D U B A I   D E C L A R A T I O N

ON

C O R P O R A T E   G O V E R N A N C E

Towards Sound and Efficient Financial Markets and Banking Systems
Corporate Governance in the Middle East and North Africa

November 26-27, 2006
Dubai, UAE

Hosted by:
Hawkamah Institute for Corporate Governance

In partnership with

Business leaders and policy makers from the Middle East and North Africa, including Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Palestine National Authority, Qatar, Saudi Arabia, Yemen and the United Arab Emirates (UAE) gathered with international and regional experts at the Hawkamah Inaugural conference on corporate governance.

Convinced of the **importance of good corporate governance** for financial and economic stability and development;

Highlighting the **challenge of sustainable growth** to create jobs and ensure social prosperity;

Acknowledging the **value of investor confidence** for the emergence of sound and dynamic markets;

Affirming the **need for immediate action and concrete reform measures** to bring corporate governance up to international standards;

Recognising the **benefit of regional policy dialogue**;

Willing to **co-operate with national and international organisations and standard setters;**

Relying on **private sector adherence to good corporate governance** practices and **the support of stakeholders and civil society**;

Considering the **Ministerial Declaration** of the MENA OECD Investment Programme (February 2006) in which MENA countries called for good corporate governance as a key element for improving the investment climate;

<u>Participants in the conference agree on the following:</u>

- ***Building on recent efforts**, **MENA countries need to continue improving the legal and regulatory framework underpinning corporate governance.***

- ***Parallel to strengthening these frameworks, the capacity of supervisors and regulators should also be addressed.*** Moving towards full independence from the government was stressed as an important prerequisite for success, together with a clear definition of their mandate. To empower these bodies to successfully carry out their functions, governments need to allocate adequate human and financial resources. Sustained political commitment at the highest levels is needed for enforcement to be successful and in order to instil public confidence in reforms.

- ***Self-regulatory measures and corporate governance codes should be developed as a complementary mechanism for improving enforcement in the region.*** To fulfil their function, codes need to be translated into practice and reach the boardroom. The codes developed on the basis of a structured process for drafting, where regulators, market representatives, companies, shareholders, business associations and the media are represented, would ensure support of all stakeholders in the implementation thereof. Shari'ah compliant codes should be developed for Islamic banks and financial institutions especially as these institutions are growing in importance in the region. The Global Corporate Governance Forum Toolkit on Codes should serve as a useful guidance for MENA countries.

- Shareholders and other stakeholders, including creditors, need to have rights and the remedies in order to ensure that they are treated in a fair and equitable manner. ***The role of a well functioning court system and capacity building for judges cannot be overemphasized.*** In this respect effort needs to be made to ensure the competency, specalisation and integrity of the judiciary. Mechanisms for alternative dispute resolution, including mediation, should be put in place to help solve corporate governance disputes in a more cost and time effective manner.

- ***MENA boards of directors,*** in all circumstance, in listed, non-listed, state-owned companies and banks alike, should act in the interest of the company and all of its shareholders, including the minority shareholders. To empower boards to exercise their strategic and monitoring functions, ***relying on a sufficient number of independent directors (independent from managers, major shareholders, political and other influence) and on the establishment of specialized committees is necessary.*** Board evaluation and training should play a critical role in improving boards in the region.

- ***Corporate governance of state-owned enterprises (SOEs) should be addressed as a priority, because of the important role they play for MENA economies***. This should be a gradual process. MENA governments should aim at centralizing the ownership function within one state institution, or ensure effective co-ordination of the institutions in charge. Transparency of SOE should improve by strengthening internal control mechanisms carrying out independent external audit, based on international standards and producing aggregate performance reports. Legislation should empower SOE boards of directors as the key body for strategic direction of the company independent from government and political interference in the day-to-day business of the company.

- ***Given the preponderance and economic importance of family owned, small and medium-sized enterprises and non-listed companies in MENA**, **promoting awareness of the benefits of better corporate governance practices and the adoption of best practices by the private sector is an imperative*** for economic development and modernization. Access to capital is a particular challenge for non-listed companies, as is succession planning. Effective company law frameworks, transparency and disclosure, and enforcement are required in order to set the incentives and information systems underpinning sound corporate governance arrangements in non-listed companies.

- ***MENA banks play a dominant role in corporate finance***. A shortcoming in the governance of banks can lower returns to the bank's shareholders and can have systemic consequences. Policy makers and regulators need to ensure that ***adequate banking laws and regulations*** are in place, as well as effective supervision of banks. Good corporate governance would also support more effective risk management practices and is a step forward in implementing The Basel II Capital Accord. Ownership and financial relationships of banks need to be transparent, while ***self-dealing and related lending*** should be subject to banking and corporate governance standards. ***Bank directors*** should be competent and should ensure sound lending and risk management and monitoring practices, conducive to good corporate governance in the corporate sector.

- ***MENA countries should act to establish effective insolvency systems and provide a framework for value maximisation and more efficient allocation of capital to productive uses.*** In particular, participants stressed the need for modernising the legal framework, providing a more active role to creditors and setting the terms for rescue and restructuring of distressed debtors. Institutional capacity building with a special focus on the role of the judiciary, the insolvency professionals and the state agencies, monitoring company performance should constitute a priority as well.

- Promoting awareness of the benefits of better corporate governance practices and the adoption of best practices by the private sector is an imperative for economic development and modernization. MENA countries need to make considerable progress in this respect. ***Public and private sector institutions should design communication campaigns and training programmes for companies, directors, shareholders, journalists and other interested parties underlining the value of good corporate governance.*** Participants encourage the establishment of Institutes of Directors and Codes of corporate governance that can play an important role in this respect.

<u>Implementation:</u>

Participants welcome the proposal of the MENA OECD Working Group on Corporate Governance to focus on ***implementation*** of concrete measures and action plans for improving corporate governance in the region.

They support the proposed establishment of ***two task forces***, focusing on corporate governance of ***banks*** and ***state-owned enterprises*** in order to provide regional guidelines based on international best practices, define policy priorities, and set the milestones for time-bound action in these areas.

Further work, based on pilot and case studies will focus on corporate governance of non-listed companies, including family-owned businesses and small and medium enterprises. Succession planning, reporting and decision making systems, as well as improving access to finance through public listing will be among the issues for discussion. Participants agreed to hold a workshop, to decide on how to carry this work forward.

Participants agree that insolvency and creditor rights systems require special attention and welcome the launch of a ***Module on Insolvency and Corporate Restructuring*** as a particularly timely initiative. In doing this, they will build partnerships with all interested organisations. The private sector, through the networks of INSOL International, will play a key role.

Participants encourage ***media capacity building***, as media can play a critical role in educating the public and keeping the focus on corporate governance reforms. They welcome the contribution of the media to awareness raising on the need and benefit of reform and to achieving a general buy-in and support for better corporate governance.

Participants called for wide dissemination of this Declaration to Governments, regulators, private sector bodies and to the general public. At its next annual conference in 2007, Hawkamah, in co-operation with the MENA OECD Working Group on Corporate Governance, will review the progress achieved in implementing the Declaration.