful for providing the client and the team with a visual tool that has proven very effective in pin pointing specific deficiencies and ineffective or inefficient practices that may be causing unnecessary delay; guiding the discussions about needed improvements; and serving as the basis for re-engineering processes, if need be.

Based on the information collected and verified during the walk-through, a process map for each process (i.e. filing, conciliation, pre-trial attachment, etc.) is developed. Each map must reflect in great details the actions required by both the parties and the court to complete a process.

Developing process maps is time consuming and may at times require additional verification with the client. As such, ample time should be dedicated to developing and finalizing them..

METHODOLOGY: 1) review of all information collected and verified during the “Walk-Through”.

An illustrative “As-Is Process Map” to provide the team with a virtual example of the documents that must be produced is attached in Annex 2. Also included in this Annex is a “To Be Process Map” reflecting the recommended changes and improvements to court processes that are provided to the client in the final assessment report.

PHASE IV

DATA COLLECTION

Phase IV focuses on obtaining court performance and case-specific data for all commercial cases selected for the assessment. Statistical case data are an integral part without which the completion of the overall analysis is not possible. This information enables the team to identify and verify bottlenecks and provides a statistical evidence base for the analysis and recommendations that are provided to the client.

In addition, detailed information on how the judiciary is collecting, using, and reporting on case data—and the extent to which management is relying on such data in its decision and policy-making process—must be collected. This will help the team to determine the technical and automation capacity of the judiciary, the extent to which the case process is automated, if at all, and if the data are actually used and shared.

Ideally, this phase is conducted in parallel to Phase II and as soon as possible to allow time for the collection and verification process, which can be time consuming, depending on the court's capacity for generating the needed data.

Implementation Approach

I. IDENTIFYING DATA COLLECTION COUNTERPART

Prior to conducting this data-gathering phase, it is important for the team to initially identify who or which entity is responsible for data collection at the judiciary, enforcement agency, MOJ, or judicial council. The following represent the various scenarios the team may face when collecting the required data:

- **Automated case management system (CMS) is fully operating.** If the judiciary has developed and is using (partially or fully) an automated CMS, the team should be working with the entity and/or individuals responsible for managing the system to collect the required data.

- **Automated CMS is fully operational but for less than one–two years.** If the CMS has not been operational for the period for which data is being requested (ideally three–five years minimum), the data will need to be a hybrid of electronically generated and manually collected data.
- **Automated CMS is partially operational.** In some cases, the judiciary will have developed a system that has yet to fully automate the entire process and link all case information across the entity. If the CMS is partially operational, the required data will have to be generated from the CMS as well as from other sources—for example, a statistics department that is manually collecting court data.
- **No automated case management system is operational.** If no system has been developed or one is in the process of being developed, the team must rely solely on manually collected data and will therefore need to work closely with those in charge of data collection (e.g., statistics department/division, etc.).
- **Optional data collection.** If reliable data are not available, a random case file review should be undertaken to collect a representative data sample that provides the needed information. Rarely is this information already available. This kind of additional data collection will require added resources and time.

II. CLOSE COLLABORATION WITH THE COURTS

While collecting this data, it is imperative that the team work closely with the client counterparts to explain why specific types of data are being collected, why additional data should be captured by the courts, and the importance of collecting reliable data, as well as the importance of capturing, analyzing, and reporting on such data to management. The level and extent of this discourse will depend in great part on the capacity of the staff, the existence of automated systems, and the extent to which the system is capturing case processing data, as well as the reliability and availability of the requested data. Discussions about data definitions, data use, and the identification of data gaps (and how to address them) will need to take place.

III. METHODOLOGY

A detailed illustrative data request form is provided in Annex 3 and should guide the completion of this task.⁸ The items highlighted in yellow in the data request form represent core data without which a complete analysis is not possible. If the core data are not available, alternative data collection options (as outlined above) will have to take place. Although the form aims to outline the type of case data that should be collected, it should be tailored (scaled down or up) depending on the court and agency being assessed, its data collection practices, and the scope of the assessment.

