

MENA-OECD Initiative on Governance and Investment for Development

Investment Programme Working Group 1 Meeting “Open and Transparent Investment Policies”

Dubai, United Arab Emirates
1 February and 2 (am) February 2005

Draft Agenda

Objectives

Working Group 1 (WG1) helps MENA countries to develop open and transparent investment policies through multi-stakeholder dialogue, experience-sharing and capacity-building in the region, with the support of OECD countries and other partners. WG1 also aims at improving integrity of business transactions in order to reduce uncertainty and risk to domestic and foreign investors in the region.

The purpose of this meeting is to discuss and agree on outputs to be completed by the autumn 2005 Investment Ministerial Meeting, building on proposals made and agreed to in the July and September Investment Steering Group meetings. The meeting will also decide on the division of responsibilities among the WG1 members.

MENA country Delegates are invited to prepare country submissions as well as to review draft reports related to the following in advance of the meeting:

- Report on *Regulatory Environment for International Investment in MENA Countries*: review the findings and annex matrixes of the report and provide updated information to the OECD Secretariat.
- *International Investment Agreements*: prepare country submissions on the content of International Investment Agreements that MENA countries have concluded to date.
- *Promoting integrity in business transactions*: prepare country submissions on initiatives to support national efforts to combat corruption, encourage good corporate behaviour and enhance integrity in business transactions.

Main issues

WG1 contributes to efforts to upgrade investment policy standards, help attract more investment, maximise the benefits of investment and to strengthen the capacity of policy-makers in the MENA region. Based on MENA country submissions and input from the private sector and other programme partners, the following outputs will be completed by the autumn 2005 Investment Ministerial meeting:

- Stocktaking and policy dialogue on *transparent and open investment policies and options for reform*;

- Report on *international investment agreements* related to MENA countries and policy dialogue to enhance common understanding on core investment protection treaty provisions and procedures;
- Input to the work on *financial and regulatory FDI incentives*; this work is led by WG2 and WG3, but it will also require a substantial input from WG1;
- Assessment of *FDI data availability, and identification of areas for improvements* to increase conformity with international (OECD/IMF) standards for FDI statistics, (this task will be carried out by a Task Force on FDI data); and
- Report on policies and trends in selected MENA countries to *promote integrity in international business* transactions with a view to setting a common framework for regional co-operation.

Participants

MENA countries are invited to send experts in the areas of investment policy-making, investment agreements, FDI statistics and bribery of public officials. Countries are also encouraged to consider including business representatives in their delegations. Experts from OECD countries will be present at the meeting.

Other key partners, including the World Bank/FIAS, UNIDO, Islamic Development Bank, Arab League, Inter-Arab Investment Guarantee Corporation, and the Transparency International, have been invited to participate in the meeting.

Private sector engagement is essential for the success of the Investment Programme, as they can provide insights to issues affecting investment decisions and serve as a “reality check” for policy reform plans, including the implementation. Representatives from the Arab Business Council, Arab Investors’ Union, Business and Industry Advisory Committee to the OECD (BIAC), and Business Councils in MENA countries are expected to join the meeting.

Tuesday, 1 February 2005

9h30 – 10h15

Session 1: Opening remarks and setting the scene

Opening remarks

- **Mr. Martin Berlin**, Chief Strategy Officer, Dubai Investment and Development Authority
- **Mr. Shuichiro Megata**, Minister, Permanent Delegation of Japan to the OECD
- **Mr. Abeer Al-Ahmad**, Jordan Investment Board

10h15 – 11h00

Session 2: Investment Climate in MENA countries

- Main objectives of the meeting, and OECD Policy Framework for Investment, **Mr. Rainer Geiger**, Deputy-Director, OECD Secretariat
- Overview of investment climate surveys in the MENA region, **Mr. John Speakman**, World Bank Representative
- General discussion

11h00 – 11h30 *Coffee/Tea*

11h30 – 17h00

Session 3: Outputs to be completed by the 2005 Investment Ministerial Meeting

The purpose of the session is to identify outputs to be completed by the Investment Ministerial Meeting in autumn 2005. Outputs proposed by the July and September Steering Group meetings and subsequent consultations with MENA partners are listed below. The OECD Secretariat will briefly introduce each output followed by comments by a business representative and a general discussion.

11h30 – 13h00

Regulatory Framework for International Investment in MENA Country Governments (Output 1)

(To be introduced by Egypt and OECD Secretariat)

International investment is hampered by screening of FDI entry, foreign ownership ceilings in certain sectors and exceptions to national treatment after FDI establishment and performance requirements for foreign investors. Transparency of investment-related regulations is also important.

