



**Organisation for Economic Co-operation and Development
In co-operation with the World Bank Group**

Agenda

**The Fifth Meeting of the
Latin American Corporate Governance Roundtable**

8 - 9 October, 2004

Sofitel Hotel, Rio de Janeiro, Brazil

**The Latin American Corporate Governance Roundtable
is organised by
The Organisation for Economic Co-operation and Development
(OECD)
in co-operation with The World Bank Group**

**Co-hosted by:
Comissão de Valores Mobiliários (CVM), IBGC and Bovespa**

With co-sponsorship from:

**the National Association of Investment Banks (ANBID),
the Research Centre for the Society of Lawyers (CESA),
the Global Corporate Governance Forum (GCGF), and
the Center for International Private Enterprise (CIPE)**

The Objectives of the Meeting are:

- To increase understanding and develop recommendations on key elements of enforcement, including the legal and regulatory frameworks to facilitate effective enforcement, and the private sector and institutional investor role. These discussions and recommendations will provide the basis for the issuance of a Roundtable policy brief on enforcement issues; and
- To agree on a programme to promote implementation of the White Paper as a whole, including active monitoring and review of progress.

Day 1: Friday, 8th October, 2004

08:00 - 08:45 **Registration**

09:00 - 09:30 **Introductory
Remarks:**

Mr. Marcelo Trindade, President, Comissão de
Valores Mobiliarios (CVM), Brazil
Mr. William H. Witherell, Director, Directorate for
Financial and Enterprise Affairs, OECD

Mr. Trindade will welcome participants and discuss the objectives and priorities for the outcome of the meeting.

Mr. Witherell will update the Roundtable on the issuance of revised OECD Principles and plans for follow-up: key new elements of the Principles and how they relate to the White Paper's recommendations. This Roundtable meeting's focus on enforcement is consistent with new aspects of the Principles themselves. He will also report on events over the last year which supported the launching of the White Paper on Corporate Governance in Latin America, including the meeting of the Inter-American Development Bank in November, 2003, briefings for the press in Washington D.C. and Mexico City, also in November, and a special meeting organized by Confecamaras of Colombia with the support of CIPE in Cartagena in May, 2004.

For each of the following sessions, a moderator will provide an overview of the subject, animate the discussion and sum up at the end recommendations that could be considered for inclusion in the policy brief that will be developed after the meeting.

09:30 - 11:00 **Session 1:** *Legal, Regulatory and Institutional Framework for Enforcement – State of Play and Key Challenges*
(See White Paper section on Effectiveness of Regulatory and Supervisory Enforcement, pars. 134-147)

Moderator

Commentators:

Mr. José Luiz Osorio, Jardim Botânico Partners, Brazil
Mr. Daniel Blume, Principal Administrator, Corporate Affairs Division, OECD
Mr. Alvaro Clarke, Clarke & Asociados, Chile
Mr. Clemente Del Valle, Chairman, Supervalores, Colombia
Mr. Carlos Eyzaguirre, Consultant (former Chair of CONASEV), Peru
Mr. Guillermo Fretes, Partner, Fretes & Arieu – Abogados, Argentina
Ms. Isabella Saboya, Investidor Profissional, Brazil

The session will begin with a comparative overview of the results of questionnaires on enforcement practices in Latin American countries, addressing such issues as the number of enforcement cases pursued, fines issued, time involved, degree of independence of the regulatory authority, etc. Questions on the common strengths and weaknesses of enforcement frameworks in Latin America, and difficulties to overcome in relation to recent developments and reforms will be directed to the experts who filled out the questionnaires.

11:00 - 11:20 Refreshments

11:20	- 13:15	Session 2:	<i>Encouraging the Emergence of Active and Informed Owners (White Paper, pars. 34-42)</i>
		<i>Moderator:</i>	Mr. Mats Isaksson, Head, Corporate Affairs Division, OECD will present a synthesis of the state of play
		<i>Commentators:</i>	Mr. Wagner Pinheiro, CEO, Petros pension fund, Brazil Mr. Mike Lubrano, Corporate Governance Department, IFC Mr. Alfonso Revollo, Infrastructure and Financial Markets Division, Inter-American Development Bank (IADB) Mr. Jean-Michel Houde, Inter-American Investment Corporation (IIC) Mr. Cristiano Souza, Dynamo Administração de Recursos Ltda Mr. Andres Langebaek, Andean Development Corporation (CAF) Mr. Luiz Chrysostomo, Brazilian National Association of Investment Banks (ANBID) Mr. Cristián Rodríguez, Investment Manager, AFP Habitat, Chile

This session aims to assess the state of play in respect to actions that may be taken by institutional investors including pension funds to improve corporate governance, and to identify legal, regulatory and institutional changes that may be necessary to remove barriers and increase incentives for such investors to encourage good corporate governance practices.

Questions to address include: who are the active shareholders we have in mind, and what are their incentives and capacity to act? What have they done so far to support better corporate governance, what can they do, and why do they behave the way that they do? What legal or regulatory constraints do they face that may hamper active ownership? One initiative of interest is the IFC proposal to build upon the OECD Principles to develop agreement among Private Equity Investors in Emerging Markets on common practices to promote better governance in investment companies. For example, should investors insist that all shareholder agreements involving public companies be made public?

Discussion will address: a) the role of governments and regulators, i.e., the legal and regulatory framework for effective use of pension fund investment to promote good corporate governance; and b) promising practices among investors and institutions, including public investors such as IFC, pension funds as well as private investors.

Discussion of policy recommendations.

