

BENCHMARKS AND INDICATORS FOR CORPORATE GOVERNANCE

A private sector perspective

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In addition to the South African King Report, there has been a rapid growth in the development of African thinking on corporate governance. In a period in which the private sector is accepted as the motor for growth, good corporate governance is an essential lever for development and social justice. As the New Partnership for Africa's Development (NEPAD) recognises, the link with economic and political governance criteria is critical. New thinking is to attack on the supply side of corruption (company bribes) by complementary anti-corruption measures by the state. The recent initiative of the African Union (AU) to develop an AU Convention on Combating Corruption addresses the importance of declaring public officials' assets, and also breaks ground by targeting unfair and unethical practices in the private sector.

Introduction

Corporate governance is now established as an important component of the international financial architecture, but barely half a decade ago it was little known beyond specialists in a few countries such as the US, the UK, Australia, Canada and South Africa. In 1999, there were an estimated 274 conferences in 39 countries on corporate governance, but most were in developing countries, and almost none in Africa.

That is changing. In addition to the King Report, which was authored in South Africa—which in the view of many is the

global benchmark—there has been a rapid growth in the development of African thinking on corporate governance. In many African countries this interest in corporate governance has its origins less in the context of private sector financial systems, and more in the need to improve the performance of, and then to privatise, state enterprises.

In general, it is easy to see why corporate governance has grown in status. The Asian financial crisis, which caused so much damage to the global economy, was triggered by poor corporate governance practices; just as the recent Enron scandal in the US has shown poor practice undermines

investor confidence and hits overall market stability. Institutional investors rely on the quality of corporate governance regimes in making decisions, and place a financial premium (a cost) where systems are weak. An effective regime to promote corporate governance contributes positively to the development of both national capital markets and to the promotion of foreign direct investment. Thus the significance of corporate governance is now widely recognised both for national development, and as part of the international financial architecture. In the words of the President of the World Bank: "The proper governance of companies will become as crucial to the world economy as the proper governance of countries."

The fundamental purpose of corporate governance is healthy national development. In a period in which the private sector is accepted as the motor for growth, good corporate governance is an essential lever for development and social justice. The question addressed by this workshop is not why or whether, but how the state and the private sector work together to promote this, and what are realistic measures which can be agreed to set goals and measure performance.

Corporate governance in context

The critical areas to be addressed by corporate governance can be easily described: the efficient, responsible, transparent and honest governance of economic entities, whether they be private or state owned, large, medium or small. The principles set out by the Commonwealth Association for Corporate Governance (CACG) are a well-recognised benchmark within the Commonwealth; but similar codes and principles, for example the Cadbury and King Reports, are available in other jurisdictions.¹

The pillars of corporate governance are accountability, fairness, responsibility and transparency. These pillars must be supported by an adequate legal and regulatory structure that has credibility and

is enforced.

The CACG Guidelines were agreed by the Commonwealth Business Council (CBC) in 1999 and presented to Commonwealth Heads of Government at their 1999 Summit, which endorsed them. The guidelines have been designed with particular focus on the emerging and transitional economies, making up a large part of the Commonwealth, but also meet the needs of international investors and multilateral international agencies. The CACG Guidelines also explore some of the complex issues relating to public and state enterprises, business ethics and corruption, and the role of international professions operating in emerging and transitional economies.

Already, there are many examples of the use of these guidelines in Africa, including the Private Sector Corporate Governance Trust in Kenya, and examples in Ghana through the efforts of the African Capital Markets Forum.

Private sector perspective

From a private sector perspective two general comments are important at the outset.

First, corporate governance should not be seen in isolation from the wider concept of corporate citizenship. Any successful modern company has to take responsibility, in co-operation with government, in developing sustainable business and commercial activities that serve communities. Shareholder value and profits are not sustainable in isolation from this broader business strategy which demands quality services, the good will of communities, and a belief in the ethical standards of companies.

Exceptions to these standards of behaviour serve to underline the penalties which companies pay when they forfeit public trust. The NEPAD Business Group (NBG) and its member companies support the development of improved standards of corporate governance as core business drivers.

Second, the link with economic and political governance criteria is critical. As NEPAD recognises, corporate governance is part of a wider economic and social regeneration programme. Commonwealth Heads of Government approved at their March 2002 meeting a set of 16 investment principles proposed by the CBC, setting out actions by governments, by business and joint actions to promote investment. Of these one relates to corporate governance, and the other 15 to wider measures for economic and social action, including key issues such as the rule of law and enforceability of contracts, as well as liberalisation of markets to promote competition. Exposure to the rigours of the market helps to promote good corporate governance standards. But without fair competition and rule of law, the best companies will stay away.

Corporate governance and NEPAD

The proposal by various African structures to develop and agree a pan-African set of principles is an essential step—the first benchmark for NEPAD—to advance corporate governance. For most of Africa, the practices of corporate governance developed internationally will have limited impact if the following conditions are not recognised, and targets, indicators and benchmarks adapted accordingly:

- The predominance of state-owned or state-controlled enterprises in all sectors of the economy. While general principles of corporate governance apply, these entities require special rules, especially regarding appointments of senior personnel, and on the relationships between the executive, parliament and the managers of the business.
- Capital markets are not well developed and the market capitalisation of listed companies is low. The financial sector has a critical role to play, since equity markets are small and many companies rely more on debt finance from their banks. There are therefore fewer institutional investors to encourage corporate governance than in the Organisation for Economic Co-operation and Development (OECD) countries, but this role can be fulfilled to some extent by banks and lenders.
- Central banks have a particular importance, as they can exert influence over these commercial banks and set requirements for all licensed commercial banks in accordance with the standards set by the Bank of International Settlements. The commercial banks can in turn recommend good corporate governance practices for their customers, which include small and medium enterprises, and family- and community-owned companies that are unlisted.²
- Other forms of business enterprises, e.g. co-operatives and community-based small- and medium-sized business organisations, are important parts in the economy. One way to reach them is through the supply chain of the larger companies and parastatals, suggesting that the latter have a special role to play in advancing corporate governance in African economies. Large public and private national, and international, companies can strengthen good corporate governance practice in this way. Their level of involvement in this process is a key indicator of likely progress. The importance of business-to-business standards in advancing good corporate governance cannot be overemphasised, and national strategies should take this into account—and require large entities to meet their responsibilities.
- Good corporate governance requires culture change, and cannot be created only by regulation from above. This means that the benchmarks for progress should include adoption of codes by national business associations and groupings—both formal and informal—as well as including a measure of the roll out of these standards.
- While basic principles are not difficult to agree, making codes effective is not always easy, and the regulations should not be too general. The Enron and other

recent accounting scandals show that there always needs to be effective drilling down of principles, and a system to evolve rules.

- Africa's challenges of corporate governance are compounded by inadequate administrative systems, weak human resource institutions, infrastructure and financial resources. This requires careful targeting of efforts to build up skills within the civil service and to use existing professional and business associations.
- Development of reporting and enforcement is critical. Without measures and penalties for non-compliance, it can be hard to move from paper to practice. There is therefore a need to agree systems of penalties for infringement, such as delisting, debarring and disqualification from the relevant market or professional body, and to be seen to apply these.
- New thinking emphasises that it is vital to attack on the supply side of corruption (company bribes) by complementary anti-corruption measures by the state. This includes improved transparency on the assets and interests of public servants and politicians, and in simplifying the interactions with the private sector through streamlined administrative arrangements. The recent initiative of the AU to develop an AU Convention on Combating Corruption addresses the importance of declaring public officials' assets, and also breaks ground by targeting unfair and unethical practices in the private sector.

In an evolving system, leadership is important, especially from parliament and from business and government leaders. It is important to identify the critical alliances to promote corporate governance as a national policy:

- Government agencies and parliament can pass legislation and set up the monitoring of agreed instruments for good practice in corporate governance. As noted above, parliament should, if its leadership is to be credible, set its own standards of corporate governance dealing with the

declaration of members' interests. Parliament has to take a lead.

- The stock exchange or capital markets authority, which can influence the application of good corporate governance practices among listed companies and can also recommend standards for the content of company reports.
- The central bank, which should make clear requirements for all licensed commercial banks in accordance with the standards set by the Bank of International Settlements.
- Professional institutes, in particular the institutes of directors, of chartered company secretaries and administrators, accountants and lawyers and management training centres must be involved, so that directors of companies can be trained in their duties and responsibilities.

Benchmarks and standards

The above points lead to the following observations on appropriate targets, benchmarks and indicators:

- The first priority is to agree a national framework for corporate governance suited to national conditions and priorities, treating the subject in its full dimensions of conformance and performance, and as a lever for change, not just regulation.
- The second priority is for a national monitoring and reporting system led by government and parliament to be established. To succeed this must involve the private sector and professional bodies.
- These steps would be assisted by NEPAD agreeing an African policy framework for corporate governance, drawing on international best practice and based on the work done over the past 18 months to develop an Africa standard.
- Some of the most important indicators are not the establishment of a legal or regulatory framework, but are operational:
 - Is there a working structure between national business associations and the government to monitor a programme of education and outreach?

- How far is the corporate sector itself engaged in training, and developing and rolling out corporate governance policies?
- Are professional organisations engaged in setting and monitoring standards?
- Is there a national institution capable of training and development?
- Has parliament, in conjunction with representatives from business associations and the professions, set up a monitoring or compliance mechanism?
- What resources are provided to the company registrar and departments and governments?

A reporting grid including these factors could be developed with the participation of the stakeholders, and a report could be compiled on an annual basis.

Conclusion

The CBC and NBG believe that a co-

operative programme between government and the private sector, with legal teeth and enforcement, is the correct route. Progress depends on creating an effective partnership led by government. We would be happy to continue to work with NEPAD and governments to advance the principles of best practice and to co-operate with the structures set up under NEPAD to advance this issue.

Notes

- 1 See also for example the OECD Principles of Corporate Governance, 1999; the Corporate Governance Reform Principles, 1998, Japan; and The Boards of Directors of Listed Companies in France (Vienot Report), France 1995.
- 2 For example, Commonwealth Finance Ministers Meeting in Malta in September 2000 endorsed proposals developed by Commonwealth Central Bank governors to set up a Commonwealth Working Group, which has produced a draft policy paper, elaborating on the guidelines issued by the Bank for International Settlements.

GOAL	INDICATIVE TARGET	INDICATORS OR BENCHMARKS
Improved corporate governance	Agreement of African Code	Approval by AU
	Regulatory framework National legislation to entrench provisions Financial regulatory regime Provision on Declaration of Interests and Assets for Office Bearers	National legislation Listing requirements by Stock Exchange Central Bank Licensing (BIS standards) Adoption by Parliament/Assembly
	National roll out programme Monitoring Development of National Training Programme	Establishment of Stakeholder Committee Private Sector Strategy (actions by companies, professional bodies) Reporting Grid (Annual) on training, penalties, application