The OECD Secretariat presented a draft report on “*Regulatory Environment for International Investment in MENA Countries*”¹ at the first Investment Steering Group meeting in June/July

¹ This report covers the following countries: Algeria, Bahrain, Djibouti, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates and Yemen. The report can be accessed at <http://www.oecd.org/dataoecd/30/28/32298493.pdf>

2004. The report provides a synthesis of available information from MENA countries and from other sources, including the IMF, World Bank, and UNCTAD. It contributes to the initial stocktaking phase and serves as a basis for discussions among peer governments on openness and transparency of regulations concerning international investment. It also identifies knowledge gaps to be filled by, *inter alia*, policy dialogue in WG1.

This session provides an opportunity for MENA countries to comment on the draft report, which will be finalised by May 2005. **Delegates from MENA governments/organisations are requested to review the findings/annex matrixes of the report and provide updated information to the OECD Secretariat.** The OECD “*Checklist for Foreign Direct Investment Incentive Policies*” and “*Public Sector Transparency and the International Investor*” can also be used as a reference for country submissions. These country submissions will serve as a basis for discussion. Private sector inputs will be particularly important in identifying regulatory barriers to investment in the MENA countries.

13h00 – 16h00 Lunch. At Mosaico Restaurant. Emirates Towers Hotel

15h00 – 16h00

Working with investment treaties (Output 2)

(to be introduced by Morocco and OECD Secretariat)

A short presentation by the OECD Secretariat on investment treaties will be followed by a *tour de table* on MENA country experiences on existing International Investment Agreements (IIAs).

Participants are invited to consider a proposal to carry out an inventory of international investment treaties in the MENA countries. The inventory would highlight the main features of the IIAs, such as the inclusion of market accession/liberalisation commitments; standard of investment protection after establishment; MFN clauses; performance requirements; safeguards; labour/environment clauses; investor-state dispute settlement; bottom-up or top-down scheduling of commitments. **Delegates are requested to prepare country submissions on the content of their existing IIAs and provide this information to the OECD Secretariat.**

16h00-16h30 Coffee/Tea

16h30 – 15h00

Assessing incentives-based strategies to attract investment (Output 4)

(To be introduced by Bahrain and OECD Secretariat)

Many MENA countries use specific incentives, subsidies and regulatory exemptions to attract FDI. The cost-effectiveness of financial and regulatory incentives and options for reform in the region will be assessed on the basis of submissions from MENA countries and the “*OECD Checklist for Foreign Direct Investment Incentive Policies*”, with input from the private sector and other programme partners.

The work on non-tax incentives will be led by WG2 and by WG3 for tax incentives. As the different policy communities need to work together on this issue, it is important for WG1 to be involved in this work. The OECD Secretariat will provide an overview of the planned work, the

results of which will be discussed by WG1 at a later stage.

Wednesday, 2 February 2005

9h30 – 11h00

Promoting integrity in business transactions (Output 3)

Panel Discussion

- **Dr. Frederic Wehrle**, Anti-Corruption Division, OECD
- **Mr. Musleh Al Kayed**, Director General, Anti-Corruption Department, Jordan
- **Mr. James R. MacKenzie**, Managing Director, Fouad Alghanim & Sons Automotive Company, Kuwait
- **Mr. Santiago Zorzopulos**, Manager of Programmes, Dubai Ethics Resource Center, U.A.E

This session will address the integrity in business transactions from the point of view of governments (that are keen to increase both domestic and foreign investment) and the private sector. The OECD Secretariat will present its work on fighting bribery and corruption in business transactions, including in the context of the *OECD Anti-Bribery Convention* and its implementation. A preliminary report of the OECD Secretariat on policies and trends in selected MENA countries will highlight the trends and constraints in this area.

Algeria, Egypt, Jordan, Morocco and the United Arab Emirates will describe their experiences in enhancing integrity in business transactions and deterring bribery of public officials. This will be followed by a general discussion on achievements in promoting corporate ethical behaviour and integrity in business transactions with public officials. Country delegates will be invited to comment on the effectiveness of different initiatives to support national efforts to combat corruption. **Delegates are requested to prepare country submissions on initiatives to support national efforts to combat corruption, encourage good corporate behaviour and enhance integrity in business transactions; and provide these to the OECD Secretariat.** These submissions will provide a basis for discussion and help to identify the focus for future work.

11h00 – 11h30 Coffee/Tea

11h30 – 12h00

Improving foreign direct investment statistics (Output 5) for information

(To be introduced by Lebanon and OECD Secretariat)

Reliable and timely FDI data is essential for policy-making and performance evaluation. Yet the quality of FDI statistics is uneven across MENA countries. A Task Force on FDI Statistics consisting of WG1 and WG2 experts will assess the consistency of FDI statistics with international standards in MENA countries and identify measures to improve FDI data collection and processing. A stocktaking of FDI data availability will be carried out on the basis of country submissions, and areas to improve consistency of MENA countries' compliance with international

(OECD/IMF) standards will be identified by the Task Force. This could eventually lead to annual publication of MENA FDI Statistics.

