

**ENHANCING LEGAL CONDITIONS
FOR INFRASTRUCTURE INVESTMENT
IN THE MEDITERRANEAN**

**RAISING AWARENESS
OF RISK MITIGATION INSTRUMENTS**



THE INVESTMENT SECURITY IN THE MEDITERRANEAN SUPPORT PROGRAMME

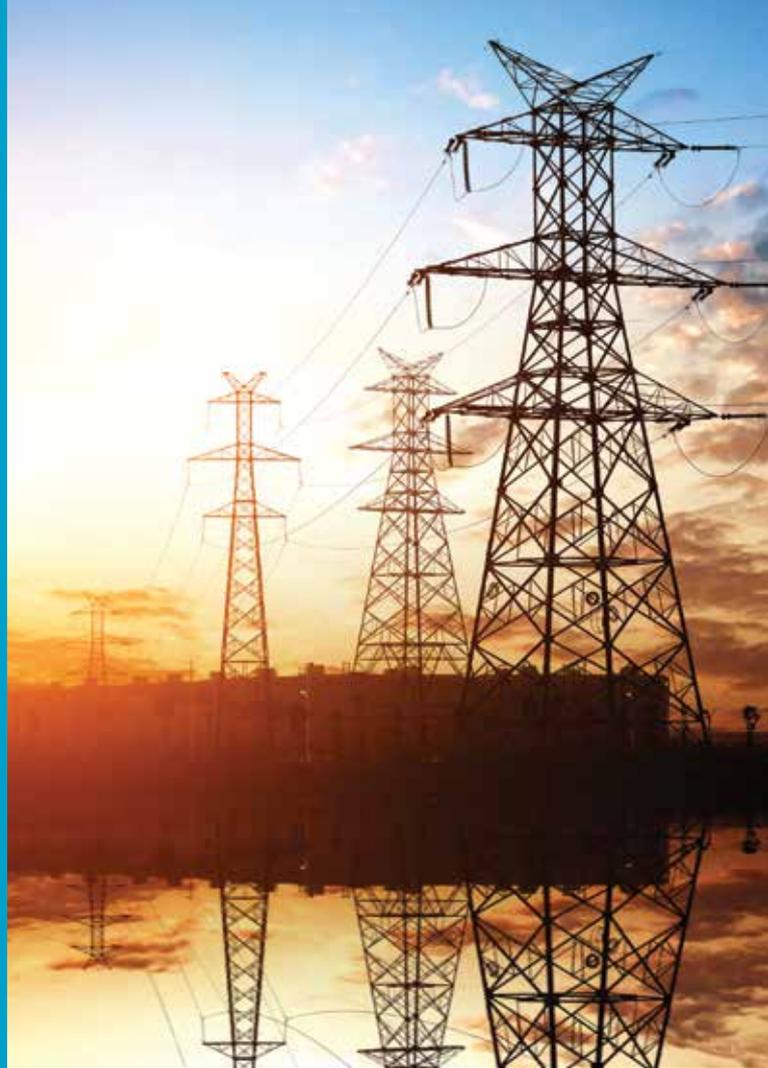


THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

The OECD's mission is to promote policies to improve the economic and social well-being of people around the world. We provide a forum in which governments can work together to share experiences and seek solutions to common problems. We work with governments to understand what drives economic, social and environmental change. The common thread of our work is a shared commitment to market economies backed by democratic institutions and focused on the well-being of all citizens.

THE MENA-OECD INVESTMENT PROGRAMME

The mission of the MENA-OECD Investment Programme is to advise governments on policy reforms capable of mobilising private investment – foreign, regional and domestic – as a driving force for economic growth and employment throughout the Middle East and North Africa region. The MENA-OECD Investment Programme focuses on three main issues: 1) fostering job creation through sound investment and SME policies, 2) encouraging clean business with a focus on business integrity, corporate governance and responsible business conduct, and 3) promoting women in the economy.





