

Middle East Restructuring and Refinancing Conference



Time for Reform: Insolvency Regimes Across Middle East Jurisdictions

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September 28, 2009

Agenda

Time for Reform: Insolvency Regimes Across Middle East Jurisdictions

- Importance of Insolvency & Creditor Rights Systems**
- World Bank Doing Business Report 2010**
- Hawkamah/WB/INSOL/OECD Survey on MENA Insolvency Laws**
- Reform Measures & Recommendations**

Importance of Insolvency & Creditor Rights Systems

- Wide diversity of Insolvency and Creditor Rights (ICR) across jurisdictions increase costs & act as impediment to capital flows and FDI. International standards were developed to help countries achieve transparency of economic risks.
- ICR are part of market infrastructure
- Well established ICR Systems and frameworks are a key core standard for sound financial systems.
- Given MENA's exposure to the crisis, countries must take preventative measures to mitigate the economic & financial impact of the crisis.
- Where do MENA region ICR jurisdictions stand & how do they compare ?

World Bank Doing Business Report 2010

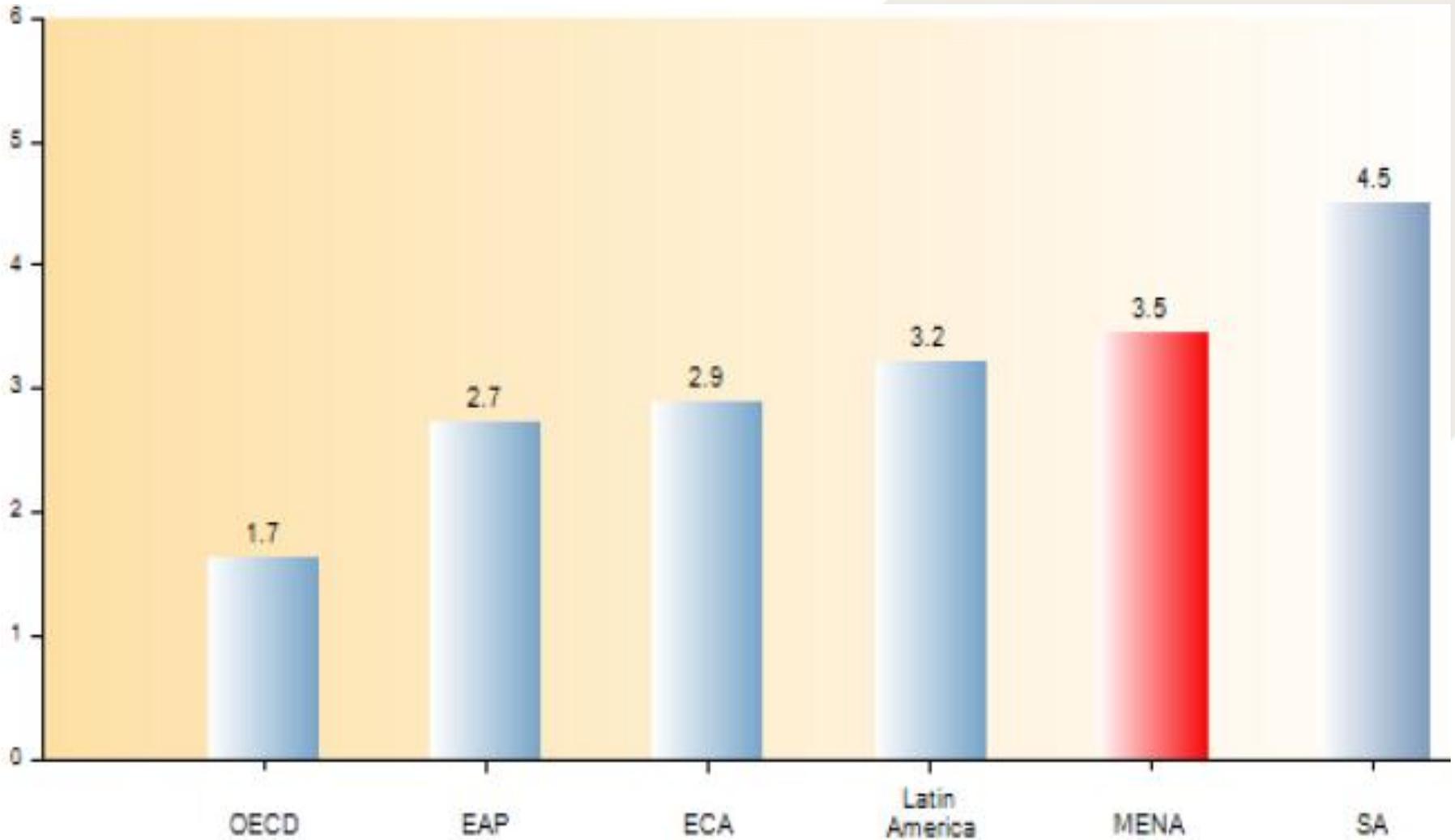
- Doing Business indicators identify weaknesses in the bankruptcy law as well as the main procedural and administrative bottlenecks in the bankruptcy process.