While this work will be led by WG2 through a Task Force on FDI Statistics proposed by Lebanon, it will also require a substantial input from WG1 at a later stage.

12h00 – 12h45

Conclusions and Next Steps

- **Egypt** and Dubai
- **Mr. Shuichiro Megata**, Minister, Permanent Delegation of Japan to the OECD
- **Mr. Rainer Geiger**, Deputy-Director, OECD Secretariat

The Co-chairs will present a summary of discussions and identify next steps. This will include the division of responsibilities among the WG1 members and other partners, as well as the timetable for implementing the agreed work programme until the autumn 2005 MENA Investment Ministerial Meeting.

13h00 – 14h30 Joint networking lunch with WG2 delegates. Just outside the meeting room.

Documentation

The following documents will serve as background and be posted on the following OECD Website: www.oecd.org/daf/investment .

- MENA country submissions could be made using the categories in the matrix table of the "Regulatory Environment for International Investment in MENA Countries" (<http://www.oecd.org/dataoecd/30/28/32298493.pdf>) as a framework. Regarding policy transparency delegates can specifically consider the 15 questions posed in the OECD Framework on Investment Policy Transparency (<http://www.oecd.org/dataoecd/36/42/18546790.pdf>).
- Relationships between International Investment Agreements
- Most-Favoured-Nation Treatment in International Investment Law
- Fair and Equitable Treatment Standard in International Investment Law
- Indirect Expropriation" and the "Right to Regulate" in International Investment Law
- 2003 edition of Capital Movements Code
- 2004 OECD National Treatment exception lists
- World Bank, UNCTAD, UNDP, UNIDO, European Commission, Arab League, Arab Business Council, Transparency International, BIAC documents

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MENA-OECD Investment Programme in Brief

The MENA-OECD Initiative on Investment and Governance for Development (GfID) represents an opportunity to promote broad reforms to enhance investment and development, strengthen interregional as well as international partnerships, and promote sustainable development throughout MENA countries. The process aims at strengthening countries' capacity for designing and implementing reforms. It enhances public governance and modernizes public institutions, provides an improved environment for economic activity and growth. Most importantly, it establishes a sustainable structure facilitating policy dialogue on public governance and investment policies among MENA countries.

The impetus for this Initiative comes from a widespread realization within the MENA region today that it stands at a critical juncture in its history. This realization is shared by both MENA governments and civil society institutions alike. It stems from the state of the MENA development and the obstacles that continue to hinder the achievement of the region's potentials.

Following several preparatory meetings with MENA partners, the Initiative has been organised into two programmes:

- *The Public Governance Programme*: aimed at modernising the government structures and processes in MENA countries
- *The Investment Programme*: aimed at improving the policies and environment for investment.

The MENA-OECD Investment Programme aims to support the on-going reform process by creating a regional network for policy dialogue and enhancing capacity for policy reform. It seeks to help efforts to mobilize investment, foreign, regional and domestic, as a driving force for growth, stability and prosperity throughout the MENA region. Successful implementation of the Programme is expected to make a substantive contribution to creating better conditions for economic growth and investment, helping create jobs, encouraging private initiative, promoting efficient, transparent and accountable public sectors and fostering regional co-operation.

The five regional Working Groups are key to implementing the Programme:

- Transparent and open investment policies (chair: Jordan; co-chair: Japan)
- Encouraging Investment Promotion Agencies and business associations to act as driving forces for economic reform (chair: Dubai; co-chair: to be determined)
- Providing a tax framework for investment and assessing tax incentives (chair: Bahrain; co-chair: Turkey)
- Promoting policies for financial sector and enterprise development in support of economic/investment diversification (chair: Saudi Arabia; co-chair: UK)
- Improving corporate governance (chair: Lebanon; co-chair: to be determined)

Each Working Group has several MENA coordinators focusing on different strands of the policy priorities, and they are expected to nominate from within coordinators the Working Group co-chairs—one from MENA and the other from the OECD—to consult with other members, establish the draft agenda, invite participants, interact with other external partners and act as the Working Group's speakers in the Steering Group. The Action Programme for the next three years will be developed using recommendations from the Working Groups.

A region-specific methodology for the Programme emphasizes ownership of reforms, business and civil society dialogue and strategic partnership with other regional and multilateral organizations. It is flexible enough to allow for amendment to suit different sets of MENA requirements and adopts a three-phase approach:

- diagnosis of current investment conditions in the countries of the region;
- development of country-specific policy recommendations and design of regional policy initiatives; and
- monitoring and assessing progress in policy implementation, improvement of the investment conditions and investment performance in MENA region.

The Programme will operate in a flexible and dynamic framework. Consequently, components of this work may need to be revised in the course of implementation.

For further details please consult www.oecd.org/daf/investment or contact Mehmet Ogutcu at mehmet.ogutcu@oecd.org.