ENHANCING LEGAL AND REGULATORY CONDITIONS FOR INFRASTRUCTURE INVESTMENT IN THE MEDITERRANEAN

RAISING AWARENESS OF RISK MITIGATION INSTRUMENTS

Infrastructure is a key element of the business environment and a generator of employment, but increasing demand for infrastructure in the Southern Mediterranean region is faced with declining private investment in major projects due to global economic conditions and regional political uncertainty.

THE INVESTMENT SECURITY IN THE MEDITERRANEAN (ISMED) SUPPORT PROGRAMME seeks to increase private infrastructure investment in the Southern Mediterranean Region by providing advisory services to governments on reducing the legal risk of specific projects, conducting public-private policy dialogue on broader legal framework improvements, and informing potential investors of available risk mitigation instruments.



INFRASTRUCTURE

IS KEY FOR JOB CREATION AND ECONOMIC GROWTH

STRENGTHENED INFRASTRUCTURE reduces production costs, raises productivity and has long term beneficial impacts on living standards and employment opportunities.

It also has a direct short-term impact on employment – according to one recent study¹ the MENA region could generate 2 million direct jobs and 2.5 million direct, indirect and induced infrastructure-related jobs by meeting estimated annual infrastructure investment needs.

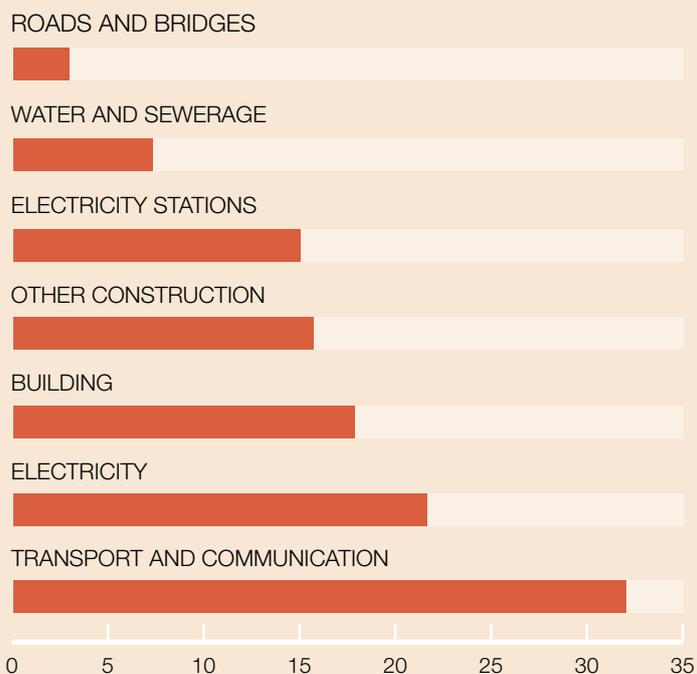
Longer term, a 1% increase in GDP growth from infrastructure spending could generate 9 million jobs over a 10 year period.

Investment and rehabilitation needs are likely to be especially high in the electricity and transport sectors, particularly roads – and this type of infrastructure has especially strong employment generation effects.

¹ World Bank [2012], Job creation through infrastructure investment in the Middle East and North Africa, by Elena Ianchovichina *et al.*, Policy Research Working Paper 6164

The MENA region could generate 2 million direct jobs by meeting estimated annual infrastructure investment needs.

Estimated cost of one direct job in Egypt in 2009 (USD thousands)



Source: World Bank MENA blog (<http://menablog.worldbank.org/infrastructure-jobs-tough-times>)





DEMAND

FOR INFRASTRUCTURE INVESTMENT IN THE MEDITERRANEAN HAS BEEN RISING ...

Infrastructure demand in the Mediterranean region has been rising due to population growth, rapid urbanisation, and economic expansion.

This trend has been amplified by the Arab Awakening as governments have come under pressure to increase living standards and improve the business environment.

MENA region infrastructure needs through 2020 are estimated at about \$106 billion per year or 6.9% of annual regional GDP².

