SUMMARY RECORD

2014 MEETING OF THE LATIN AMERICAN NETWORK ON CORPORATE GOVERNANCE OF STATE-OWNED ENTERPRISES (SOEs)

11-12 March 2014, Sindicatura General de la Nación (SIGEN), Corrientes Avenue, 389

Buenos Aires, Argentina

The OECD and CAF Latin American Development Bank co-organised the third meeting of the Latin American Network on Corporate Governance of State-Owned Enterprises (the Network) in partnership with the World Bank and with the support of the Spanish Government. The Sindicatura General de la Nación (SIGEN) has served as this year’s host, with sponsorship from ENARSA Energía and BICE of Argentina.

The objective of the Network is to enhance SOE governance in Latin America through an ongoing exchange of experience and knowledge on SOE governance policies, practices and reforms, using the OECD Guidelines on Corporate Governance of State-Owned Enterprises as the main conceptual framework for discussion. Building on the OECD’s Guidelines, CAF’s Guidelines for Good Corporate Governance of SOEs provide an additional useful reference adapted to the Latin American context.

This year’s meeting featured active discussions among approximately 150 registered participants from 17 countries. Up to 1,500 people followed the meeting live via webcast, which made this meeting not only the best attended of the Network, but also the most followed. Participants from Latin America included representatives of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Paraguay, Peru, Suriname and Uruguay. Spain, Turkey, Hungary, Korea, Cape Verde, Mauritania and the Inter-American Development Bank were also represented.

DAY 1

Tuesday 11 March 2014

Introductory remarks

- Daniel Reposo, General Comptroller, SIGEN, Argentina

Mr. Reposo emphasised the importance of respecting independence and working together with the SOEs. He warned about the danger of prioritizing the objective of financial profit above all, and instead he advocated maximising corporate value and sharing that value with the society. He pointed out the efforts of the Argentinean Government to maintain standards of control and transparency. As an example, he mentioned the creation of the University Institute of Training for Public Issues to educate those who work in the public sector. Mr. Reposo thanked the OECD, CAF Banco de Desarrollo de América Latina, World Bank, the Spanish Government and the company Enarsa. [Finally, he offered a “Stone of Transparency”, symbol of SIGEN, to Ruben Ramírez, Director General of CAF Banco de Desarrollo de Latin America; Arturo Herrera, Sector Manager for the Public Sector Governance Unit, LAC Region World Bank; and Hans Christiansen, OECD Senior Economist. Jorge Capitanich, Chief of the Cabinet of Ministers for the Argentinian Government, received the “Mate de Plata”.]
Welcoming Remarks

- **Jorge Capitanich, Chief of the Cabinet of Ministers for the Argentinian Government**

  In his welcoming remarks, Mr. Capitanich highlighted the role of the States in helping to develop an equitable distribution of resources in a global world. Argentinian SOEs worked actively in this respect in order to meet the demand for electricity, water, fibre optic, sewers, etc. throughout the nation, including to those places that were not economically viable for the private sector. Furthermore, for the current year, the government has set up almost 500 new objectives and targets. Mr. Capitanich pointed out the importance of corporate governance as an instrument to develop and improve SOEs’ management. In this context, a plan for the technological modernization of the public sector had been approved, and included cyber security systems, and supervisory and control mechanisms. The chief of the Cabinet of Ministers concluded his presentation with the hope that meetings such as this would promote more and better practices that help ensure SOEs fulfil their objectives.

- **Rubén Ramírez, Director in Argentina, CAF Banco de Desarrollo de América Latina**

  Mr. Ramírez focused on CAF’s engagement in the promotion of sound corporate governance practices. During the last ten years, the bank has developed a number of projects – along with governments, entrepreneurs and experts - with the objective of improving competitiveness, and encouraging good practices among all types of companies in the region. Mr. Ramírez conveyed his appreciation to the hosts of the event, SIGEN; the Spanish Government; and the company Enarsa, as sponsors of the meeting. The CAF director in Argentina highlighted that good governance practices in SOEs contribute to a much more influential model of economic development, a better administration of public services and a maximization of results. For that reason, and in order to strengthen the governance of SOEs, CAF collaborates with initiatives like the Latin American Network, and works on the implementation of the OECD Guidelines in the region.

- **Arturo Herrera, Sector Manager for the Public Sector Governance Unit, LAC Region World Bank**

  Mr. Herrera emphasised the role of the State in the fight against poverty, and highlighted its double role as service provider on the one hand, and as public entity on the other. It is in its very dual nature that we can find one of the major challenges for SOEs. Corporate Governance provides SOEs with the structural framework that they need in order to fulfil these two roles simultaneously, and to assure the required standards on transparency and accountability in order to do so. According to Mr. Herrera, we are still looking for consensus and empirical evidence in the area of Corporate Governance in order to establish practices that guarantee obtaining the desired objectives. However, there is not solely one model of Corporate Governance, and each country needs to adapt to their needs and institutional history, and sound practices can be followed to guarantee transparency. The objective of this meeting is to exchange experiences around the subjects of transparency and accountability.

- **Hans Christiansen, Senior Economist and Secretary to the OECD Working Party on State Ownership and Privatisation Practices**

  In his welcoming remarks, Mr. Christiansen underlined that the OECD Working Pary on State Ownership and Privatisation Practices, supplemented by its Networks on Corporate Governance of State-Owned enterprises are the only bodies worldwide that bring together experts on SOEs for regular consultations. He welcomed the presence of Latin American participants as well as representatives of Cape Verde and Mauritania, Hungary, Korea, Spain and Turkey. Mr. Christiansen further complimented the Argentinian government on ongoing reform efforts. As Head of the Secretariat of the Working Party he stressed that we live in a much more global and interrelated
economy than twenty years ago and that in the current world everyone can and should learn from each other, and some problems can be solved only in unison. He reiterated that transparency and accountability are the alpha and omega of a healthy SOE landscape, and stressed the need to have a discussion about how SOEs that are active in economic markets can balance their commercial and non-commercial priorities.