IV. SOURCES OF INFORMATION

As stated, depending on the level of automation and data collection capacity of the court, case data will have to be generated from the following sources:

- a. The CMS
- b. Manually generated data
- c. Other data sources, that is, court monthly and/or quarterly reports, court annual reports, and MOJ or judicial council annual reports
- d. Data from a case file review (if a review is required)

⁸ Data types highlighted in orange in the Data Request Form represent the core data that is required and must be collected without which a solid analysis is not possible. Remaining data types that are not highlighted should be collected if the court is capturing them and will support a deeper analysis of the data.

PHASE V

DRAFTING AND FINALIZING THE ASSESSMENT REPORT

Phase V focuses on reviewing all the information obtained in Phases I–IV, analyzing it in light of best practices from well-performing courts, and developing targeted recommendations for improvements that reflect the local context (as opposed to cookie-cutter solutions).

The findings and recommendations are presented in a draft report that is reviewed and discussed with the client before being finalized. This provides the client the opportunity to ask questions; update the team on any changes that have been implemented since the completion of the previous phases; and obtain assistance, if needed, in prioritizing the recommendations.

Overall Assessment Approach: Preliminary Discussions with the Client

In most cases, the team will be able to identify gaps and targeted recommendations before the completion of Phases I–IV. Guided by the overall collaborative approach for this assessment, the team is advised to discuss any interim recommendations and findings with the client and obtain feedback. This is beneficial for the team and client in that it: 1) keeps them engaged and allows the team to transfer their knowledge in a much more informal and effective setting; 2) allows the client to begin thinking about the changes that must be made—in some cases, the client will actually begin implementing the changes before the completion of the assessment; and 3) enables the team to build a relationship of trust with the client, which ultimately helps in successfully completing the assessment and implementing changes.

Phase V Activities/Components

I. PRESENTATION OF THE DRAFT ASSESSMENT REPORT

The report should be clear and concise, factoring in the capacity of the client and the target audience without compromising the analysis. An executive summary or general observations section should precede the full report. Subsequent sections should follow the way in which the case is processed from filing to enforcement of judgments, with a discussion of the current way the courts or enforcement agency are handling the particular process and recommendations for improving it. The following is a sample outline of the proposed content of the Assessment Report:

- I. Executive Summary
- II. Introduction
- III. Commercial Case Process Review (a section for each process from registration to completion of enforcement and corresponding recommendations)
- IV. Next Steps
- V. Annexes. This section should at a minimum include the methodology used; the case data obtained; process maps (both “as is” and “to be”); a list of people interviewed; a list of all laws, regulations, decrees, and orders obtained and reviewed; and a list of all the recommendations.

Once a draft report is completed, a copy should be provided to the client and a meeting scheduled to discuss the report’s findings, answer questions, and provide clarifications as needed. If the report is lengthy, it is helpful to single out and present key findings, issues, and recommendations to the client in order to focus the discussions. The detailed discussions may be delegated to section managers in the court or enforcement agency.

II. Finalization of Final Draft

At the completion of the discussion of the findings with the client, which may take a substantial amount of time, the draft should be finalized, taking into consideration the feedback received. In many cases, the final report will need to be translated, and thus the team should be aware of the time required to complete this task. (The issue of who is responsible for the translation of the report and other documents should be determined with the client at the beginning of the assessment.)