- The Methodology covers three measures:
 1. Time to go through the insolvency process
 2. Cost to go through the process
 3. Recovery rate, how much of the insolvency estate is recovered which calculates how many cents on the dollar claimants (creditors, tax authorities, and employees) recover from an insolvent firm taking into account the time, cost, depreciation of assets and the outcome of the insolvency proceedings.

Closing a Business Across Regions

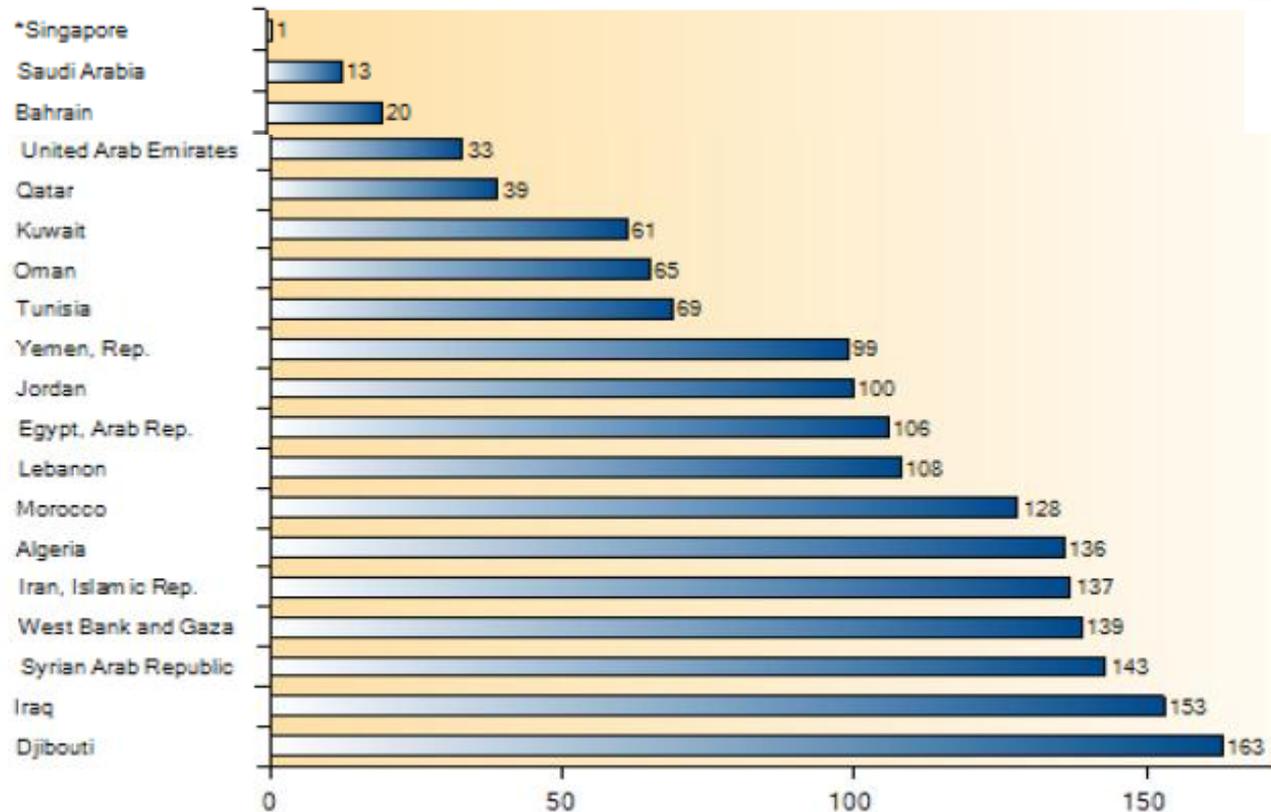
<u>Region</u>	<u>Time (years)</u>	<u>Cost (% of estate)</u>	<u>Recovery rate (cents of the dollar)</u>
Middle East & North Africa (MENA)	3.5	14.1	29.9
East Asia & Pacific (EAP)	2.7	23.2	28.4
Eastern Europe & Central Asia (ECA)	2.9	13.5	31.6
Latin America	3.2	13.9	29.7
Organization for Economic Co-Operation and Development (OECD)	1.7	8.4	68.6
South Asia (SA)	4.5	6.5	20.4

