Highlights & Conclusions

Sixth Meeting of Latin American Network on Corporate Governance of State-Owned Enterprises

Board performance and integrity of state-owned enterprises

27-28 June 2019

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Key highlights and conclusions of the 6th Meeting of Latin American Network on Corporate Governance of State-Owned Enterprises

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The 6th meeting of the Latin American Network on Corporate Governance of SOEs provided an opportunity for ownership ministries and/or coordinating entities, SOE management and board members, as well as a range of relevant stakeholders interested in promoting corporate governance (CG) to share experience and knowledge on SOE governance policies, practices and reforms, with a particular focus on board performance and integrity of state-owned enterprises (SOEs).

The meeting gathered some 110 participants (200+ for the plenary session) from Argentina, Brazil, Colombia, Costa Rica, Ecuador, Mexico, Paraguay, Peru, Spain, Sweden, United Kingdom and Uruguay, as well as representatives of the OECD, IFC, World Bank, UN Economic Commission for Latin America and the Caribbean, CAF - Latin American Development Bank. In addition, the webcast of the meeting was accessed over 2000 times from different locations worldwide, including Panama, Chile, France and the United States. The meeting was organised and co-ordinated by the OECD, CAF and its local host, the National Financing Fund of State Managerial Activity (FONAFE) of Peru, with funding support from the UK Prosperity Fund and the Government of Spain.

Key points raised included:

- Welcoming remarks from Michel Canta Terreros, Vice-Minister of Economy of Peru, and Roberto Sala Rey, Chief Executive Officer (CEO) of FONAFE, highlighted the economic and social benefits that good corporate governance can bring to SOEs in the region – including in ensuring a level-playing field between SOEs and private sector companies; in fostering access to capital markets; as well as in providing better quality services to the population, amongst other aspects. They both underlined the importance of the SOE Network - as a platform for exchange of practices – for identifying relevant priorities and experiences in the region; and recalled that Peru, in its commitment to adhere to the highest international standards, has made significant advancements in recent years including through the implementation of FONAFE’s Code of Corporate Governance (first issued in 2006 and reviewed in 2015) as well as more recently through the adoption of “Legislative Decree 1031 on the efficiency of the corporate activity of the state” in 2018, which establishes new management tools for the state.

- These remarks were complemented by Manuel Malaret, Resident Director of CAF-Peru, who recalled that CAF has been supporting corporate governance reforms in the region for the last 15 years, including in the SOE sector, which bears particular importance due to its potential impact on the development and productivity of the region. Finally, Lars Erik Fredriksson, Chair of the OECD Working Party, recalled that the issue of integrity goes hand-in-hand with well-performing boards – capable of objective judgement and with the necessary skills and experience to contribute to effective oversight of management. Both are crucial for ensuring that SOEs obtain good results. This issue is particularly relevant in the light of the OECD Council’s recent approval of the new OECD Guidelines on Anti-Corruption and Integrity of State-Owned Enterprises (“ACI Guidelines”) which, in addition to the 2015 Guidelines on Corporate Governance of State-Owned Enterprises (“SOE Guidelines”), will provide an additional tool for guiding governments and their SOEs in their corporate governance reforms. The ACI Guidelines are available in both English and Spanish, thanks to the translation prepared by the Spanish Government.
Session 1: Towards the implementation of the new OECD Guidelines on Anti-Corruption and Integrity in SOEs

- Session 1 focused on the ACI Guidelines and the importance of developing effective frameworks for fostering anti-corruption and integrity in SOEs. First, Daniel Blume, Senior Policy Analyst at the OECD, introduced the context in which the ACI Guidelines were developed and how they relate to the existing SOE Guidelines and other international standards and recommendations such as the G20 High-Level Principles for Preventing Corruption and Ensuring Integrity in SOEs. The ACI Guidelines have also been identified by the OECD Latin America and the Caribbean (LAC) Action Plan on Integrity and Anti-Corruption as a key mechanism to support the implementation of its seven SOE-related recommendations aimed at ensuring effective ownership, governance and accountability frameworks. While the ACI Guidelines are non-binding and their implementation is voluntary, several mechanisms exist to support their implementation including 1) OECD reviews of national practices relative to the ACI Guidelines; 2) regular monitoring among OECD member countries (who are required to associate themselves with this new legal instrument); 3) Regional SOE Networks; and 4) technical assistance programmes or secondments to support knowledge transfer on ACI measures.