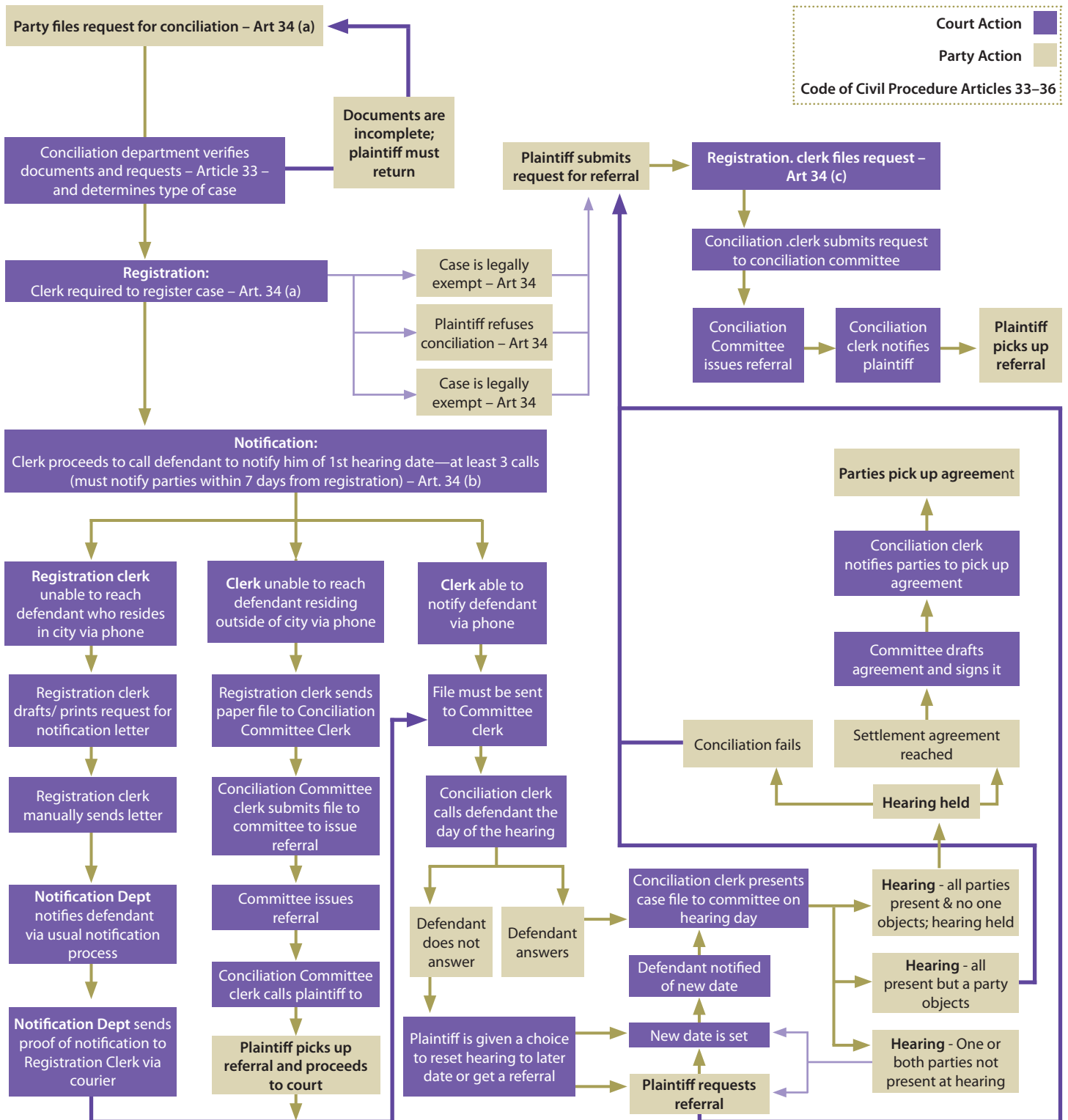
III. Dissemination of the Interim Findings and Final Report

A dissemination strategy should be developed, discussed, and agreed upon with the client at the onset of the assessment. The strategy should identify: 1) the exact target audience that will guide the overall drafting of the report; 2) the entities and persons within the judiciary and enforcement agency with whom the interim and final findings will be shared; 3) how and when the findings (interim and final) may be disseminated outside the judiciary (e.g., bar associations, chambers of commerce, and other stakeholder groups); and 4) the level of detail in the findings that will be disseminated outside of the judiciary (i.e., summary information about some key findings may be presented to the bar association, civil society members, etc., depending on the local context). Having this in place will guide the team as they conduct the assessment and will also eliminate any confusion on the part of the client as to what is expected. Oftentimes, assessment reports will include findings that the court may be hesitant to share even internally, still less within the judiciary more widely or with others outside the system. Identifying who will be informed about the findings and to what extent serves to reduce any anxiety that the court or enforcement agency may have.