Session 1: SOE Transparency and Accountability in Latin America: A Review of Practices for Disclosure and Monitoring of Performance

Moderator: Daniel Blume, Senior Policy Analyst, OECD

Key questions

- How do governments acting as owners establish relevant objectives, targets and performance indicators?
- How do they monitor, review and audit performance?
- What are countries’ frameworks for reporting on SOE performance, and how do they ensure adequate disclosure and transparency at company level?

1st Speaker: Julio de Vido, Architect and Minister of Federal Planning, Public Investment and Services, Argentina

Mr. de Vido spoke about the reforms undertaken by Argentina in the last ten years, and about the framework in which SOEs dependent on the Ministry of Public Works, Energy and Transport currently operate in the country. Former President Nestor Kichner created this Ministry in 2003 as part of an integral reform plan that aimed to streamline the SOEs’ operations and to provide them with a regulated framework. The plan stemmed from the fact that during prior years, the public sphere had lost relevance in the country, due mainly to lack of accountability and control in terms of SOEs’ operations. It was thanks to the reforms undertaken in recent years that it has been possible to establish a new management model that includes clear objectives and targets for achievement of better services. As part of this reform, a number of SOEs were set up to operate in the hydroelectric field, such as ENARSA, the Argentinian Energy Company. Thanks to the current regulation, SOEs are controlled at each stage of the process, and not only in the final delivery stage. Two bodies were purposely created to perform control functions: Sigen, as an internal control body; and Auditoria, in charge of the external control. Furthermore, the Federal Fiscal Responsibility Regime, also created in 2004, guarantees free access to information in regards to SOEs’ operations. Mr. de Vido concluded by pointing out that this model has transformed SOEs as an economic development tool for the country.

Moderator: Daniel Blume, Senior Policy Analyst, OECD

Mr. Blume presented the OECD Guide on Accountability and Transparency for SOEs, now available in Spanish, and introduced the results of the Transparency and accountability frameworks for Latin American State-Owned Enterprises Survey. The OECD Senior Policy Analyst highlighted the absence of threat of bankruptcy and takeover and the existence of unclear or contradictory objectives as some of the main challenges faced by SOEs when ensuring effective accountability. Eight specific areas are covered by the Accountability and Transparency guide, including ownership structures and ownership policies; disclosure and funding of special obligations and responsibilities; ownership monitoring of performance; aggregate reporting; reporting to Congress and State Audit Institutions; arrangements for internal and external audit; disclosure standards; and communications with shareholders and stakeholders. The Latin American SOE survey synthesized responses to questions
in each of these specific areas with responses from eight countries (Argentina, Brazil, Colombia, Chile, Ecuador, Mexico, Paraguay and Peru), as well as consolidated information in the annexes for each of those countries. Mr. Blume stressed that the responses reveal considerable efforts to strengthen SOE governance in Latin American countries. The survey revealed that the capacity to implement government-wide accountability frameworks varies among countries due to their internal frameworks; and that most countries have reporting and audit structures in place. Mr. Blume concluded by highlighting that the survey report is still a work in progress, and invited written comments on its content.

- **2nd Speaker:** Claudio Sebastiao de Almeida Machado, Analyst, Department of Coordination and Governance of SOEs (DEST), Ministry of Planning, Budget and Management, Brazil

Mr. Almeida Machado focused his presentation on the topic of monitoring and evaluation systems for SOEs in Brazil. There are about 151 SOEs in the country, many of which operate in the hydrocarbon field. Their mission is to improve the role of the State as a shareholder in order to foster the investment of the State for the benefit of the society. A number of systems actually in place (SIEST, SIOP) allow the monitoring of SOEs at financial, human resources and budget levels. The information provided includes basic company profile information, resource allocation, financial statements and leverage level. The data is filtered by the Department of Coordination and Governance of SOEs (DEST), before it reaches the Ministry of Finance and other supervising ministries. Mr. Almeida Machado explained that the performance evaluation is done by both DEST and the different ministries. These evaluation reports are published every two months and serve as a factor in determining variable remuneration, but also in order to give DEST board representatives the information they need to improve their companies performance.

Following a number of questions from participants regarding Brazilian SOEs, Mr. Almeida Machado added that the Brazilian system is very centralized and that DEST is part of the government. In terms of the role of the boards versus the role of the executive, Almeida Machado pointed out that while there are tools in place for internal reports so to provide the latest information; there is a need to allow the boards independence to run the company.

- **3rd Speaker:** Eduardo Charme, Legal Counsel, Public Enterprise System (SEP), Chile

During his presentation, Mr. Charme talked about the regulatory framework that applies to the group of 19 SOEs - out of the existing 26 - under the umbrella of the Public Enterprise System. Most of them – apart from State Bank and the National TV channel - operate in the transport sector. According to Chilean Law, any business activities carried out by the State need to be authorized by law, and will have to follow the same rules as private companies. The same law that authorises the creation of an SOE will contain its objectives. As for their targets, those will be decided as part of the annual budget process. When the SOEs are given commercial targets, such activities will have to be accounted for separately. Those SOES that are not subject to annual plans will negotiate their targets directly with SEP. Mr Charme also described the different monitoring processes that SOEs in Chile are subject to, including programme agreements based on strategic and economic indicators; annual agreements which provide for bonuses to the board when the agreements are fulfilled; and monitoring of SOEs against the SEP corporate governance code, which is based on the OECD’s SOE Guidelines. He explained that monitoring of SOEs is also regulated by law, according to which indicators should be set jointly by SEP, the board and the Treasury. External audits are carried out by independent firms that need to be changed every four years. While, under the supervision of the Superintendencia de Valores y Seguros, SVS, SOEs must follow the same reporting standards as listed companies, including adherence to International Financial Reporting Standards (IFRS).
During the round of questions that followed his talk, Mr. Charme also clarified that listed SOEs are obliged to report on Related Party Transactions (RPTs). SEP’s Legal Counsel also pointed out that the rationale behind un-listed SOEs having to report to the Superintendencia de Valores y Seguros was to make available to the public information on companies.