- With respect to their content, Juan Munguira, Legal Counsellor at the Spanish National Securities Market Commission (CNMV) and Bureau Member of the OECD Working Party on State Ownership and Privatisation Practices, introduced the four different chapters of the Guidelines, which are structured as follows: 1) Integrity of the state, which establishes that the state should act in the public interest; 2) exercise of state ownership for integrity; providing an overview of the state’s main responsibilities; 3) promotion of integrity and prevention of corruption at the enterprise level; and 4) accountability of state-owned enterprises, which centres around the establishment of adequate internal control mechanisms. He also pointed out that while controlling the activities of SOEs is necessary to implement good practices, an excessive lack of trust could also lead to a lack of managerial freedom. An appropriate balance must be found. In that sense, he recalled that the Guidelines are not “rigid rules” but are meant to be flexible and proportionate.

- Finally, Jimena Viveros, Head of Mexico’s International Investigation and Cooperation Department of the Federal Prosecutor’s Office of Tax and Finance Crime, added on a number of developments that have occurred in this field in Mexico – in line with the recommendations of the SOE and ACI Guidelines. In 2015, Mexico created the National Anticorruption System (Sistema Nacional Anticorrupción – SNA) establishing coordination mechanisms between citizens and all authorities responsible for prevention, investigation and sanction of corruption in the country. As part of this reform, Mexico has introduced several risk management mechanisms in all public entities (including SOEs) such as the submission of mandatory declarations on assets and interest for all public officials (upon assuming functions and after their terms of office); the adoption of integrity policies; as well as the issuance of code of ethics and a more specific guide on how to identify and prevent potential conflicts of interest. The National Anti-Corruption Policy also provides a clear definition of what constitute “administrative offences” (bribery, embezzlement and collusion) or “corruption crimes” (abuse of power, illicit enrichment etc.) as well as the respective sanctions for each case. In addition, SOEs are subject to independent and effective audits carried out by the Chief Audit Office of Mexico (Auditoría Superior de la Federación) as well as to strict requirements on transparency.
Session 2: Best practices and lessons learned from the implementation of national and regional SOE Guidelines

- Session 2 focused on a few case examples of countries and institutions that have issued their own SOE Guidelines, some of which have specific components related to SOE integrity. Offering a regional perspective, CAF’s Guidelines for Good Corporate Governance of SOEs, have been recently revised to reflect the experience and lessons learned (from CAF but also local governments) since their initial issuance in 2010. As explained by Andrés Oneto, Principal Officer at CAF’s Direction of Analysis and Technical Evaluation, the new document aims to be more pragmatic and to offer region-specific recommendations based on internationally accepted standards. The revisions were based on three key aspects: 1) the existence and specificities of complex corporate groups; 2) the need to enhance the effectiveness and structure of the boards of directors (to ensure their autonomy); and 3) the complexity surrounding the implementation of corporate governance in SOEs (mainly due to the lack of corporate governance culture in SOEs and the lack of continuity). As a result, the revised document centres around 7 working areas (representing 59 guidelines in total) and includes new aspects relative to the functioning of board of directors; a new section on the control framework and concrete references to corporate groups which raise specific corporate governance issues.

- In Peru, FONAFE – the holding group of the state – has issued a Corporate Governance Code and Transparency Guidelines, which are applicable to all 36 SOEs managed by the company. On this basis, FONAFE has elaborated performance contracts with each individual SOE, containing several key indicators (scorecard) on management, internal control, application of the CG Code, transparency, performance, etc. SOEs are then ranked based on their performance along four key categories: 1) Transparency; 2) Investments; 3) Profitability; and 4) Trainings. Results are published on FONAFE’s website as an incentive for companies to perform better. Other relevant reforms mentioned by Roberto Sala Rey, CEO of FONAFE, include the implementation of a system of risk analysis in most SOEs; the establishment of a dedicated Corporate Governance Unit in FONAFE; as well as the adoption of a policy on board composition (establishing requirements for skills and qualifications and gender quotas) amongst other aspects.