Generally speaking, to ensure that the analysis and recommendations are robust and to enable a frank presentation and analysis about improvement needs, it is advisable that the dissemination of the final report be limited to the court assessed and not the entirety of the MOJ, judicial councils, and stakeholders.

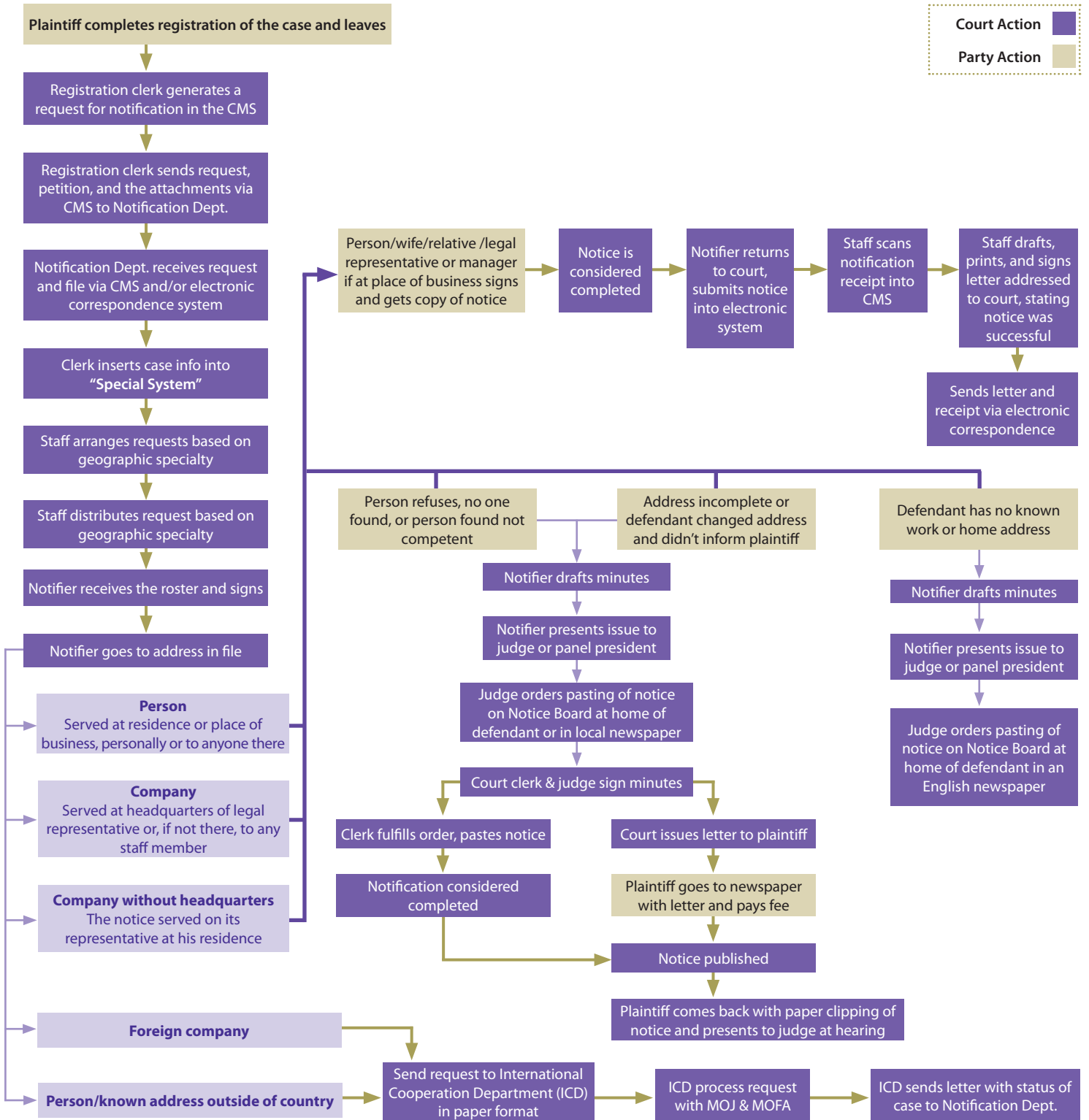
ANNEX 1

Legal Process Map: Mandatory Pre-Filing Conciliation

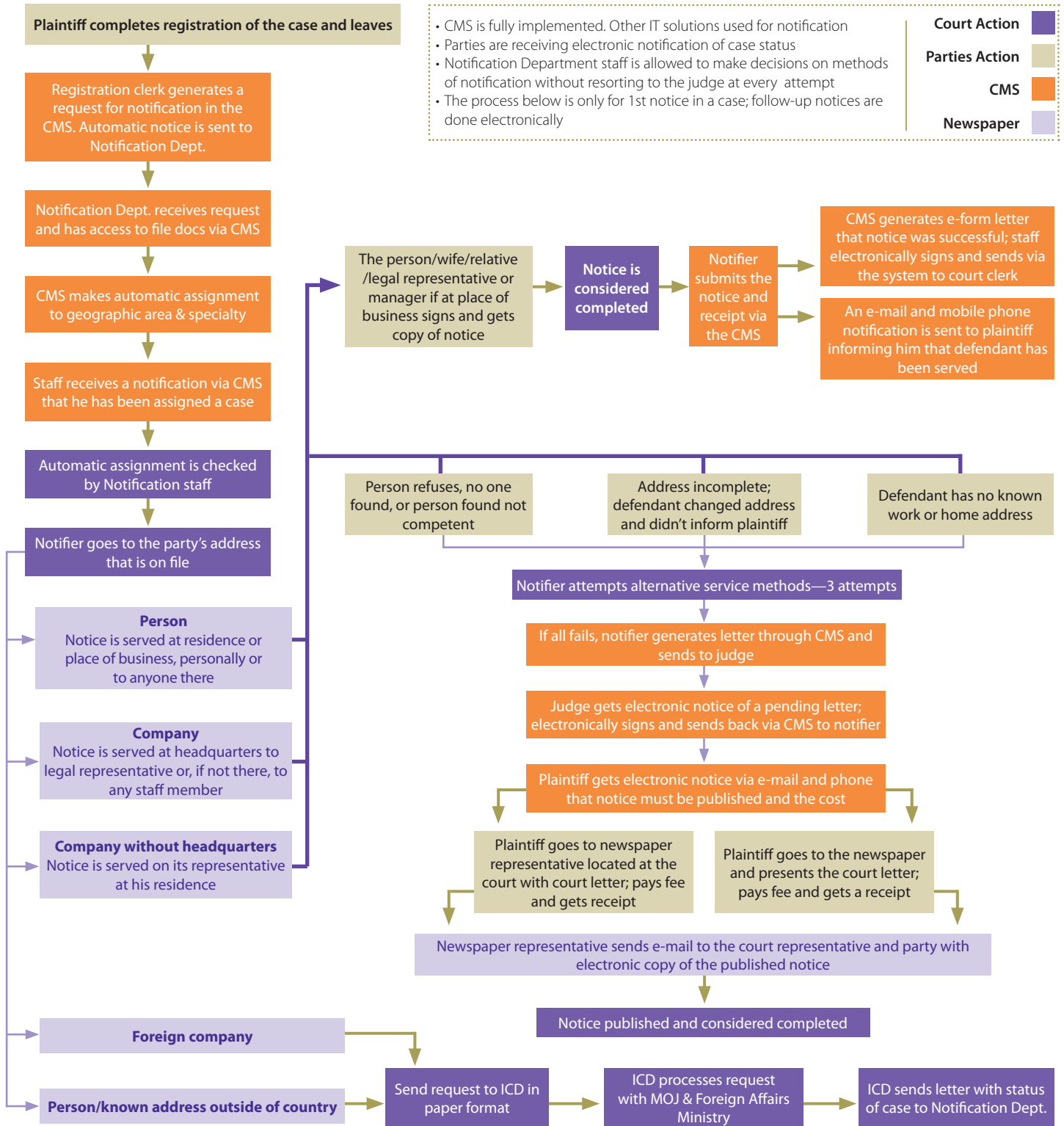


ANNEX 2

Current Process: Notification for Commercial Cases



New Process: Notification Recommendation



ANNEX 3

Case Data Request

PROCESS BY YEAR AND COURT LOCATION	Year 1 ¹				
	All cases	All civil	All commercial	Commercial minor	Commercial major
ADR					
# Conciliation/ ² mediation filed					
# Conciliation/ mediation successful					
Median time from conciliation/med. filing to con./med. decision					
Case Registration					
# Cases filed in court					
# Of cases involving real property					
Case Disposition					
# Cases decided					
Median time from (court) filing to disposition					
# Cases pending by end of year (period)					
Median time from filing to disposition with cases involving real property					
Median time from filing to disposition in cases with at least one party or asset in foreign country					
Median# of hearings per case (overall)					
# Cases dismissed by court					

1 The same data should be collected for three to five years and for each court being assessed.

2 Data types highlighted in orange represent the core data that is required and must be collected without which a solid analysis is not possible. Remaining data types that are not highlighted should be collected if the court is capturing them and will support a deeper analysis.

PROCESS BY YEAR AND COURT LOCATION	Year 1				
	All cases	All civil	All commercial	Commercial minor	Commercial major
Pre-trial Attachment					
