2018 MENA-OECD WORKING GROUP ON CORPORATE GOVERNANCE
Policy options to achieve sound corporate governance for competitiveness
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Talking points

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Good morning to all

It is my great pleasure to welcome all of you to this meeting of the MENA-OECD Working Group on Corporate Governance and an honour for me and the CMVM to be your host after the success of our last meeting in Rabat, in December.

Along with my warm greetings to all the panellists, and in particular to:

- Augusto Santos Silva, Minister of Foreign Affairs
- Mats Isaksson, Head of Corporate Affairs at the OECD
- Obaid al Zaabi, Co-Chair of the MENA Working Group on Corporate Governance,

My first grateful words must go to the Swedish International Co-operation Agency for the generous support to the MENA-OECD Competitiveness Programme, where the MENA-OECD Working Group on Corporate Governance, a joint initiative that I have the honour to co-chair along with my esteemed colleague Mr. Obaid Al Zaabi, is embedded.

Without the Swedish support, this initiative and the low hanging fruits it is already providing to the MENA countries would not have seen the light of day.

Before we dive into our promising agenda, allow me to share some personal views on the role and usefulness of the Principles in the MENA specific circumstances.

In 1962, Bayless Manning, an American corporate law professor at the Stanford University, announced the death of corporate law, stating that the corporate statute was no longer enough to understand what really mattered, that is to say, how corporations performed.

A few years later, Jensen and Meckling argued that the economic theory of the firm was an “empty box”, focusing centrally on the concept of agency costs, or the cost of aligning the incentives of the different people involved in the corporation.

This questioning had a far-reaching impact in the following years in the search for solutions that could **bridge the gap between ownership and control**, trying to align the interests of shareholders and directors, on the one hand; and minority and controlling shareholders, on the other. This was also the time when “corporate governance” emerged and **the path from “corporate law” to “corporate governance”** began to be paved.

This path acknowledges that legal rules cannot stand alone, as if companies operated in a vacuum. They do not — as, in fact, none of us do.

A **company’s operating system goes well beyond the legal rules and** is rather a braided framework encompassing both legal and non-legal elements and processes of information flow, decision-making, decision-implementation, and decision-monitoring.

Corporate governance understands — and embraces — this intricacy. Efficient corporate organization requires the sound interaction of **multiple actors**: shareholders, directors, managers, employees, creditors and other stakeholders. The way each and all these actors are organised to pursue the corporate purpose stands at the core of the OECD/G20 Principles of Corporate Governance. Not only is there a role for everyone, but everyone is supposed to play their role and pursue the ultimate goal of the company: value creation and growth.

But all those actors play their roles in a **constantly evolving setting** — frequently the national community, notwithstanding larger regional influences. And so, our efforts to grasp the structure and functioning of corporate governance lead us to go further than law, to go even further than law and economics, and to the need to consider the **cultural environment** in which the company is embedded.

Culture is about “what goes with what”, as an implicit and shared knowledge that people have on a wide variety of social practices that usually cannot be found in guidebooks or other formal sources.

Such knowledge is, in most cases, unwritten and unspoken and is made of values and traditions, that are predominant among the members of a certain society and makes it cohesive, and that must be absorbed by, and embedded in, the rules to ensure that the members of that society adhere to such rules.

And this is where we stand in this MENA initiative: acknowledging that corporate governance has to evolve and adapt, so it does not end up as a group of static ideals, coveting stability but not accommodating mutability. It is necessary to ensure the **appropriate calibration of corporate governance standards** considering each market’s specificities.

The OECD Corporate Governance Committee has sharply identified this trend and, for a while now, has been researching how flexibility and proportionality may be used when implementing the OECD/G20 Principles of Corporate Governance to enhance its appropriateness.

In this context, a relevant amount of data was gathered by the CGC from almost 40 jurisdictions — among which certain MENA countries — on seven areas of regulation, including board composition and information disclosure.

Upholding the **concepts of flexibility and proportionality means refusing a “one size fits all”** approach, where corporate governance would be imposed on all corporations in an equal manner, not considering their differences — in terms of size, sector of activity, stage of development, public listing of securities or geographical presence, just to name a few examples.

The application of flexibility and proportionality in corporate governance frameworks allows companies to **maintain their singularities while still achieving the desired regulatory outcomes**. In short, the efficiency promoted by a flexible and proportional approach derives from considering culture as the differentiating element in the operation and development of a company.

This meeting will allow us to reflect on the promotion of global corporate governance standards, as understood through the lenses of the cultural specificities — or, more broadly, the economic, cultural and social specificities — of the MENA region.

The 2017 activities of the Working Group identified **four strategic issues** for corporate governance in the MENA region, which essentially comprise our agenda for today and tomorrow:

- In **session 2**, we will discuss **capital market developments and access to capital**. Both the OECD/G20 Principles and the mandate of the OECD Corporate Governance Committee are closely linked to capital market efficiency and development. While we can all recognise the importance and role of bank-based finance, certain conditions restrict this form of financing, especially when it comes to growth companies, start-ups or small and medium enterprises. Not only these, but also larger companies, which may need different resources to finance different types of projects, draw extensive benefits from stock market-based financing.

- In **session 3**, we will focus on **transparency and disclosure practises**. Many agency problems are deeply rooted in information asymmetries. The main way to mitigate them is through the implementation of disclosure regimes, which regulate how companies communicate with their stakeholders and market participants in general. This is a critical piece of trust for investors in capital markets, where culture also plays its role.

- In **session** 4, we will analyse ways to **improve gender balance in corporate leadership**. In this topic, cultural aspects play a significant role in shaping board composition. Research shows that the board composition in a particular company may be both a cause and an outcome of other factors, and consequently, a critical success factor and a driver for cultural changes as well.

- In **session 5**, we will debate **governance of state-owned enterprises**. The OECD Corporate Governance Committee has also developed work on this topic, based on the OECD Guidelines on Corporate Governance of State-Owned Enterprises, which were first developed in 2005 and then updated in 2015. The core objective of the Committee's work in this subject is to help state-owned enterprises operate in a more competitive, efficient and transparent manner, thus creating a level-playing field with the private sector.

These four sessions build on the findings of the reports prepared by the four focus groups composed of regional experts who joined forces to develop a set of "realistic" policy options that could be implemented in MENA countries, and to which I express our gratitude for the immense work done.

Last but not least, in sessions 1 and 6, we will take a closer look on **corporate governance developments in the MENA region and in Portugal**. I believe both these sessions will be a unique opportunity for all of us to share experiences and learn from each other. After all, and as I said in Rabat, I believe there are fewer differences between OECD countries and MENA countries than we might expect.

I am certain we will have very fruitful discussions during the course of today and tomorrow and that we will leave this event with a better and deeper insight of how to address the specificities of MENA countries.

Thank you.