Session 2: SOE Reform Case Studies

Moderator: Andrés Oneto, Principal Executive for Competitiveness Programs, CAF

Key questions:

- What have been the political obstacles to SOE reforms and how have they been overcome (or if not yet enacted, how might political concerns be addressed)?
- What benefits are expected from these governance reforms, and what lessons have been learned from the reform experience?
- 1st Speaker: Juan Sebastián Robledo, Advisor to the Minister, Ministry of Finance and Public Credit, Colombia

Mr. Robledo presented the situation of SOEs in Colombia, and pointed out the corporate governance challenges that exist in the country. The scene is dominated by three major SOEs: Ecopetrol, Interconexión Eléctrica S.A. and Isagen. These three companies have very good corporate governance standards, and the three of them combined represent 80% of State assets. However, this situation doesn’t apply to smaller SOEs. Mr. Robledo pointed out that in Colombia the State has to change its role from a mere administrator to active owner. He explained that the reform plan that the SOE sector is currently undertaking is based on the advice and recommendations provided by the OECD. This plan includes the implementation of measures such as remuneration policies for board members; sound processes to appoint and remove CEOs; annual reports, and integration within the country’s regulatory framework. In terms of the work that has already been done, Mr. Robledo highlighted the creation of the Código País, a code of good corporate governance practices that listed companies must either comply with or disclose why they do not follow its recommendations. The objective is that all SOEs adhere to this code.

- 2nd Speaker: Patricia González, SOE Monitoring Unit, Ministry of Finance, Paraguay

Ms. González addressed the SOE reforms undertaken in Paraguay since 1991. SOEs account for 6.5% of the country’s GDP. Reforms have included the privatization of a number of SOEs considered as strategic, operating in the telecommunications and utilities sectors; as well as the creation of a number of supervisory bodies. However, the State didn’t have a defined role as an owner, which undermined the efficiency of its actions. Ms González highlighted the creation of the CEP, Consejo de Empresas Públicas, in 2008 as a turning point for SOE reforms. For the first time, this body was able to design and manage its own budget plan, thanks to the resources assigned to it. In 2013 the CEP became the current CNEP, Consejo Nacional de Empresas Públicas, whose objective is to promote efficient and transparent management of SOEs, to make sure that the decisions made by these companies respond to financial criteria. Among the main accomplishments so far, Ms. González mentioned the implementation of the ISO 9001 standard; as well as regular evaluation mechanisms. Challenges ahead included SOEs’ modernization, and the continued improvement of control mechanisms.

- 3rd Speaker: Sejeong Ha, Research Fellow, Korea Institute of Public Finance, Korea

Mr. Ha explained the significant roles that SOEs have had in Korea’s economy since the 1970’s, and how their contribution has changed through the years depending on their objectives. According to
Mr. Ha, reform at management and operational levels is needed in order to regain productivity and efficiency. Such reform should tackle two main problems with Korean’s SOEs, namely, an excess of debt, and the use of irregular business practices. Mr. Ha emphasised that SOEs should be responsible for preparing their own reforms, while relevant ministries should provide support and the Ministry of Finance should oversee the overall progress of reform. Finally, Mr. Ha mentioned a number of broad guidelines that should be taken into account during the process, such as focusing on the originally commissioned business and re-examining the feasibility of ongoing business; selling unnecessary assets; and undertaking testing of projects.

The following points were made in the round of questions and comments that followed the speakers’ presentations:

1. Colombia’s SOE reform doesn’t include those at local and municipal level. It focuses only on national SOEs where the State owns more than 50%.
2. According to Paraguayan law, the DGEP, the body in charge of executing the plan designed by the CNEP, can prepare the role specifications for manager positions. Based on that description, it can also recommend certain professionals that meet this profile.
3. At the moment, the reforms that SOEs are undertaking in Korea have national priority. One of the main challenges is the lack of information on the running of public institutions. In addition, the government might be reticent to release such information.

Session 3: The role of State Controllers (National Audit Institutions) in Latin American SOEs

Moderator: Andrés Bernal, Governance Consultant, Colombia

Key questions:

- To what extent do state audit institutions focus on verifying the accuracy of SOEs’ accounts and compliance, versus broader concepts of performance, efficiency and effectiveness?
- Do they cover all SOEs, including listed SOEs, or are there cases in which this role is delegated to independent, external auditors? How is this determined?
- In countries with decentralized ownership of SOEs, do state audit institutions have a stronger role to play in promoting good corporate governance practices across the government?

In his introduction, the moderator, Mr. Bernal, spoke about the interdependence between corporate governance and monitoring, and about how this strong relation changes depending on what type of SOE we are looking at. Mr. Bernal highlighted the importance of finding a middle point that allows SOEs to be controlled, without compromising the independence needed in order to make sound financial decisions that can generate profits for the company.