# Of cases in which property (real or movable) is attached					
Median time from filing to disposition in cases in which any property is attached					
Experts					
# Cases w. (one or more) expert requested (FIC)					
Median time from filing to court requesting expert					
Median # of hearings (per case) in cases involving experts					
Median # of hearings (per case) in cases not involving experts					
# Of cases involving experts dismissed by court					
Median time from case filing to dismissal in cases involving expert					
Median time from court requesting expert to delivery of expert report					
Median time from receiving expert report to first hearing					

Case Data Request (continued)

PROCESS BY YEAR AND COURT LOCATION	Year 1				
	All cases	All civil	All commercial	Commercial minor	Commercial major
Appeals					
# Of cases appealed					
Median time from 1st instance court decision to appeals hearing					
Appeals (continued)					
Median time from 1st instance court decision to appeals disposition					
# Of cases overturned (OR remanded) on appeal					
# Of cases overturned on appeal involving experts					
# Of cases appealed and case involving experts					
Median time from case filing to disposition in cases involving experts(appeal)					
Translation					
# Of cases requiring translation					
Median time from filing to disposition in cases requiring translation					
International Assistance/Cooperation					
# Of cases requiring international assistance					
Median time from 1st instance court filing to disposition in cases requiring international assistance					

PROCESS BY YEAR AND COURT LOCATION	Year 1				
	All cases	All civil	All commercial	Commercial minor	Commercial major
Enforcement					
# Of enforcement cases filed					
Median time from 1st instance court decision to start of enforcement case					
Median time from appeals decision to start of enforcement					