- In Brazil, the Office of the Comptroller-General (CGU) issued Integrity Guidelines, with the objective of assisting SOEs in developing or improving their compliance and integrity programmes. Gustavo Bouzon, Audit Manager of Public Energy and Oil Companies at the CGU, explained that there are currently 134 (centrally owned) SOEs in Brazil, generally supervised by their line ministries and the Ministry of Economy, which has a budgetary and regulatory role. Within this governance structure, the CGU acts as the internal audit unit of the federal executive branch (complimentary to SOE internal audits) in charge of fostering integrity and transparency throughout the public and private sector. The Integrity Guidelines were issued in 2015, following the adoption of the Anti-Corruption Act (2013) and the high-profile scandal “operation car wash”, as a means to incentivize SOEs and private companies to adopt integrity and compliance programmes. These programmes consist of a set of measures (structured around 5 main topics) that aim at preventing, detecting and addressing the occurrence of fraud, corruption and misconduct in companies. The program covers several areas from communication and training to transparency, monitoring and disciplinary measures. Subsequently, the CGU carried out Integrity Evaluation Audits in 32 SOEs (2015-2018) which revealed that most SOEs were still in the beginning stage of implementing their integrity programmes; the main problem being the low degree of supervision from the senior management.
Session 3: Recent developments and reforms of SOEs in Latin America

- Session 3 focused on the reform experience of three countries that have recently been active in strengthening their oversight of SOEs: Argentina, Costa Rica and Uruguay. First, Fernando Sánchez, President of the Committee on the Good Governance of SOEs and Secretary of Institutional Strengthening of the Office of the Cabinet of Argentina, shared some of the recent improvements in the governance of SOEs in Argentina. There are currently 40 SOEs at the national level – including important companies such as the national railway company Trenes Argentinos, the country’s flagship courier Aerolineas Argentinas, and the national bank Banco de la Nación. The ambitious reform agenda of the present government was informed by the recognition that most SOEs were in deficit, and had low productivity and transparency levels as of 2015. Consequently, the government has been gradually implementing reforms, which have led to the adoption of a corporate governance evaluation system in 2017 and of national Guidelines on the Good Governance of SOEs in 2018. In addition, the government has been closely working with 21 of the most important SOEs to define strategic plans, promote professionalization of board members and modernize reporting systems. As a result, performance of SOEs has improved and total transfers from the state budget to SOEs (as percentage of the GDP) has declined from 1.5% in 2015 to 0.7% in 2019. Corporate practices have also improved – with large-scale adoption of integrity programs in SOEs (67% as of 2017) including specific programs on public procurement, which have helped reduce the number of direct contracts. Despite this, challenges remain especially in ensuring continuity of the reforms, strengthening the role and responsibilities of regulators and ultimately adopting a more centralized approach through the establishment of a “holding” of SOEs.

- Carlos Elizondo Vargas, Chief of the Advisory Unit on State Ownership (Ministry of the Presidency) presented several aspects of Costa Rica’s ambitious reform plan of SOEs, which intends to give the state a more active and informed role as an owner. For this purpose, a new ownership unit has been established within the Presidency in 2017: the Advisory Unit on State Ownership (Unidad Asesora de la Propiedad Accionaria del Estado) whose purpose is to coordinate and strengthen the role of the state while also allowing to gather relevant information on SOEs to inform decisions and the public in general. The Advisory Unit has also contributed to the elaboration of Costa Rica’s ownership policy, whose objective is to define the scope and objectives of the state as an owner. The ownership policy is still under consultation, but should be approved in less than two months. The Advisory Unit has also worked on the issue of the professionalization of board members and established transparent appointment and nomination processes in all SOEs. This mechanism (established via executive decree) seeks to establish a competitive and open procedure for the selection of board members who must satisfy clear eligibility criteria. Last but not least, an aggregate SOE report (on financial and non-financial information) has also been established with the objective to present recent developments and analysis in the SOE sector, while also acting as an effective and transparent way to inform the public on the state of the SOE sector.