Average Time to Close a Business (years)



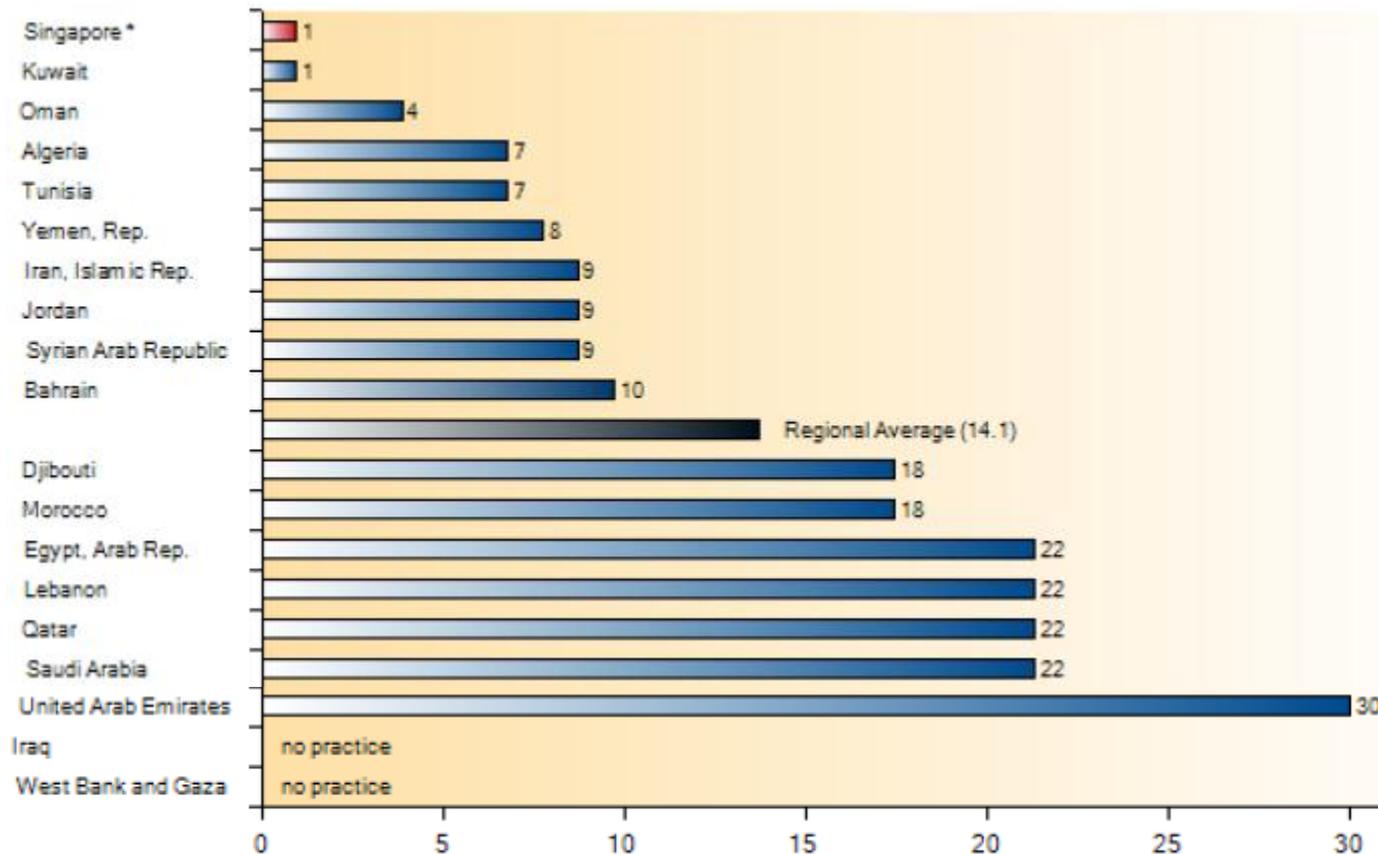
Economy	Closing a Business			
	Rank	Recovery rate (cents on the dollar)	Time (years)	Cost (% of estate)
Algeria	51	41.7	2.5	7
Bahrain	26	63.2	2.5	10
Djibouti	135	15.9	5	18
Egypt, Arab Rep.	132	16.8	4.2	22
Iran, Islamic Rep.	109	23.1	4.5	9
Iraq	183	0	no practice	no practice
Jordan	96	27.3	4.3	9
Kuwait	69	34.5	4.2	1
Lebanon	124	19	4	22
Morocco	67	35.1	1.8	18
Oman	66	35.1	4	4
Qatar	33	52.7	2.8	22
Saudi Arabia	60	37.5	1.5	22
Syrian Arab Republic	87	29.5	4.1	9
Tunisia	34	52.3	1.3	7
United Arab Emirates	143	10.2	5.1	30
West Bank and Gaza	183	0	no practice	no practice
Yemen, Rep.	89	28.6	3	8