# Of notifications by major case step - reconciliation, FIC, appeal, enforcement					
# Of enforcement cases involving (real or movable) property					
# Of enforcement cases involving property or party in foreign country					
Median time from start of enforcement to completion					
Median time from start of enforcement to completion in cases involving real property					
Median time from start of enforcement to completion of cases involving property or party in foreign country					
# Of successful enforcements					
# Of enforcement outcomes by type (i.e. payment of money amount, auction, etc.)					
Median time from start of enforcement case to completion in cases involving auctions					

ANNEX 4

Small Claims Courts

Using alternative dispute-resolution (ADR) mechanisms, such as mediation and conciliation justice, is one of the ways that courts have attempted to reduce their caseload while still resolving disputes fairly and providing access to court services. Another alternative that courts have opted to provide is the small claims court. These courts have been in existence in some form in several countries since as early as the 1930s and have historically stemmed from the recognition that simple disputes over a small amount of money may not require the same procedures and rules but can instead be resolved differently.¹ With the understanding that the complexity of court processes can be prohibitive and can also discourage parties (especially those who are unrepresented and have limited financial means) from resorting to formal justice institutions, small claims courts provide an effective and efficient mechanism for ensuring access to court services for all while also freeing up the system's resources to handle more complex commercial disputes. The success of small claims courts has been demonstrated across many countries; indeed, it was recently recognized as a good practice for courts worldwide as part of the new methodology used by the World Bank's *Doing Business* report for assessing the contract enforcement indicator.