1st Speaker: Daniel Reposo, General Comptroller, SIGEN, Argentina

The General Comptroller explained how the management and control models work in Argentina. In particular, Mr. Reposo focused on the role of SIGEN, the national body that deals with managerial, administrative and budgetary controls. The number of SOEs in the country has gone from 37 to 130 in less than ten years. More than 100 of those SOEs have supervisory committees that have been proposed by SIGEN, and members of the supervisory committees are also represented on the SOE boards. Furthermore, SOEs have also an internal audit unit that reports directly to Sigen. By law, Argentina’s SOEs must respect a number of principles in terms of corporate governance, most of which are in line with the OECD Guidelines on Corporate Governance of SOEs. They include respect for minority shareholder rights; the boards’ responsibility to evaluate SOEs’ performances;
transparency on RPTs; and information disclosure to minority groups. “Social responsibility” is considered good corporate governance practice in Argentina. According to Mr. Reposo, political decisions have to be prioritized over financial ones in order to ensure equitable income distribution.

- **2nd Speaker: Amelia Jiménez, Head of Operational and Evaluative Supervision, Comptroller General of the Republic, Costa Rica**

Ms. Jiménez focused her discussion on the role of the control bodies in Costa Rica. There are around 50 SOEs in the country. Almost half of them are financial institutions, while other sectors with SOEs include telecommunications, electricity and energy provision. Costa Rica has four main types of control bodies: national comptroller; individual internal audits for each SOE that depend on the Comptroller; superintendence that control those SOEs that operate in the financial, stock market and telecommunications SOEs; and public oversight through citizen groups, media, etc. Ms. Jiménez also clarified that there are other less traditional types of control such as the Institutional Management Index. This index started to be used three years ago and allows SOEs to measure the efficiency of their processes through self-evaluation.

Before introducing the next speaker, Mr. Bernal suggested that SOEs in Latin America suffer from too much control, and that they are treated as public institutions, rather than companies. Mr. Bernal emphasised that SOEs need independence in order to be able to focus on creating value and to make quick decisions when market conditions require it.

- **3rd Speaker: Yasin Uysal, Senior Treasury Expert, Undersecretariat of the Treasury, Turkey**

Mr. Uysal explained that there are three different types of SOEs in Turkey, all of which are under the supervision of the Turkish Court of Accounts on SOEs, TCA. This court is in charge of undertaking Fiscal, Compliance and Performance audits, which start with the submission of the SOE’s end of year accounts to the TCA. Audits’ results will be submitted to the SOE Commission in the Parliament for approval. Equally, SOEs are obliged to undertake independent external audits. Once the auditors are selected, they will be announced on the SOE’s website, after which the process will start. SOE boards in Turkey are appointed in General Shareholder Meetings.

The following points were made in the round of questions that followed the speakers’ interventions:

1. In Turkey, the Parliament can’t intervene in the process of choosing the activities carried out by SOEs. These companies are independent and have control over such decisions.
2. In Argentina, the General Comptroller’s office work is also monitored by law.
3. Sometimes SOEs have to dedicate a large amount of time and resources in order to satisfy the demands of the different supervising bodies, which can sometimes be inefficient and duplicative. Also, there is no opportunity to question the work of the controlling bodies.
4. Good corporate governance practices should be the main vehicle for exerting control. Further attention may be needed to ensure that the board has a sufficient role in ensuring effective control mechanisms through its interaction with internal and external auditors; and on the appropriate roles for general comptrollers, superintendence and other supervising bodies.

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**Session 4: Methodological frameworks and research on SOE Corporate Governance**

**Moderator: Fanny Weiner, Public Sector Management Specialist, World Bank.**

This session was devoted to the presentation of two reports on corporate governance by the World Bank and CAF Latin American Development Bank respectively.
1st Speaker: Alexandre Arrobbio, Public Sector Focal Point for SOE Corporate Governance & Sector Manager for the South Asia Public Sector Governance Unit, World Bank

Mr. Arrobbio presented the results of a new report by the World Bank that included case studies on Corporate Governance of SOEs in Brazil, Chile, Colombia, Paraguay, Peru and Uruguay. The results emphasised the strong presence of SOEs in the region, particularly in the provision of strategic services such as energy, electricity, transport and finance. With 147 SOEs, and a budget equivalent to 30% of GDP, Brazil’s SOE sector is the largest, followed by Chile and Colombia. There is a clear trend towards greater centralisation of ownership oversight systems, with Peru and Chile as the most centralised countries, and Colombia as the least. Most countries have at least two responsible bodies, apart from Chile and Peru where there is one principal ownership entity. In terms of SOEs’ performance, Mr. Arrobio explained that all countries – except Brazil and Colombia - have performance contracts in place between the SOE and the body responsible for its management. The duration of these contracts vary between 1 and 5 years, and their results are periodically disclosed. Only Chile and Uruguay run remuneration schemes linked to specific targets. Mr. Arrobio stated that Paraguay is the only country where there is not a clear separation between the company management and the board. Only Chile and Peru have established explicit criteria for the selection of board directors based on merit. The report found an improvement of disclosure standards and all countries stated that they produce financial reports and use independent firms for external audits. Mr. Arrobio concluded his presentation by referring to corporate governance improvements undertaken by Pemex (Mexico), and the Canal de Panamá, two examples of strategic SOEs that represent 30% and 8% respectively of their governments’ revenues.