- In Uruguay as well, SOEs have important economic and strategic roles, although a reform of the (decentralized) ownership model is not in the agenda. As described by Santiago Soto, Sub-director of the Planning and Budget Office of Uruguay, the current model focuses on three different areas 1) governance; 2) investments; and 3) sustainability and efficiency (which include a system of management contracts between SOEs and ministries among other things). Current efforts focus on drafting a new legislation to establish a clearer ownership role for the state and more consistent objectives (both from a national and sectorial perspective) for the SOE sector.
Session 4: Roles and responsibilities of the board of directors in ensuring SOE performance and integrity

- Both the OECD SOE Guidelines and the ACI Guidelines highlight the important role that boards play in promoting integrity and ensuring performance in SOEs. This session provided an overview of some of the ways in which boards can be empowered to exercise their role and responsibilities. First, Danilo Gregorio, Advocacy Advisor at the Institute of Brazilian Corporate Governance (IBGC), shared some of the results and conclusions of a research report on the corporate governance of listed SOEs in Brazil. The research, which included a sample of 31 companies, showed that corporate governance standards of listed SOEs have been improving in Brazil - mainly as a result of the adoption of important laws such as the Anti-Corruption Act in 2013, the Federal SOEs Law in 2016 and B3’s SOE Program to improve standards of listed SOEs, amongst others. Improvements include a higher percentage of independent directors in mixed-ownership companies since 2017 (closer to levels found in private sector companies) as well as an increase in the adoption of risk, compliance and integrity tools. However, despite clear requirements established in the law, listed SOEs still report poor board evaluation and nomination practices (most of which lack formal nomination policies and committees).

- What can the boards of SOEs do to ensure performance and integrity? To answer this question, Lars Erik Fredriksson, provided an overview of what is considered good practice in OECD countries and in particular in Sweden, where he acts as an SOE board member. To ensure accountability to the owner, he recommends to first identify the values of the shareholder in order to make an informed choice on the decision to join or not the board of a specific SOE. Once appointed, board members are required to carry out their functions of strategic guidance and monitoring of management, with integrity and accountability. Trainings should be provided to inform board members (and the Chair) of their respective responsibilities and liabilities. The role of the Chair in particular is to ensure that the board’s work is evaluated and that new and old directors are sufficiently trained and coached. In addition to this, board members should also – on an individual basis – make sure that they have (or develop) the necessary skills that are required to carry on their functions effectively (e.g. on finance, HR, company law, tax law; digitalization, human rights etc.). Specifically on the integrity issue, directors should ensure that the company has defined the operating principles of internal control procedures and that the company has a well-functioning risk management in place.

- Offering another perspective, Danilo Montero Rodríguez, Training Programme Instructor at the Costa Rican Corporate Governance Institute, shared a few observations from his career. First, he recognized that SOEs (especially those operating in competitive environments) are complex entities which, as opposed to private companies, often suffer from the existence of competing objectives and interests (economic and political ones) as well as from political cycles and related discontinuities. This, in turn, prevents the adoption of long-term planning and puts into question the value of corporate governance (which should be understood as an investment to ensure its efficiency); 2) with regards to the functioning of the board, Mr. Montero recalled that while boards usually comprise a group of people, with different background and different skills – the most important factor is what he calls the “emotional intelligence” of the board, and of the Chairman in particular. Using a table as a visual support, he showed that the board and the Chairman can have their own personality varying between “weak” and “strong” – the combination of which can create different problems such as dispersed power, infighting, or erratic performance amongst others. Finally, a third aspect relates to the asymmetries between requirements for SOEs and evaluation methods (by comptrollers) which, in most cases, do not take account of corporate governance requirements.