WHAT IS A SMALL CLAIMS COURT?

A small claims court is a specialized court that is created by law with specific duties and powers to adjudicate and resolve small-value monetary disputes.² The jurisdiction of these courts may be limited to certain types of cases, and the benefits generally include reduced court costs for the parties, simplified and faster procedures, and specific support services, including mediation in many cases. The issue of whether the parties are required to represent themselves or have the option of hiring a lawyer is also determined by law and varies by jurisdiction.³

Small claims courts are considered an ADR mechanism that provides litigants with a forum and opportunity to resolve their disputes in court in a simpler, quicker, and cheaper manner. The courts are premised on the use of straightforward procedures that are easier for litigants to follow (e.g., they apply uncomplicated rules for presenting evidence and notifying parties); in addition, they are less formal and often eliminate the need for parties to be represented by lawyers; they have streamlined processes that allow for a quicker resolution of disputes (e.g., limitations are set on the time it takes to serve a defendant, answer a petition, schedule a hearing, etc.); and they have reduced associated court costs. Many well-performing small claims courts also provide litigants with a mechanism for requesting a waiver of even the limited court fees, as well the choice to mediate their dispute at a reduced or even no cost.

WHAT TYPES OF CASES ARE HANDLED IN A SMALL CLAIMS COURT?

Generally, the jurisdiction of the small claims court involves minor cases in which the disputed amount is low, an amount that varies from one judiciary to another, depending on the threshold as determined by each country. For example, the threshold in the District of Columbia Small Claims Court in the United States is US\$5,000; if the disputed amount exceeds US\$5,000, the plaintiff is prohibited from using this court.⁴ The small claims court in Ontario, Canada has a threshold of \$25,000 Canadian dollars, while the one in Singapore has a cap of \$10,000

1 The small claims court in Washington, DC was established in the 1930s.

2 Singapore's small claims courts were established by the Small Claims Tribunals Act, and the Washington, DC court is governed by the D. C. Code §§ 11-1321 and 16-3901 et seq. (1981), also known as the Superior Court Rules of Procedure for the Small Claims and Conciliation Branch.

3 The U.S. states of Michigan and California, for example, prohibit lawyers from representing parties in small claims courts.

4 Washington, DC's small claims court fee structure is as follows: filing a new statement of claim is US\$5.00 for claims of \$500 or less, US\$10.00 for claims over US\$500 and up to US\$2,500, and US\$45.00 for claims over US\$2,500 and up to US\$5,000. The plaintiff must also pay the cost for service on the defendant(s). See also <http://www.dccourts.gov/internet/documents/SmallClaimsHandbook.pdf>.

Singapore dollars. The latter, however, provides that the small claims court may still adjudicate cases in which the amount in dispute is up to S\$20,000, if both parties consent in writing.

With regard to subject matter jurisdiction, small claims courts are generally limited to resolving simpler disputes involving some type of debt recovery, as opposed to complicated commercial disputes. In some jurisdictions, simple traffic fine cases may be handled in a small claims traffic fine court. In addition, small claims courts do not generally have jurisdiction over divorce and custody cases, bankruptcy lawsuits, or libel or slander cases. These subject matter limitations are specified by the law establishing the court.

WHAT ARE SOME OF THE MAIN FEATURES?

- **Limited Jurisdiction**

Small claims courts do not have jurisdiction over all minor disputes but will generally be limited to simpler disputes usually involving some type of debt recovery.

- **Simplified Procedures**

Small claims courts will generally have different sets of rules and procedures that outline all legal requirements and procedures that the court and parties must use. These rules are different from those used in other courts, namely codes of civil procedures, in that people who are not legal experts can easily understand and follow them. Although the rules are simple and do not involve many requirements, they still ensure due process and provide the necessary procedural safeguards to the litigants.

- **Speedy Resolution**

In addition to having simplified procedures, small claims courts generally have specific and short time limitations for case processes that are undertaken by the court and required by the parties. Some courts, such as the Singapore small claims court, have developed even shorter time limitations for certain actions; there, if a claim is filed or involves a tourist, the court will set the case for mediation within 24 hours of filing, providing for even quicker resolution.