2nd Speaker: Andrés Oneto, Principal Executive for Competitiveness Programs, CAF

Mr. Oneto presented the results of an empirical study carried out by CAF, in collaboration with the United Nations Economic Commission for Latin America (ECLAC, or CEPAL in Spanish) and the Inter-American Development Bank (IDB), on the role of corporate governance in debt issue processes. The study identified 29 principles of corporate governance related to different aspects of debt issue to serve as comparative benchmarks. The study focused on the development of an index that would allow companies to identify the risks associated with such processes. Three of the 14 Latin American companies selected to be reviewed are important SOEs – Petrobas, Ecopetrol and Pemex. The results indicated that those three SOEs were closer to best corporate governance practices in regards to the role and structure of the boards as well as the selection of the board’s president. However, most companies reviewed lacked effective implementation of finance committees, risk committees and investment committees. Mr. Oneto pointed out that the analysis shows a link between the adoption of sound corporate governance practices and a reduction in the risks associated with issuing debt. He concluded by mentioning three specific areas that would need immediate attention, namely, appointment of qualified directors with well-defined functions and responsibilities; ensuring that audit committees exercise their role effectively; and in SOEs that don’t have finance and risk committees, measures that ensure that these functions are fulfilled by another body.

The following points were made following the speakers’ presentations:

1. Mr. Oneto clarified that in the cases of SOEs studied by the CAF report, the debt issued had sovereign guarantees.
2. Mauro Rodrigues Da Cunha (Amec, Brazil) pointed out that there is a difference between reality and technical compliance. Companies may technically have established corporate governance measures but fail to follow them in practice. The fact that SOEs can’t go bankrupt can be a problem.
3. Mauro Alem (BICE S.A.) pointed out that the tool presented by CAF can be very useful to convince rating companies that it can be appropriate for SOEs to issue debt.
Session 5: Corporate Governance for Strategic SOEs

Moderator: Alexandre Arrobbio, Public Sector Focal Point for SOE Corporate Governance & Sector Manager for the South Asia Public Sector Governance Unit, World Bank

Key issues:

- What are the major challenges faced in the implementation of corporate governance principles in strategically important SOEs?
- What are the lessons learned by SOEs that initiate practical implementation?

1st Speaker: Walter Fagyas, Chairman of Energía Argentina SA (ENARSA)

Mr. Fagyas started his presentation by stating the two main objectives of corporate governance: on the one hand, to strengthen the roles of boards, shareholders and supervisory bodies; and on the other, optimize transparency and accountability. ENARSA was created ten years ago with the purpose of providing energy to meet the growing needs of the country, as reflected in the “Total Energy” plan that Argentina put in place in 2008. Currently the SOE is more than 97% owned by the State, has more than 70 power stations around the country, as well as being responsible for running a number of renewable energy units. According to Argentinian regulation, SOEs have to obey the same standards as public limited companies (PLCs). Mr. Fagyas described the overall frame worth in which ENARSA operates. Its budget is reviewed and approved by the government. Financial statements are audited by an international firm. Both the Congress, through the General Audit Office, and the Government through SIGEN, exercise duties of supervision and control.

2nd Speaker: Hugo Wiener, Chairman of the Board, Agrobanco, Peru

Mr. Wiener described the history of the Agrarian Bank, which was founded in 1930, and became Agrobanco in 2000. Mr. Wiener highlighted the fact that the creation of Agrobanco brought the additional challenge of having to differentiate the new bank from its predecessors through good corporate governance and sound business practices. A number of steps have been taken in the last years in order to increase transparency and credibility. Among those, Mr. Wiener highlighted major measures to tackle corruption; performance plans with clear objectives; an IPO; and the creation of a web site to publish relevant information. The implementation of a plan of good corporate governance, with the support of CAF and the help of a private firm, has been one of the cornerstones in the reinvention process undertaken by Agrobanco. Additionally, the code on corporate governance developed by FONAFE, the national body in charge of SOEs in Peru, has also been of great help. The bank has provided his board with Key Performance Indicationss, Key Results Indicators and proxies to measure impact, as well as audit and risk committees, and an internal audit unit. All these reforms have had a very positive impact and the bank has seen how the amount of money lent has almost tripled between 2011 and 2013 from US$98.6 million to US$303.2 million. Mr. Wiener concluded by talking about the role of the State as an owner, and about the fact that the State should progressively limit its participation and return ownership to the private sector in an orderly manner. Finally, his vision of Agrobanco’s future included the idea of a green and ethical bank, oriented to responsible individuals and businesses.

The following comments were made once the session was open to the floor:
1. Alejandro Diaz clarified that those activities of the Total Energy plan in Argentina that are not carried out on a commercially profitable basis are compensated by the State.

2. Before engaging in any related party transaction, Enarsa’s audit committee would ask for a report about the party, and decide on the suitability of the engagement after having evaluated the information provided.

3. In the case of Agrobanco, the main objective of Fonafe’s plan is capital diversification in order for the State to transfer control gradually.

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**Session 6: Balancing Commercial versus Social and Development Objectives: How to measure success**

**Moderator: Hans Christiansen, Senior Economist and Secretary to the OECD Working Party on State Ownership and Privatisation Practices**

**Key questions:**

- How do governments communicate specific obligations for achievement of non-commercial priorities to individual SOEs?

- What are the political decision processes leading to these priorities, and what are the disclosure and accountability arrangements underpinning them? How do they determine whether they have succeeded?

In his introduction, Mr. Christiansen described some of the key issues and concepts set out in the OECD report on Balancing Commercial and Non-Commercial Priorities of SOEs, which is now available in Spanish thanks to SIGEN. The five OECD member countries included in this report - Hungary, Israel, Netherlands, New Zealand and Norway - have quite varied practices across all of the parameters studied. Reflecting on the first day’s sessions, Mr. Christiansen concluded by explaining that at the OECD, the concept of “Corporate social Responsibility” is generally used to refer to the practices applied by companies that want to be seen as good citizens. But yesterday’s discussions highlighted that there are two elements associated with “social responsibility”, namely corporate social responsibility, as just defined, and political social responsibility. Some such responsibilities clearly lie with the government and should not be shifted onto the corporate sector. However, the two are not mutually exclusive: a government may want to delegate some political responsibility to a state owned company, and that’s ok as long as this is fully disclosed and the costs covered consistently with sound budgetary practices.