13:15 - 14:45 Lunch

14:45 - 16:30 **Session 3:** *Civil Enforcement: Private Rights of Action (White Paper, pars. 148-149):*

Moderator: Mr. Mike Lubrano, Corporate Governance
Department, IFC

Commentators: Mr. Ed Waitzer, Chair, Stikeman Elliott LLP, Canada
Professor Francisco Pfeffer, University of Chile
Mr. Arturo Majlis, Partner, Grasty, Quintana, Majlis &
Cia, Chile
Mr. Pablo Cavallaro, Member, Centre for Financial
Stability, and Lawyer, Fortunati & Lucero, Argentina
Mr. Carlos Eyzaguirre, former CONASEV chair,
consultant, Peru
The Hon. Antonio Torres, specialised business court
of Rio de Janeiro, Brazil

The aim of this session is to increase understanding of the current legal framework for and practical experience in relation to private actions such as derivative suits, class action lawsuits, or direct actions against de facto controllers that may be taken to protect shareholder rights and obtain redress for violation of their rights; assess and showcase effective practices in this regard, both from within and outside the region, as the basis for development of policy recommendations and concrete implementation programmes in this area.

Information-gathering and discussion will address the legal frameworks and experience in pursuing private actions, including identification of the technical and practical obstacles to use of such rights. What tools do active shareholders have at their disposal, and which are actually used in practice? Class action or other legal action? Participation in AGM/proxy voting? Relational investing? What are the most important means for influencing corporate governance?

Discussion of policy recommendations.

16:30 - 16:45 Refreshments

16:45 - 18:00 **Session 4:** *Improving the Variety and Capacity of Mechanisms for Adjudicating Disputes (White Paper, pars. 150-153)*

Moderator Mr. Pedro A. Batista Martins, OF Counsel, Barbosa, Mussnich and Aragão, Brazil

Commentators: Mr. Jaime Moya, Vice-President, Bogota Chamber of Commerce
Mr. Mariano Fabrizio, Partner, Pastoriza & Eviner, Argentina
Mr. Dieter Linneberg, Advisor, Superintendency of Securities and Insurance (SVS), Chile
Mr. José Monforte, Natura, Brazil

The aim of this session is to increase understanding of the current legal framework, recent reforms, and practical experience in making use of alternative mechanisms for adjudicating disputes; and to identify what changes may be needed to increase use of private arbitration, mediation or other mechanisms aimed at improving overall efficiency and competence in settling disputes.

Discussion to address the private sector and institutional investor/pension fund theme, looking at actions they can take to promote or make reforms happen (e.g. what would it take to increase private sector acceptance of and use of these means to adjudicate disputes?)

Discussion of policy recommendations.

19:00 Cocktail, Hosted by the International Finance Corporation

Day 2: Saturday, 9th October 2004

09:00 - 10:30 **Session 5:** *The role of the press in promoting better enforcement: how can aggressive reporting of legal violations and bad corporate governance practices help to promote better enforcement?*

Moderator: Mr. John Sullivan, Executive Director, Center for International Private Enterprise (CIPE)

Commentators: Mr. John Plender, The Financial Times, UK
Ms. Simone Azevedo, journalist, Revista Capital Aberto, Brazil
Ms. Mara Luquet, Valor Econômico, Brazil

The aim of the session is to increase understanding of the experience with media coverage of corporate governance practices and enforcement issues, their incentives and limitations, for contributing to improved corporate governance. Session will address not only media experience, but also the results of efforts to sensitise and increase media understanding of corporate governance.

Discussion of policy recommendations.

10:30 - 11:30 **Session 6:** *A Scenario for Achieving More Effective Enforcement - The Roles and Responsibilities of Different Players*

Moderator: Dr. Federico Oviedo Vidal, CEO, Stock Exchange of Lima

Commentators: Mr. Mauro da Cunha, Bradesco-Templeton, Brazil
Mr. Marcelo Barbosa, Attorney, Vieira, Rezende, Barbosa and Guerreiro, Brazil
Mr. Carlos Pavéz, Head of Enforcement, SVS, Chile

A 3-5 year scenario for how markets in the region could actually arrive at a point where private rights of action such as derivative and class action suits, are used in practice and can become an effective, credible threat to promote compliance, combined with alternative dispute resolution mechanisms. What prospect is there for better education and training of lawyers and judges to assist in strengthening corporate governance enforcement? Interventions should address the complementary elements needed to achieve this, barriers to overcome, and develop a timeline that addresses how to deal with the "chicken or egg" debate of sequencing reforms.

Discussion of policy recommendations.

11:30 - 12:00 Refreshments

12:00 - 13:00 **Session 7:** *Looking Ahead*
Conclusions reached so far and proposals for follow-up, including creation of a task force to pursue more detailed development of policy brief on these issues.

Moderator: Mr. Emilio Ferré, Commissioner, Argentinean Securities Commission

Commentators: Mr. Daniel Blume, OECD, to report on the OECD Work Programme, including nature and character of Roundtable meetings in the future.

This session will involve free discussion among all participants to address the future of the Latin American Roundtable: What synergies may be achieved between future OECD and World Bank Group work on corporate governance, and the activities of the Roundtable? Should we seek security commission endorsements of the White Paper and self-reporting on progress?; Broader country reviews or thematic reviews, by whom, and at what level of detail?; and how should we proceed to develop a policy brief addressing the recommendations emerging from this meeting (perhaps nominating a task force of 6-8 people including investors, securities commissioners, stock exchange, legal and other experts to work with the Secretariat on a follow-up draft). Proposals to monitor progress, consider country reviews?

END OF ROUNDTABLE