- **Informality**

Court proceedings in small claims courts are more informal than those in other first-instance-level courts. This feature alleviates the level of apprehension on the part of self-represented parties and allows them to be comfortable with representing themselves without fear of undermining their case.

- **Reduced Court Costs**

The cost of filing and processing a case in small claims court is significantly lower than in other courts. As stated, many courts will also provide litigants with the option of requesting and obtaining a waiver of the fees provided that they meet certain criteria required by the courts.

- **Access to Mediation/Conciliation Services**

The majority of small claims courts provide litigants with the right and opportunity to mediate their disputes, at times even before filing the lawsuit. Flexibility in the way in which disputes are resolved is an important feature of a successful and well-performing court. For example, the rule of the Washington, DC small claims court provides the parties with the option of voluntarily appearing together and submitting their dispute to the judge for conciliation without having to issue any notification. In that case, the dispute is heard in an informal setting, and the judge will not be governed by any rules but will endeavor to reach an amicable settlement between the parties, who nevertheless have the right to have their lawyers present. Once an agreement is reached, the clerk of the court will record it in the court record, making it enforceable. One of the parties may also request conciliation and serve notice on the other party, after which conciliation will take place. In Singapore, once a party files a claim in small claims court, he/she will be required to attend a mediation session within a short period of time after filing.

- **Right to Appeal**

Like other first-instance-level courts, judgments issued by small claims courts can generally be appealed to higher courts in many jurisdictions. This issue is one that is determined by each country and should be outlined in the law establishing the court.

- **Access to Information**

An important feature of a successful small claims court is the availability of detailed information in paper and electronic formats to court users. Recognizing that the target user group may not have an understanding of the legal framework governing the processing of cases and may not have the means to hire a lawyer, successful courts ensure that users have access to detailed information about navigating the court system (e.g., how to file a case, what documents are required, what filing and other court fees are involved, how to serve a party and request a hearing, etc.). Access to simple checklists and forms as well as electronic services such as e-filing and e-payments also enhances access by making it even easier to interact with the court. In jurisdictions where the population may be diverse, the court should provide this information in multiple languages (e.g., the Washington, DC court provides informational brochures in 10 languages).

WHAT ARE THE BENEFITS OF A SMALL CLAIMS COURT?

- Providing an effective and efficient alternative mechanism for resolving small, less complex disputes
- Eliminating or significantly reducing the financial burdens of litigating a case for parties
- Freeing up court resources (financial and human) so that they may be dedicated to resolving complex disputes
- Increasing access to court services and ensuring that the needs of all court users, especially those with little financial means, can avail themselves of the services provided by justice institutions
- Providing access to ADR services at low or no cost
- Reducing the backlog

HOW TO DETERMINE IF THERE IS A NEED FOR SMALL CLAIMS COURTS?

Even though establishing and operating small claims courts will save court funds, creating and running them require some financial and human resources that need to be available. Therefore, the decision to establish these courts should be based on a careful study of the type of cases that could be assigned to a small claims court to benefit court users and increase their access to court services, as well as free up the court resources required to handle more complex commercial disputes. Also needed are a series of detailed reviews of: (i) the legal structure governing the processing of commercial cases to identify whether the establishment of a small claims court is permissible under the current framework; (ii) commercial caseload data for at least three–five years (including filing trends, causes of delays, etc.); (iii) existing ADR mechanisms and their effectiveness in resolving smaller cases and cases where the parties are unrepresented; and (iv) user needs. A determination of the required resources will also have to be made to identify the initial cost of establishing a small claims court as well as the projected future resources needed to maintain operations.

Once the decision to establish a small claims court has been made, and provided that the law establishing the court has passed, the court should begin developing informational materials, including brochures on how to use the court and checklists that court users may use when filing their cases. Depending on the jurisdiction, these materials should be provided and made available to users online and in paper format in more than one language to provide greater access. The court should also explore the option of providing electronic services, such as simple e-filings and e-payments, to users as well. In addition, a public awareness campaign should be developed and implemented to apprise the public and the targeted court users of the services that will be provided by this new court as well as the associated benefits of using it.



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