- Finally, Elian Villegas Valverde, CEO of the National Insurance Institute (Instituto Nacional de Seguros - INS) of Costa Rica closed this session by discussing the value of training programmes in
providing board members with the necessary tools to strengthen their ability to oversee effective performance and high integrity. INS’ board is composed of seven members, four of which are women. The company offers an induction programme to new board members (40 hours upon assuming office) as well as continuing training to other members (40 hours/year) aiming at presenting their role and responsibilities, the legal framework (including on ethical behaviour) as well as more technical aspects of the company (commercial operations and corporations strategy). As a result, board members have developed an “appetite” for such trainings, which help them to understand certain key aspects of the company and exercise their role in an informed manner – focusing on key “strategic” aspects of the company instead of more trivial issues.

Session 5: Board composition and nomination practices to support objective and independent judgement

- The board composition and nomination practices in SOEs are important aspects for ensuring that SOE boards exercise their responsibilities in a professional and independent manner. Session 5 provided a few examples of relevant board nomination and composition criteria and practices, focusing on issues such as how to ensure that board members have necessary and complementary skills and experience, and how to address issues of “independence”. First, Alex Reeves, Executive Director at the United Kingdom Government Investments (UKGI) – provided an overview of UKGI’s practices and approach to issues related to board composition and nomination practices. UKGI is a government company wholly owned by HM Treasury, which brings together the functions of the Shareholder Executive (former entity in charge of managing the government’s shareholder relationships with businesses owned by the government) and the UK Financial Investments Ltd (UKFI), with the purpose of helping the UK Government to be a more effective shareholder. The company is currently actively involved in 17 SOEs in the UK, either by performing the role of a shareholder (on behalf of the Secretary of State) or by providing corporate governance advice on board appointments and effectiveness. The UKGI’s shareholder governance framework is based on the premise that SOEs should be managed by a Board which must have the right skills, authority and independence to effectively oversee the management of the business. In practice, this means that the board should be composed of a majority of independent and non-executive directors (and of an independent and non-executive Chair); and that board members should have relevant (and complementary) skills and experience, amongst other aspects. With regards to the appointment process, the UKGI sets up an independent panel with suitable expertise to lead the process and assess candidates, which are typically selected by external headhunters. The process is transparent, formatted and includes assessments of conflicts of interests. Subsequently, UKGI uses various monitoring and governance structures to ensure the performance of SOE boards such as External Board Effectiveness Reviews or external audits, amongst other aspects.

- Further on this topic, Julio Silva, Deputy Secretary of SEST – the Brazilian agency that regulates federal SOEs - provided insight into Brazil’s board nomination practices in Federal SOEs (134 in total). Following the adoption of the Law on SOEs in 2016, the selection and evaluation process of board members was modified to include 1) technical requirements and rigid impediments on board member qualifications (to ensure professionalization and impartiality); 2) Minimum 25% independent board members in large SOEs (defined as SOEs with over USD 22.8 million revenue); 3) clear management objectives and publicity of the conclusions (to ensure effective corporate culture and measurable results); and 4) mandatory training upon appointment(and on an annual basis. Suitability criteria for becoming a board member include unblemished reputation; relevant knowledge; graduation in relevant field; and significant experience in either the SOE activity area or similar positions in other sectors. Conversely, the law also establishes clear restrictions for eligibility to avoid political influence and/or conflicts of interest. Finally, SEST has also created an Eligibility Statutory Committee – a technical team formed by members of the company (e.g. member of other committees, advisors and/or
employees) to support the shareholders in verifying the compliance of the nomination process. The Committee is liable if the process is not compatible.

- Finally, Carolina Pesántez, General Manager of the Coordination Enterprise for State Owned Enterprises (Empresa Coordinadora de las Empresas Públicas - EMCO EP) of Ecuador gave an overview of the current functioning of the company and the challenges that it faces in establishing independent boards in SOEs due to the complex legal and regulatory framework in Ecuador. EMCO EP has been set up in 2015 to manage and coordinate a portfolio of 22 SOEs (contributing to approx. 15% of the GDP of Ecuador). The company is, however, not involved in the appointment/selection process of SOE board members (which is currently still under the responsibility of line ministries). Current weaknesses of the Ecuadorian system include a lack of independence in SOE boards; weak rules on board nomination; as well as no audit of SOEs’ financial statements, amongst other aspects. For this reason, a new bill on SOE reform is currently being drafted to improve the governance of SOEs in Ecuador. Proposals include the merger of the ownership and coordination functions into one centralized entity; the autonomy of SOE boards to choose specialized audit firms as well as the creation of a “General Council” at EMCO EP with the power to appoint independent directors in SOE boards.