... IN A CONTEXT OF DECLINING PRIVATE INVESTMENT

Private infrastructure investment has become increasingly scarce, due to the global economic crisis and commercial bank deleveraging, political instability in some countries, and tightened bank prudential regulations.

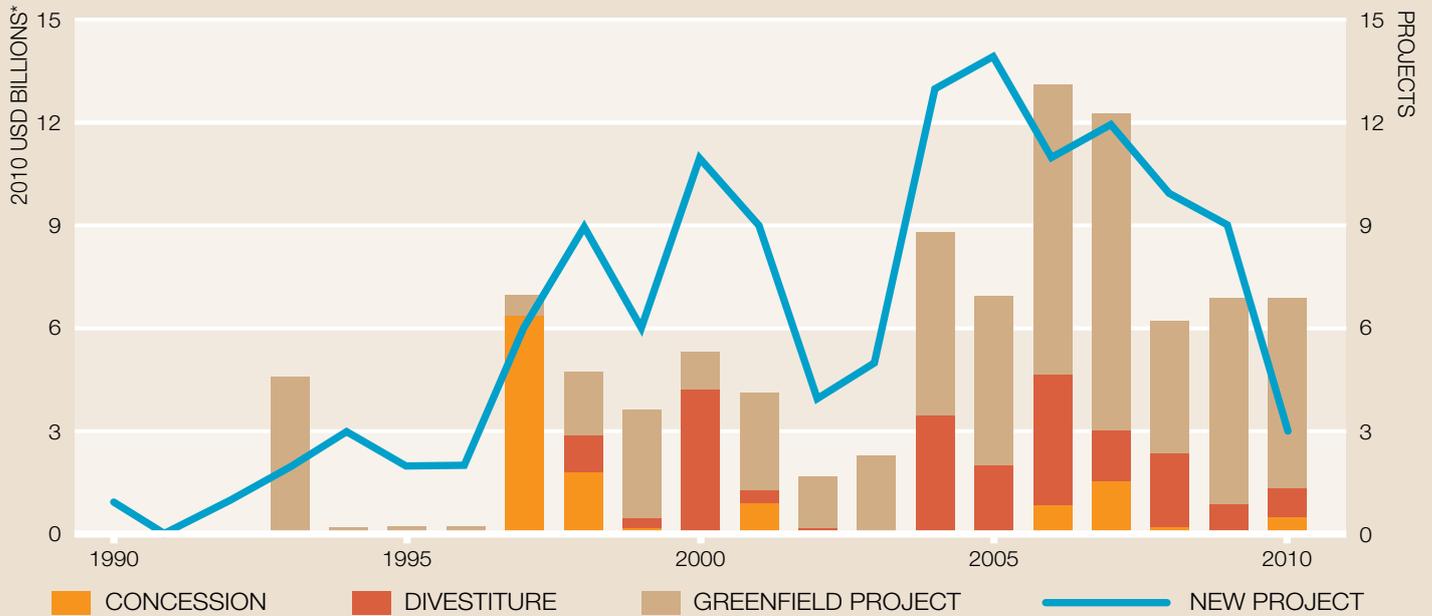
Attracting more private investment means creating the improved legal and regulatory conditions that investors require – and highlighting guarantee instruments that could cover residual risk.

Sound legal conditions include strong commercial law, intellectual property rights and arbitration rules, transparent licensing, anti-corruption provisions, and adherence to international investment treaties.

² World Bank [2012], Job creation through infrastructure investment in the Middle East and North Africa, by Elena Ianchovichina *et al.*, Policy Research Working Paper 6164.