Time to go through Insolvency (ranking)



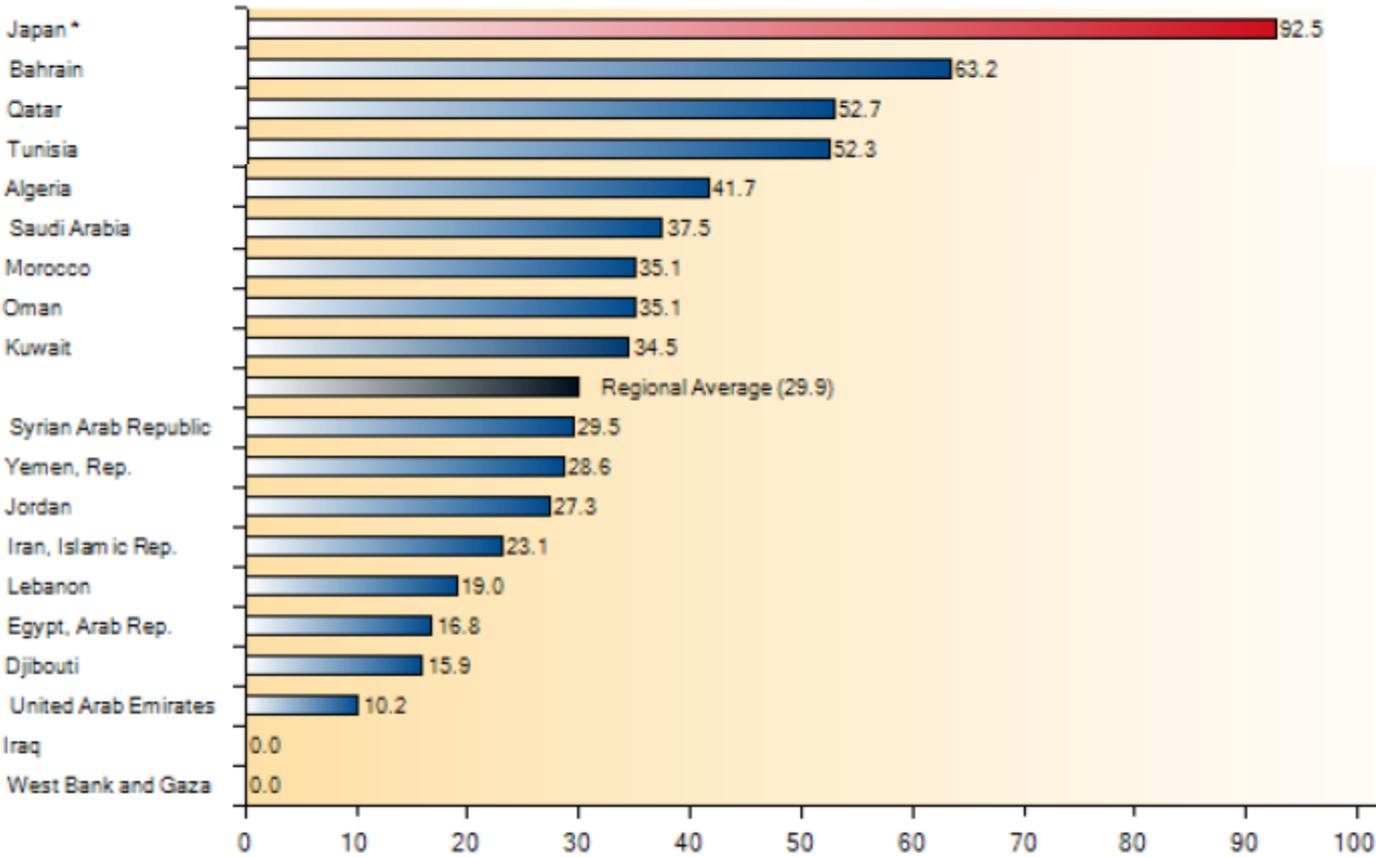
*The economy with the least time is included as a benchmark