- **1st Speaker: Titto Almora, Head, FONAFE, Peru**

Mr. Almora explained that FONAFE is in charge of 34 SOEs, almost half of which operate in the energy sector. According to Peruvian regulation, SOEs by definition are not purely commercial and exist in part to undertake non-commercial activities. However, Mr. Almora clarified that some SOEs that have commercial objectives are still under the umbrella of FONAFE due to the fact that the privatization period experienced by SOEs in Peru beginning in 2000 wasn’t successfully completed. All SOEs are public limited corporations (Sociedades Anonima), although they are in the process of creating a sub classification, and Mr. Almora welcomed suggestions regarding other experiences
with such processes. Companies’ objectives are reflected in bylaws or in administrative regulation. Their activities are financed by cross subsidies and special transfers. SOEs are also expected to fulfil Non-Commercial Activities (NCA) that go beyond their original objectives. Such activities would be temporal and accounted for separately. The head of FONAFE mentioned two examples for this sort of activity, namely, the formalization of gold production and the country-wide program of gas distribution. Mr. Almora highlighted that there are different ways to measure the success of these sorts of operations. From FONAFE’s point of view, finding a balance between profitability and outcome of the activity is crucial. That’s why there is a system in order to reward efficient management of the companies’ activities. Mr. Almora concluded that the main challenge for the future of Peruvian SOEs is for them to be self-financing.

- **2nd Speaker: Alessandra Minicelli, President, Argentina Foundation for Social Responsibility Observatory**

Ms. Minicelli explained that SOEs in Argentina work at two different levels. On the one hand, they undertake commercial objectives and therefore need to follow market rules. On the other hand, they need to fulfil social and development objectives, as they are instrumental in State public policies. In this context, social responsibility emerges as the framework in which these two different functions co-exist. In that sense, Ms. Minicelli adhered to the definition of social responsibility as “the will to combine competitiveness, economic growth, sustainability and social cohesion.” During her talk, she explained that before the reform that took place in Argentina in 2003, SOEs prioritized financial benefits, rather than Social Responsibility. As a result, not everyone could access basic services due to their high cost. Ms. Minicelli pointed out the importance of methodology and smart management in order to create SOEs that are socially responsible i.e. having objectives and targets enforces transparency and improve results. She concluded her presentation by highlighting the work of the Argentinian Institute for the control of SOEs, which offers training on ethics and social responsibility, and on social balances.

- **3rd Speaker: Csaba Polacsek, Deputy CEO, National Holding Company, Hungary**

In his remarks Mr. Polacsek indicated that Hungarian National Asset Management Inc. (MNV) represents the State as an owner. Its assets include companies, real estate and intangible assets. Hungarian SOEs have the same internal organization as private companies. There are three types of SOEs: for-profit, non-profit and non-profit public benefit companies. MNV’s non-profit portfolio includes 88 companies, of which 77 have been designated as public benefit organisations. Relevant ministries decide what sort of activities should be supported. Non-profit public benefit SOEs are cross-funded by the Government. The main objectives of non-profit SOEs are efficiency, performance improvement, and finding ways to self-finance. During his presentation, Mr. Polacsek referred to a number of non-profit SOEs operating in the cultural, health and manufacturing industries. As an example, the Chateau of Godollo’s main objectives are the continuous development and maintenance of the property, maximising the number of visitors and minimising state subsidy.

The main points made during the round of questions and comments following the speakers’ presentations were as follows:

1. Titto Almora explained that when SOEs have issued debt in order to finance their activities, this debt had a sovereign guarantee. In answer to another question about cross funding, Mr. Almora said that profits are shared among SOEs according to their needs.
2. Ms. Minicelli stated that the financial crisis was an ethical and values crisis. She stated that during the Meeting on Social Responsibility held in Argentina, a roadmap for Social Responsibility implementation was created. It’s good that these recommendations are consistent with state priorities.
3. Asked about the difference between Pre-Soviet Union SOEs and Post-Soviet Union SOEs, Mr. Polacsek explained that after 1990 a new corporate law came in force that was applied to all companies. By the end of the 90’s, most SOEs had become private companies. Currently, the only differences between SOEs and Private Companies relates to disclosure.

Session 7: Corporate Governance challenges for SOEs: Treatment of Related Party Transactions (RPTs)

Moderator: Daniel Blume, OECD Senior Policy Analyst and co-moderator of RPT Task Force

Mr. Blume reminded the audience that two years ago the Latin American Roundtable on Corporate Governance established a Task Force on Related Party Transactions due to the high number of RPTs reported by listed companies in the region and the risks associated with this for minority shareholders. SOEs should also be concerned about RPTs in order to avoid the dilution of value; even in the case of non-listed SOEs, effective RPT frameworks help ensure that transactions are made at market value, as well as support SOE competitiveness. He continued by mentioning the main elements of a sound RPT framework, which include adherence to IAS 24; creation of specialised board committees with access to expertise to ensure that RPTs take place at market values; or shareholders’ approval of exceptional RPTs. Mr. Blume concluded by pointing out that SOEs face special challenges in relation to RPTs, and asked participants to consider the following questions: should political relationships be disclosed?; In the cases where the State is a minority shareholder, should transactions with the State be considered RPTs?; How can we guarantee that the regulator or state controller is independent enough to ensure enforcement against abusive RPTs carried out by SOEs?