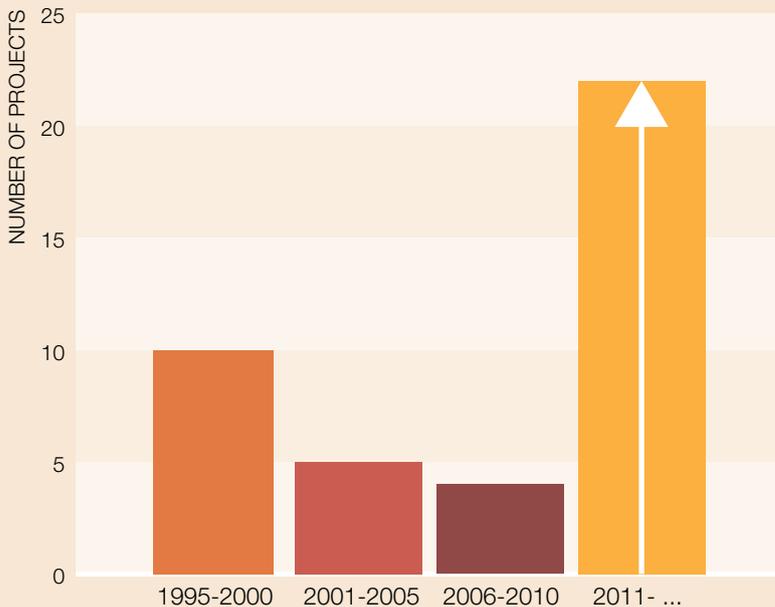
Economic and political turbulence has caused a surge in demand for guarantee instruments

Private investment in new MENA region infrastructure projects has plunged since the global economic crisis.

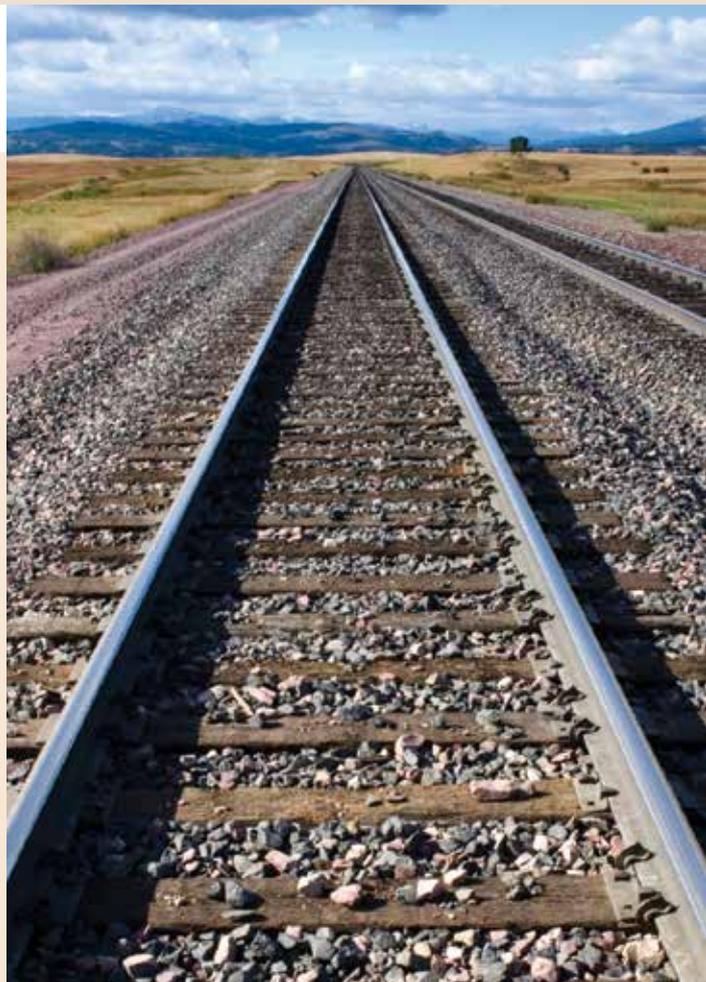


Source: Arab Financing Facility for Infrastructure, citing PPIAF Private Participation in Infrastructure database.

The number of large (mainly infrastructure) projects supported by MIGA in the MENA region has soared since the Arab Awakening.



Source: MIGA project database





SUPPORT

ENHANCING INVESTMENT SECURITY FOR INFRASTRUCTURE IN THE MEDITERRANEAN: TWO PILLARS OF EUROPEAN UNION SUPPORT

I. Investment Security in the Mediterranean (ISMED) Support Programme

POLICY ADVICE: The ISMED Support Programme seeks to increase infrastructure investment in the Southern Mediterranean Region by providing advisory services to governments on reducing legal and regulatory risks faced by private investors in specific infrastructure projects.