Cost of Insolvency (%age of Estate)



*An economy with the lowest cost is included as a benchmark. Columbia, Kuwait and Norway also have the lowest cost to go through an Insolvency process.

Recovery rate (cents on the dollar)



*The economy with the highest recovery rate is included as a benchmark.

Hawkamah/WB/INSOL/OECD Survey on MENA Insolvency Laws (supported by PwC and KornFerry)

Insolvency Practitioners in 11 MENA Jurisdictions surveyed Insolvency Systems:

DIFC

Egypt

Jordan

Oman

UAE

Yemen

Palestine

Saudi Arabia

Kuwait

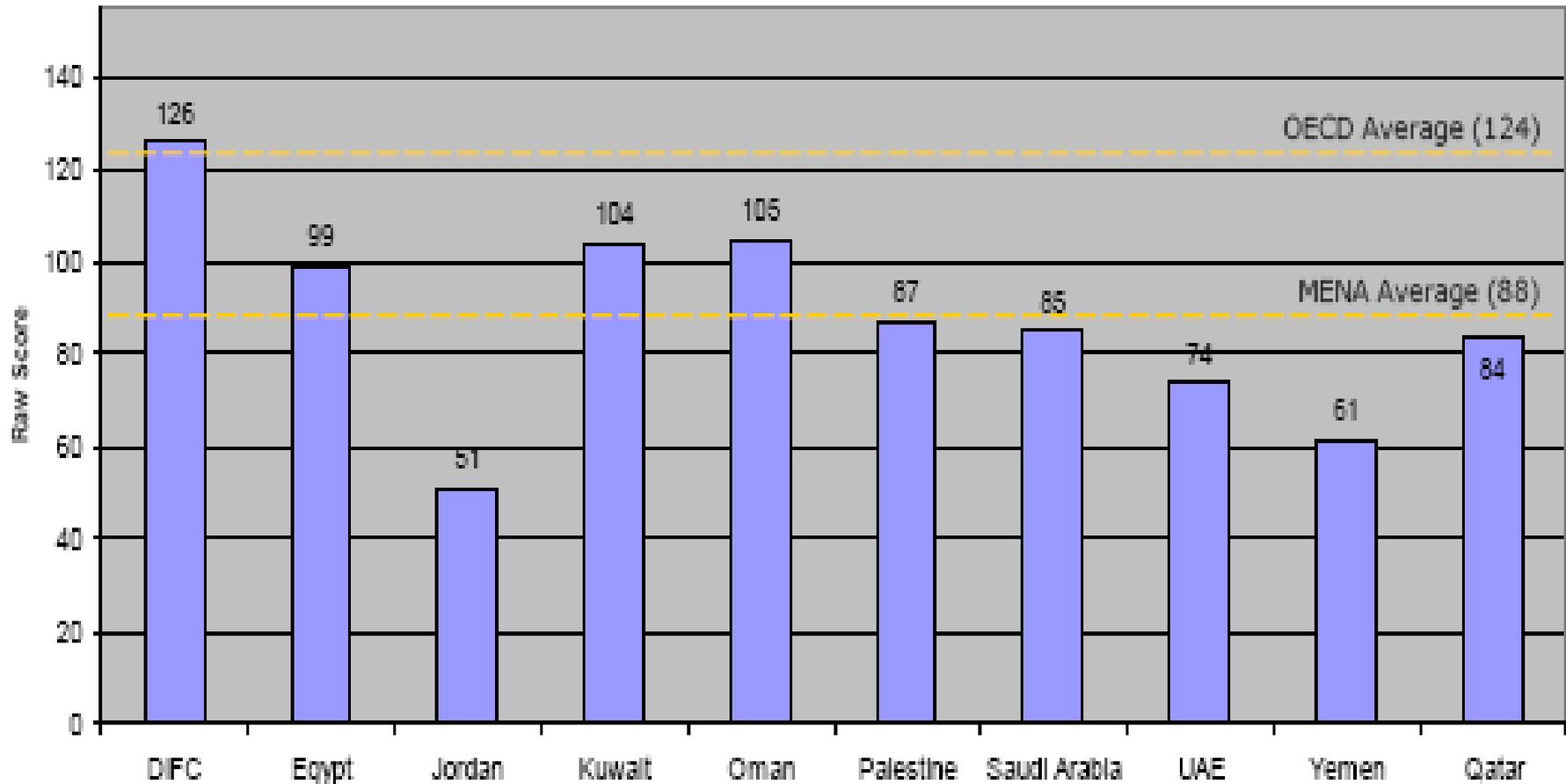
Qatar

Lebanon

Hawkamah/WB/INSOL/OECD Survey: Questionnaire

- 172 Questions on:
 - Legal Framework for Creditor Rights
 - Security over Movable and Immovable Assets
 - Enforcement of Secured Rights
 - Risk Management and Corporate Workout
 - Credit Information System
 - Liability of Directors, Managers and Third Parties
 - Informal Workout Procedures
 - Legal Framework for Insolvency
 - Insolvency Law Objectives
 - Due Process
 - Management of Insolvency Proceedings
 - Creditors, Creditors' Committees, and Priority of Creditor Claims
 - Avoidable Transactions
 - Reorganizations Proceeding
 - Rehabilitation Legislation
 - Plan Preparation, Formulation, Approval and Implementation
 - Cross-Border Recognition
 - Implementation of the Insolvency System
 - Role, Efficiency, and Integrity of the Court System
 - Qualification and Integrity of other Participants
 - Regulatory and Supervisory Bodies

Overall Survey Results: scores out of 155



Current Status of Insolvency Systems in MENA Countries

Strongest MENA Countries

- DIFC - 126*
- Oman - 106
- Kuwait - 105

Weakest MENA Countries

- Jordan - 51
- Yemen - 61
- UAE - 74

Strongest Issues in MENA

- Corporate Governance - 81*
- Secured Transactions - 71
- Creditors' Committees - 71