Session 6: Case studies on SOEs

- In Session 6, four different case studies were presented on SOE reforms. First, Rafael Mendes Gomes, Chief Governance and Compliance Officer at the Brazilian SOE Petrobras, provided an overview of the compliance system that was established in the company in the aftermath of the 2014 corruption scandal which had a considerable impact on the company, and especially on its reputation. A root cause analysis allowed to identify the underlying issues which ultimately led to the company’s woes: namely: 1) a hierarchical culture and stovepiped organization (silos) whereby groups of employees tended to work as autonomous units; 2) political interference; and 3) conflicts of interests, amongst other aspects. The scandal sparked a wave of anticorruption measures including the creation of a Chief Governance Compliance Officer and of a Special Committee; the replacement of all board members and executive officers and introduction of integrity background checks for all future nominees; an independent internal investigation process; active e-mail and personal assets monitoring; and the establishment of an independent hotline with guaranteed anonymity as well as of compliance trainings for all employees and specific groups, amongst other aspects. The onboarding training in particular covers several key issues including the Ethics Code of Petrobras, the Brazilian Anticorruption legislation, duties and responsibilities of the Fiscal Council and Board members, risk management and reputation management, amongst others.

- At the Financiera de Desarrollo Nacional (FDN) - a financial development institution in Colombia – current reforms are aimed at strengthening the board. As explained by Juana Beltrán, Senior Counsel at FDN, the company has been undertaking corporate governance reforms since its establishment in the 1980s. Initially a fully owned SOE aimed at promoting Colombia’s electricity sector, the company became a mixed-ownership SOE (owned by the state at 74% and three institutional minority shareholders – IFC, CAF and Sumitomo Mitsui Banking Corporation) entirely dedicated to the infrastructure sector in 2014. This shift required strengthening the company’s corporate governance framework to “isolate” it from political cycles. As a result, the board of directors (initially composed of public officials) now includes three independent board members, designated by the General Shareholder’s Meeting. In addition, the board is autonomous to take decisions (some of which require special majorities); remuneration levels have been adapted (to attract qualified and technical staff from the private sector); and special board committees have been established, amongst other aspects.
Peru’s state-owned second-tier development bank Corporación Financiera de Desarrollo (COFIDE) also introduced significant improvements in corporate governance over the last few years. Alex Zimmermann, Chief Executive Officer of COFIDE explained that poor corporate governance practices had led the company to experience a significant deficit between 2012 and 2016. In 2017, a new administration took office and decided to implement a restructuring plan (to solve the financial issue) which also involved strengthening the corporate governance framework of the company. With CAF’s support, COFIDE managed to adopt a number of measures to ensure sustainability including rotation of external auditors; clearer separation of roles and responsibilities; establishment of new committees (including on ethics and compliance); strengthening of the internal audit function; provision of trainings on ethical behaviour and adoption of a new transparency and disclosure policy. Other improvements are in the pipeline, such as a proposal to establish a staggered board structure to ensure greater continuity. These corporate governance improvements have already had a visible impact on COFIDE’s performance and efficiency and have helped the company to rank high among Peruvian companies with respect to the quality of its corporate governance framework.