Sound legal and regulatory conditions include:

- Strong commercial law
- Intellectual property rights & arbitration rules
- Transparent licensing
- Anti-corruption rules
- Adherence to international investment treaties.

POLICY DIALOGUE: The Support Programme will also bring government and private sector together in a policy dialogue to help ensure that project-specific recommendations lead to broader reforms.

INFORMATION ON RISK MITIGATION INSTRUMENTS: While some of the risks of investment in the Southern Mediterranean region are well-known, knowledge of available mitigation tools is less widespread. The ISMED Support Programme is developing a risk mitigation instruments database that will provide detailed information on available guarantee and other investment security instruments. Initially, the database will focus on instruments applicable to Jordan, Egypt, Tunisia and Morocco, and will cover products offered by multilateral organizations, export credit agencies and private insurers. On-line access to the database will help raise awareness of the many risk mitigation instruments already available and facilitate investment. The database should be available later in 2013. A quarterly newsletter on risk mitigation instruments will also keep investors updated on developments.

ISMED WORKING GROUP: The ISMED Support Programme will provide secretariat support for the ISMED Working Group, which is focused on enhancing the legal security and guarantee instruments currently available for infrastructure investors in the region. Future work is expected to target risk mitigation instrument cost-sharing and promotion, a facilitator role for the guarantee market, and co-financing and risk-sharing for Islamic financial instruments such as *sukuk*.

STAGES IN STRENGTHENING LEGAL CONDITIONS FOR INVESTMENT

II. ISMED Risk and Cost Sharing Toolkit of the Neighbourhood Investment Facility (NIF)

In parallel to the ISMED Support Programme, the European Union has launched the ISMED Risk and Cost Sharing Toolkit of the Neighbourhood Investment Facility (NIF).

The ISMED Risk and Cost Sharing Toolkit will provide targeted measures like support to risk-sharing mechanisms (making funds available to help private investors by reducing their exposure to risk) and guarantee schemes.

Part of the €200 million in EU grants expected by the NIF through 2014 will underpin the toolkit, which could leverage at least €2 billion from European public institutions and private investors for infrastructure projects in the Neighbourhood region.

PROJECT SELECTION

Projects suitable for support will involve private investment, have high development impact (water, electricity, highways, ports...), be at a relatively advanced stage (post-feasibility study but pre-tender), and will be experiencing legal, regulatory or guarantee-related obstacles.