- **1st Speaker: Hugo Caneo, Head of the Enforcement Division, Superintendencia de Valores y Seguros, (SVS), Chile**

Mr. Caneo explained that RPTs are fundamental for both private and state owned companies, and that there are a number of reasons why they should be regulated. In terms of economic efficiency, the company should reduce the possibility of losing value through irregular operations. Besides, SOEs wouldn’t make a good use of the country’s resources if transactions didn’t take place at market value. Relevant regulation should also avoid the possible extraction of wealth from minority shareholders; and the use of RPTs for tax evasion purposes. In Mr. Caneo’s opinion, even those SOEs that are entirely owned by the State should embrace RPT regulation. This would allow them to operate under market regulation, which will ease any future changes in their status. Furthermore, this type of regulation will increase transparency, which will have a positive impact on the SOE’s reputation and add value. According to Mr. Caneo, RPTs shouldn’t be forbidden because the evidence shows that they can generate benefits for the company. The solution is to have the necessary regulation in place in order to allow the control of these transactions, and to follow corporate governance recommendations i.e. systems in place that will allow the Board to see if these operations have brought benefits for the company. Mr. Caneo concluded that RPTs should comply with both market rules and social responsibility.

- **2nd Speaker: Mauro Da Cunha, executive director, Association of Capital Market Investors (AMEC), Brazil**

Mr. Cunha stated that SOEs are a very relevant aspect of Latin American economies, and in many cases also of their capital markets. Therefore, ensuring that SOEs perform effectively is a necessary
condition for the development of these capital markets. He observed that all the presentations and discussions that had taken place during the meeting had been excessively focused on control. According to Mr. Cunha, control is clearly part of corporate governance, but it can never be its sole component. Corporate governance should be a system of checks and balances. He also pointed out that during this meeting, a lot of time had been spent talking about the construction of corporate governance structures, and that there is a general belief that having these structures is a clear positive for the corporate governance of SOEs. However, in his opinion, a dysfunctional board has a negative impact on the company. For example, if directors arrive to the meeting having a specific script to follow, which was decided in the government’s offices, the board loses its purpose. Mr. Cunha continued by saying that in recent years Brazil had made many advances in terms of transparency, including new regulation such as the “Information Access Law”. Nevertheless, listed SOEs have failed to apply required levels of transparency. Mr. Cunha developed this point by saying that in addition to SOE boards not reporting on their performance, they also fail to publish their decisions and minutes. He continued that functioning boards are the only solution to monitor one of the main sources of problems in all organizations: related party transactions. According to AMEC, there are two types of RPTs. On the one hand, there are ongoing transactions, which would include among others loans to or from related parties; management compensation; or use of corporate assets. On the other, there are one-off situations such as mergers between related parties; incorporation and reverse takeovers; or rights issues. Once RPTs are correctly identified, they should follow the usual corporate governance structures. Mr. Cunha concluded his talk by mentioning that in Brazil there is a need for a serious review of the way boards are composed. Despite having clear legal provisions, the government’s interference prevents their effective application.

The main points made during the round of questions following the speakers’ presentations were as follows:

1. Alejandro Diaz highlighted that in Argentina, board directors can be held individually accountable for irregularities. He continued by saying that in the case of RPTs involving SOEs that are 100% owned by the state, many costs must be considered in addition to price.
2. Juan Sebastián Robledo pointed out that empowering boards will be a very difficult process in Colombia. The government would need to establish monitoring mechanisms to make sure that those roles that were once carried out by the state are being effectively performed by the board. It would need to have capable people who can take up this challenge, which would require better remuneration systems to match the responsibility that they are taking on, as well as the power to remove the directors if they don’t perform.
3. Csaba Polacsek emphasised that publishing of detailed board minutes is not common practice and that SOEs should be allowed to keep confidential some sensitive information, as private companies do.
4. In response to Mr. Cunha’s presentation, Mr. Almeida Machado reminded participants that, as explained earlier, DEST monitors all those SOEs that are under its responsibility to identify if they are going in the right direction. According to their regulation on information access, the minutes of the board meetings should be published on the companies’ websites. The Minister of Finance is a director on Petrobras’ board. Both the General Comptroller and the Court of Auditors are in charge of monitoring the board. Besides, there is a variable remuneration system –Balanced Score Card- that applies to board directors. Mr. Almeida concluded by saying that even if information disclosure is regulated, there are cases where company information should be made publicly available in order to protect the market.
Session 8: Latin American Input to the OECD’s review of the Guidelines on Corporate Governance of SOEs

- Moderator: Juan Munguira, Spain, member of OECD Working Party on State Ownership and Privatization Practices

Key Question:
- What should be changed in the OECD Guidelines on Corporate Governance of SOEs to help improve governance in state-owned companies?

Mr. Munguira explained that the OECD has just started the process of reviewing the Guidelines on Corporate Governance of SOEs. The new version of the Guidelines, first created in 2005, is expected to be ready in 2015. He mentioned some of the changes that have already been suggested so far, for example, to add a chapter on the rationale for state ownership, references to corporate ethics, and extension of the Guidelines’ scope to include municipal and local SOEs.

- 1st Speaker: Hans Christiansen, Senior Economist and Secretary to the OECD Working Party on State Ownership and Privatization Practices

Mr. Christiansen indicated that the revision of the OECD Principles of Corporate Governance and Guidelines on Corporate Governance of SOEs has been inspired in part by the perception that failings in corporate governance worsened the effect of the financial crisis. He reminded the audience that the Guidelines are a non-binding OECD legal instrument, complementary to the OECD Principles of Corporate Governance. Additionally, he stated that this instrument is based on the model of, first, the separation of the role of the state as an owner from its role as regulator. Also important is a vertical separation of decision powers: government, the ownership function, SOE boards and management have different specific functions and are autonomous bodies. Mr. Christiansen enumerated the Guidelines’ priorities, including ensuring a level-playing field with the private sector; reinforcing the ownership function within the state administration; and providing equitable treatment of minority shareholders, among others. He also mentioned some of the changes that are being considered, such as the inclusion of a chapter on the rationale for state ownership and a more substantive preamble focusing on the scope and applicability of the Guidelines. Mr. Christiansen further said that the new Guidelines will be conceived as a stand-alone document that, while still closely connected, can be read independently from the Principles.