Finally, another interesting case example of SOE reform is Aerolineas Argentina - Argentina’s national airline - which, according to Bruno Finiello, Chief Supply Chain Officer at the company, has undergone significant changes in its procurement practices. The company has an important supply network, which includes 1400 firms (50% of which are Argentinians and 75% SMEs). Improvements started in 2016 and touched upon several areas: 1) organization: the company was restructured to centralize procurement activities and to reduce the number of hierarchy levels; 2) processes and controls: new measures were introduced to make PP processes more efficient and transparent including through clearer separation of functions, introduction of a procurement portal, and digitalization of all processes, controls and documents; 3) Integrity and transparency: procurement policies were unified for better control and coherence. The company has set up a hotline for complaints (managed by an external company) and issued a Code of Ethics specifically designed for its suppliers. Call for tenders are transparent and published on the procurement portal; 4) visibility of the procurement process: new indicators were implemented allowing for the periodical monitoring of the evolution of spending and transactions for the buyer; and 5) cultural change: responsibility at all levels, 360° view, more integration with end users, buyers motivation and young talents retention. As a result of these changes, the company reports significant improvements in its financial results, with annual savings of USD 110 million (representing more than 24% of the costs per passenger), refinement of the quality of its supply chain services, reduction in 25% of the purchasing lead time, and reduction by 60% the quantity of urgent requirements.

Session 7: External and Internal auditors’ role in in fostering integrity and ensuring performance of SOEs

Finally, session 7 looked at the external and internal auditors’ role in fostering integrity and ensuring performance of SOEs. Alison McMeekin, Policy Analyst at the OECD gave an introductory overview of the OECD recommendations and common practices in this field, starting with the ACI Guidelines, which suggest state owners to “encourage appropriate channels for oversight and reporting at the enterprise level”. These should include an autonomous and professional internal audit, as well as a strong and independent external audit mechanism. However, when they exist, Supreme Audit Institutions (SAIs) should not substitute for an external auditor. In practice, there are multiple ways in which auditors support integrity and performance of SOEs; either by supporting a broader system of public integrity and promoting trust in a country’s (or company’s) system of checks and balances; and/or through the focus of their audits, which can act as tools for integrity and performance. However, how those mechanisms are used varies across and within countries. In fact, as evidenced by a recent OECD survey, not all...
jurisdictions require internal audit in SOEs and most of those who report having an audit committee (84%), are more in line with government agencies (48%) than with listed firms (18%). Furthermore, according to another survey, 19 countries (59% of the sample) reported that their SAI undertakes audits of SOEs – with some undertaking purely financial audits (ex. Iceland, Austria) while others deal with performance as well (ex. New Zealand, UK). While auditors generally do not have corruption-detection as an audit goal, they have the responsibility to report any misstatements or irregularities to relevant authorities. Failure to detect or report bribery has raised the need to promote awareness of auditors to the issue of fraud and corruption. There are also still improvements to be made around the world in the timing of state audits and the deliberation of those audits by legislative bodies for them to have an impact.

- In Costa Rica, several institutional actors play an important role in the accountability, transparency and integrity of SOEs. Marta Eugenia Acosta Zuñiga, General Comptroller of the Republic of Costa Rica, provided an overview of the current control system which includes 1) judicial control (by the judicial power and electoral courts); 2) political control (by the legislative power); social control (by the citizens and the media); and technical control (which includes the internal control system and external audit mechanisms such as the Office of the Comptroller General - OCG). The OCG is the supreme audit institution of the Republic of Costa Rica. It is an auxiliary body to the Legislative Assembly but enjoys full operative and administrative independence. Its main objectives are to improve the accountability, transparency and integrity of government bodies including SOEs while also setting an “example” for audited entities. The OCG performs external audits (operational, financial, compliance, etc.) of public entities and issues regulations setting standards and criteria to internal auditors for the performance of their activities (internal audit units are mandatory in all public entities in Costa Rica). Recently, the OCG has started undertaking audits on ethics and developed an “Institutional Management Index” as a new tool to monitor the implementation of good practices in SOEs. This also allows SOEs to evaluate themselves on specific issues such as planning, ethics, internal control, etc. However there are a certain number of challenges including 1) non-implementation of international standards by certain SOEs which impacts the execution of audits and monitoring activities of the OCG; 2) confidentiality of the information for SOEs acting in competition which impacts on the transparency requirements of the OCG; and 3) the complexity of certain SOEs and their activities which can make auditing more difficult.