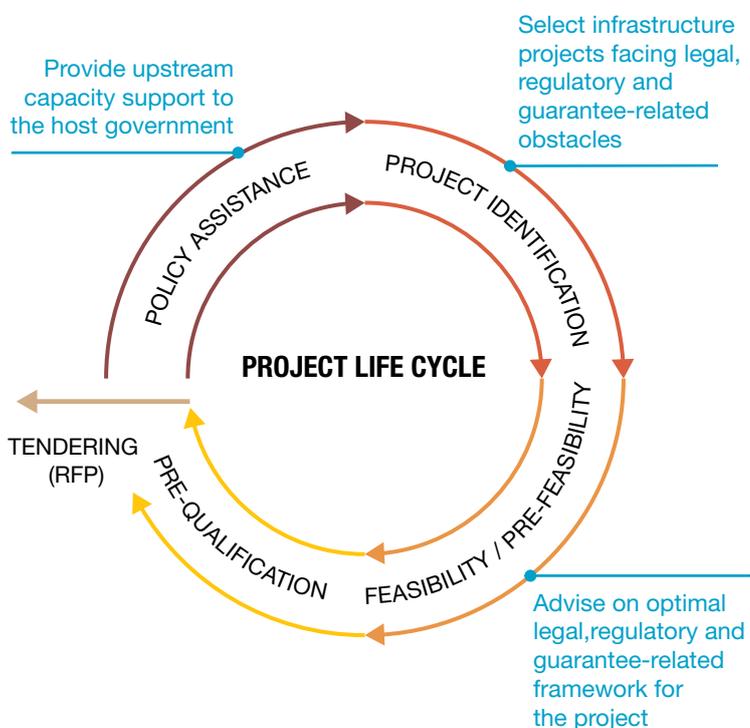
MISSIONS

In-country assessment and assistance missions will be conducted by the ISMED Support Programme team. These missions, working with the competent authorities, will identify the short and longer term actions required to strengthen the legal and regulatory environment of the infrastructure project under consideration, coordinate between institutional levels, identify investment climate shortcomings, and prioritise the implementation of appropriate policy remedies.

POLICY DIALOGUE

These missions will also initiate a multi-stakeholder public-private dialogue drawing on OECD good practices and instruments and aiming to ensure positive spill-over effects of project specific work for the economy of the concerned partner country as a whole.

ISMED Support Programme intervention in the project life cycle





APPROACH

OF THE INVESTMENT SECURITY IN THE MEDITERRANEAN (ISMED) SUPPORT PROGRAMME

EVALUATE

Evaluate, through project-specific assessment missions and related studies, the level of investment protection provided by local legal, regulatory and sectoral frameworks.

RECOMMEND

Identify gaps in protection and make policy **recommendations** to address them.

INNOVATE

Support an exchange of views on **innovative ideas** for risk mitigation instruments via the ISMED Working Group.

INFORM

Provide relevant **information** concerning risk mitigation products to potential investors (via an online risk mitigation instruments database and a newsletter covering new instruments, changes in legal frameworks, and case studies).

RELEVANT OECD INSTRUMENTS

THE POLICY FRAMEWORK FOR INVESTMENT (PFI)

The PFI is a tool providing a checklist of issues for consideration by any government interested in creating an attractive investment environment and in enhancing the development benefits of investment to society. The policy areas covered are widely recognised, including in the Monterrey Consensus, as underpinning a healthy environment for all investors, from small- and medium-sized firms to multinational enterprises.

OECD PRINCIPLES FOR PRIVATE SECTOR PARTICIPATION IN INFRASTRUCTURE

These OECD Principles aim to help governments work with private sector partners to finance and bring to fruition infrastructure projects in areas of vital economic importance such as transport, water and power supply and telecommunications. They offer governments a checklist of policy issues to consider in ensuring that citizens get the services they need at a fair cost and with viable returns to private sector partners.

OECD PRINCIPLES FOR PUBLIC GOVERNANCE OF PUBLIC-PRIVATE PARTNERSHIPS

These OECD Principles provide concrete guidance to policy makers on how to make sure that Public-Private Partnerships (PPP) represent value for money for the public sector. In concrete terms, the Principles will help ensure that new projects add value and will stop bad projects going forward. They provide guidance on when a PPP is relevant – e.g. not for projects with rapidly changing technology such as IT, but possibly for well known generic technology such as roads. They focus on how to get public sector areas aligned for this to work: institutional design, regulation, competition, budgetary transparency, fiscal policy and integrity at all levels of government.

ARRANGEMENT ON OFFICIALLY SUPPORTED EXPORT CREDITS

The Arrangement is a “Gentlemen’s Agreement” amongst its Participants who represent most OECD Member Governments. The Arrangement sets forth the most generous export credit terms and conditions that may be supported by its Participants. The main purpose of the Arrangement is to provide a framework for the orderly use of officially supported export credits. In practice, this means providing for a level playing field (whereby competition is based on the price and quality of the exported goods and not the financial terms provided) and working to eliminate subsidies and trade distortions related to officially supported export credits.

THE INVESTMENT SECURITY IN THE MEDITERRANEAN (ISMED) SUPPORT PROGRAMME is being implemented by the OECD within the framework of the MENA-OECD Initiative on Governance and Investment for Development (MENA-OECD Investment Programme), with the financial support of the European Union.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

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www.oecd.org/mena/investment/ismed.htm



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