- 2nd Speaker: Andrés Oneto, Principal Executive for Competitiveness Programs, CAF

In his intervention Mr. Oneto presented the updated version of the CAF Guidelines on Corporate Governance in Latin America, first created in 2004 with reference to the OECD Principles of Corporate Governance. Among the reasons behind this last revision, Mr. Oneto mentioned the lessons learnt following the global financial crisis, and the wish to extend their scope to include the entire Latin American region. The CAF Guidelines take into account the OECD Guidelines on Corporate Governance of SOEs, and are applicable to both private and state-owned companies. They are not binding and should be used in order to increase companies’ productivity. There are 43 guidelines and 113 recommendations in the areas of law and equitable treatment of shareholders; general shareholders meeting; boards; instruments of control; transparency and financial and non-financial information. Mr. Oneto pointed out that the instruments should help companies identify risks, through their internal monitoring and control system, and their internal and external audits. He concluded by emphasizing that the CAF guidelines are based on the idea of self-regulation,
although there are other bodies that can help such as regulators, supervising authorities or investors.

- **3rd Speaker: Alejandro Díaz, Internal Control Management “A”, SIGEN, Argentina**

Mr. Díaz presented his comments on those aspects of the OECD Guidelines on Corporate Governance of SOEs that, in his opinion, should be revised. He thought that some of the recommendations were too wide and lacked specificity. Instead he advised to break up the Guidelines, and include several recommendations – along with explanatory notes and comments - in each chapter. Mr. Díaz mentioned that the section on *Equitable Treatment of Shareholders* shouldn’t be an independent chapter, but included in those sections about *The State Acting as an Owner* and *The Responsibilities of the Boards*. Equally, the content of the section on *Transparency and Disclosure* should be synthesised and included in the preamble as well as along with other chapters, since these are concepts that should be always running in the background. He agreed with the need to clarify the concept of SOEs since, as it can be seen from listening to other countries’ experiences, it is used very differently all around the world. The concept of corporate ethics should also be included. Mr. Díaz agreed with the idea of applying the Guidelines at subnational level, which should also be reflected in the Preamble.

Before opening the session to the floor, the moderator, Mr. Munguira, reminded the audience that during this year, the OECD will also be undertaking the revision of the Principles on Corporate Governance. He encouraged the participants to send their comments on this subject, as the Principles are also a very relevant tool for listed SOEs.

The following points were made in the round of discussions that followed the speakers’ presentations:

1. Alexandre Arrobbio (World Bank) stated that the OECD Guidelines on SOEs are a reference for the World Bank, and that they find them very helpful as part of their development work, even in those cases where countries aren’t able to apply them. Mr. Arrobbio emphasised that including a definition of SOE will be both challenging and useful.
2. It would be a good idea to include an explanation of the concept of corporate governance that could have the double function of being used as a didactic tool as well as give a common context for general reference.
3. Juan Sebastián Robledo (Colombia) insisted on the importance of having a definition of SOEs as part of the updated text. Mr. Robledo questioned whether profitability was a valid argument to justify state ownership. He disagreed with the need to make the Guidelines more specific, and argued that it was better for them to be general so that each country could adapt them to their own circumstances. He concluded by questioning the applicability of certain Guidelines in the context of strategic SOEs that represent an important part of the country’s GDP. In those situations, the boards might have Government representatives, which raise issues regarding accountability due to their status.

**Conclusions and Next Steps**

- **Daniel Blume, Senior Policy Analyst, OECD**

Mr. Blume summarised the topics discussed during the meeting, which included transparency and accountability, the role of state controllers, balancing of commercial, social and development objectives and RPTs. He emphasised that it was important to have participants’ feedback on those subjects that are the region’s priority in order to plan future meetings. Among the subjects that could potentially be discussed in future meetings, Mr. Blume noted the interest expressed in boards
of directors, budgeting and corporate ethics. He proposed the creation of a steering group, which would include representatives from the last three host countries, plus the country that will host the next meeting, along with partner international institutions and sponsoring governments. They would be in charge of proposing the agenda for future gatherings. Mr. Blume noted that the Inter-American Development Bank has also been active in working with SOEs in the region and invited its representative to describe these activities further.

- **Roberto García López, Executive Secretariat, Inter-American Development Bank (IDB)**

Mr. García López explained that the IDB works to strengthen a variety of institutions in the region, including SOEs. In regards to the improvement of corporate governance of SOEs, the IDB has in place a number of networks, which focus on working with specific groups such as budget directors, SOEs’ investors, and parliamentary representatives. He noted that the IDB had organized a seminar for Latin American government representatives responsible for oversight of SOEs in Seoul, Korea with the support of the Korean government. He concluded by expressing IDB’s interest in joining efforts with the OECD, CAF and the World Bank to support further exchange of knowledge and experience in support of corporate governance improvements in the region.

- **Daniel Reposo, General Comptroller, SIGEN, Argentina**

Mr. Reposo thanked the OECD, CAF, World Bank, Enarsa and in particular Alejandro Díaz for making the meeting possible. Mr. Reposo highlighted the importance of discussing and sharing ideas, and looked forward to seeing the new OECD Guidelines. He concluded by suggesting that one of the Argentina provinces should hold the Network’s meeting in the future.