- María Oneto, Deputy General Internal Controller at the Síndicatura General de la Nación (SIGEN) – Argentina’s internal audit agency - offered a perspective on the legal and regulatory framework governing internal and external audit activities in Argentinian SOEs. As established in the Financial Administration Law No. 24156, SIGEN is the entity in charge of internal control in all government bodies, including SOEs. It operates within a larger “monitoring ecosystem” which includes the Anti-Corruption office, regulatory agencies, and line ministries amongst others. In Argentina, all SOEs are required to include statutory auditors (appointed by SIGEN) in their boards, with the right to speak but not to vote. Together, statutory auditors form the supervisory committee (Comisión Fiscalizadora). They are public officials and personnel of the SIGEN – in charge of overseeing the administration and internal control system of the company. Any flaws or serious infringements are reported to SIGEN, which in turn can be transmitted to the Anti-Corruption Office, if necessary. Due to their non-contractual relationship with the company, statutory auditors can also be perceived as “independent board members”, according to Ms. Oneto - who also have the advantage to bring their perspective and knowledge of “public law” to other board members, which often come from the private sector.
Finally, Richard Frederick, a corporate governance consultant from Spain and former OECD official, provided a taxonomy and analysis on audit and control activities. In fact, “internal audit” and “internal control” are often used interchangeably although they are two different things: internal control refers to the system that controls all the economic activity of the enterprises and helps prevent fraud; while internal audit consists in checking whether the internal control works effectively or not. Other types of audit and control activities include the independent external audit; the Comptroller General; the Auditor of the Executive and others such as the Procurement Audit, Risk Management and Compliance, which all have different independence and standards requirements as well as different focuses. Internal control for example is not independent, uses COSO/ISO standards and focuses on transactions, while internal audit is independent, uses IPPPF/IIA standards and focuses on systems and risks. The focus of activity is then different, with internal control reflecting a backwards-looking approach (transactions, sanctioning) while internal audit is more forwards-looking (risks and prevention). However, “more is not always better”. The audit and control framework in a given country or enterprise can also have unintended consequences such as a lack of dynamism that comes from the fear of the staff to act or take decisions; or a shift of responsibilities up from the executives to the board and even ministries. Therefore, a key point is that the audit and control environment needs to be well governed in order to be effective.

Conclusions and Next Steps

- Daniel Blume recalled that while the SOE Network will continue to provide a platform to showcase and support reforms both at the level of governments as well as at the SOE levels drawing upon the OECD Guidelines on Corporate Governance of SOEs, the new OECD Guidelines on Anti-Corruption and Integrity will also provide a second important focus for the future work of the Network. Hence, this final session examined some of the key proposals for future work of the Network on issues raised by the ACI Guidelines, as identified in the roadmap that was distributed to all participants prior to the meeting. The document includes a list of seven possible focus areas that are important for preventing corruption and ensuring SOE integrity, namely: 1) Integrity in the state ownership function; 2) exercise of state ownership; 3) board autonomy and integrity; 4) integrated risk management systems; 5) public procurement; 6) the role of auditors; and 7) detection, investigation and prosecution of corruption and related irregularities. For each topic, the paper provides a brief description of why it is relevant and what type of questions the survey and future discussions of the Network could address. It also provides a list of additional measures to track and promote progress on anti-corruption and integrity. Subsequently, Network participants were invited to review these proposals and fill in a feedback survey, indicating their preferences on 1) the proposed priority area(s) they wish to be considered in the survey and future work of the Network; 2) preferred method(s) of work to support the implementation of the ACI Guidelines; and 3) the SOE Network meeting itself.

- Final remarks by Andrés Oneto and Roberto Sala Rey highlighted some of the most prevalent themes of the meeting such as the new ACI Guidelines; the role of the boards of directors (key functions and independence) as well as that of the state (to act as an informed owner); the importance of an effective audit and control framework to prevent corruption and mismanagement; and the increasing use of centralized ownership units (or holdings) for SOEs in the region (Chile, Costa Rica, Ecuador, Paraguay, Colombia and Brazil), amongst other aspects.