Weakest Issues in MENA

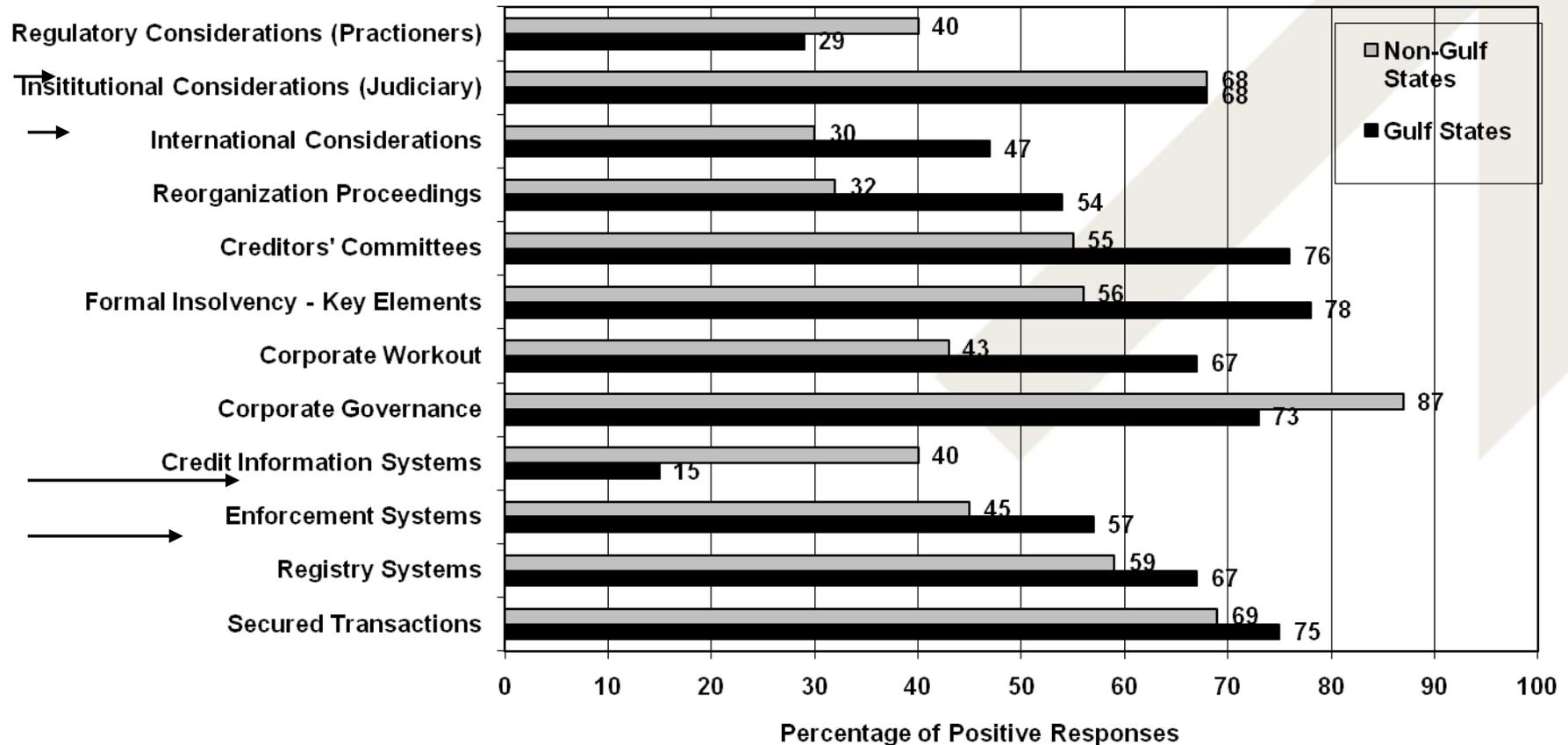
- Reorganization Proceedings - 28
- Regulation of Practitioners - 37
- International Considerations - 38

*Out of a total of 155 possible points

*of a possible 100 points

Results for Gulf v. Non-Gulf States

- Gulf States have stronger insolvency laws in all but four areas
- Both Gulf and Non-Gulf States have room for improvement.



Hawkamah-WB Survey of MENA ICR Systems I

- Enforcement is a serious challenge in many countries, particularly extrajudicial enforcement for secured claims (i.e. 'self-help').
- Insolvency laws are typically antiquated and inconsistent with modern business needs, particularly as they relate to business rescue.
- Many countries still view the purpose of insolvency legislation as being limited to winding-up bankrupt companies, without providing an opportunity to revive them.

Hawkamah-WB Survey of MENA ICR Systems II

- There is a strong stigma in many countries that is attached to the use of formal insolvency proceedings to save a troubled company. As such, informal or consensus-based proceedings are often preferred.
- The courts in many countries lack the institutional capacity to effectively implement reorganization legislation and are predisposed to liquidation.

Hawkamah-WB Survey of MENA ICR Systems III

- There is insufficient understanding in many countries of the importance of the regulatory component of insolvency systems. Specifically, many countries under-regulate insolvency practitioners (the professionals -- typically accountants -- who act as receivers, trustees, liquidators, etc.), thereby leaving an important component of the system unchecked and resulting in lower overall confidence in the system.

Some lessons and takeaways

1. Gulf States have stronger insolvency laws in all but four areas.
2. Both Gulf and Non-Gulf States have room for improvement.
3. MENA countries have focused more on access to than on exit from market
4. DIFC insolvency framework is robust and highest rated in the region
5. Strengthening and modernising insolvency laws is crucial to mitigate risks and effects of economic & financial crisis on MENA countries.

Hawkamah Declaration May 2009 & Next Steps

1. **Establish** a Regional Forum on insolvency and creditor rights
2. **Finalize** the regional survey of insolvency and creditor rights to include advancing a set of policy recommendations.
3. **Disseminate** the publication to the widest audience possible
4. **Develop** a series of sector-specific programmes on regional and national bases.
5. **Develop** and design public awareness and training programmes for practitioners, regulators and judges

**Final survey report to be presented at 4th Annual Hawkamah Conference
on 9-10 November, 2009**



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