Designing National Business Climate Development Strategies: The OECD’s Business Climate Development Strategy (BCDS)

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Joint initiative of the OECD, World Bank, and MENA Steering Group
The Organisation for Economic Co-operation and Development (OECD)

− groups 30 member countries committed to democracy and the market economy,
− provides statistics, economic and social data,
− analyses and forecasts economic developments, and
− researches social changes and evolving patterns in trade, environment, agriculture, technology, fiscal policy and more.

The OECD helps governments
− compare policy experiences,
− seek answers to common problems,
− identify good practice, and
− co-ordinate domestic and international policies.
MENA-OECD Programme for Investment

MENA-OECD Investment Programme

PROGRAMME CHAIR
Arab Republic of Egypt

OECD COUNTRY CO-CHAIR
United Kingdom

(ANNUALLY ROTATING)

Regional and International Institutions

STEERING GROUP
Promoting Transparent and open investment policies (chairs: Jordan, Japan)

Private Sector Stakeholders and Initiatives
MENA-OECD Business Network

WORKING GROUPS
Encouraging Investment Promotion Agencies/Business Associations (chair: UAE, Sweden)

Providing Tax Framework for Investment (chairs: Bahrain, Egypt, Turkey)

Policies for Financial Sector Development and Diversification (chairs: Saudi Arabia, UK)

Improving Corporate Governance Practice (chair: Lebanon)

REGIONAL INITIATIVES AND CENTRES:
Enterprise Financing Network

MENA Investment Center (Bahrain)

Hawkamah Institute for Corporate Governance (United Arab Emirates)

COUNTRY TEAMS
working on National Investment Reform Agendas, Domestic Constituencies
A BUSINESS CLIMATE DEVELOPMENT STRATEGY

AN INTRODUCTION INTO SELECTED DIMENSIONS AND INDICATORS
The Business Climate Development Strategy (BCDS) is a process that defines where and how a country should reform to improve the business climate and country competitiveness.

It is targeted at improving the business environment to increase investment and competitiveness, thereby contributing to growth and employment.

It is a co-operative and systematic approach following three steps:

**Define baseline**
- Synthesis of existing evaluations using OECD methodology for policy prioritization.
- Stock-taking of existing business climate reform projects.

**Set Priorities**
- Define time-bound strategic priorities with government leaders, including consultations with other stakeholders.

**Implement**
- Support the design and implementation of improved policy at national and regional level.
BCDS: Comprehensive Assessment Framework

I. Business Operational Environment
1. Investment Policy and Promotion
2. Privatisation Policy
3. Tax Policy and Administration
4. Trade Policy and Facilitation
5. Better Business Regulation
6. Enterprise Development Policy

II. Rule of Law
1. Anti-corruption
2. Corporate Governance
3. Business Law and Commercial Conflict Resolution

III. Factor Markets
1. Infrastructure Policy
2. Human Capital Development Policy
3. Access to Finance

→ Covering all policy areas that can support investment and business climate reforms
Chapter I-1: Scope of Framework

BCDS Framework

Dimension

Investment Policy and Promotion

3 Sub-dimensions

FDI Policy

Promotion and Facilitation

Transparency
Chapter I-1: Framework for Investment Policy

**Investment Policy and Promotion**

**FDI Policy**
- Restrictions to national treatment
- Review of restrictions to national treatment
  - Approval procedures
- Admittance of business personnel
- Transfers of FDI related capital
  - FDI incentives
- Performance requirements
  - Land ownership
  - Titling and cadastre
  - Intellectual property
  - Expropriation
- International agreements
  - Arbitration

**Promotion and Facilitation**
- Strategy
- Institutional support
  - Monitoring and evaluation
- SME linkages
- One stop shop
- Client relationship management
- Policy advocacy
- Aftercare services

**Transparency**
- Publication avenues and tools
- Prior notification and stakeholder consultations
- Procedural transparency
Chapter I-1: Structure: Investment Policy

I-1 FDI Policy

<table>
<thead>
<tr>
<th>1.1 Non-discrimination</th>
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<tbody>
<tr>
<td>1.2 Protection of property</td>
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<tr>
<td>1.3 Investor protection</td>
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1.1 Non-discrimination

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<thead>
<tr>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
<th>Level 4</th>
<th>Level 5</th>
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<tbody>
<tr>
<td>1.1.2 Review of restrictions to national treatment</td>
<td>The government does not undertake any reviews of its restrictions to national treatment.</td>
<td>The government has committed to designing a process to review restrictions to national treatment.</td>
<td>The review process consists of benchmarking the scope of restrictions to national treatment in its laws and practices with other similar economies.</td>
<td>Level 3 plus the process involves periodically reviewing the list of restrictions based on an analysis of their costs and benefits and a regulatory impact analysis.</td>
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### Key concepts

- Ensuring the basis for an effective corporate governance framework
- The rights and equitable treatment of shareholders
- Disclosure and transparency
- The responsibilities of the board
- Governance of state-owned enterprises

### Example of OECD Tools and Methodologies

- OECD Principles for Corporate Governance
- OECD Guidelines on Corporate Governance of State Owned Enterprises
- OECD Methodology for Assessing the Implementation of the Principles
- OECD Policy Framework for Investment
Chapter II-2: Structure: Corporate Governance

II-2 Corporate Governance

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<th>2.1 Ensuring the basis for an effective corporate governance framework</th>
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<td>2.2 The rights and equitable treatment of shareholders</td>
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2.1 Ensuring the basis for an effective corporate governance framework

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<tbody>
<tr>
<td>2.1.1 Effective corporate governance framework</td>
<td>There is no legal or regulatory framework outlining corporate governance requirements/recommendations for private companies.</td>
<td>Elements of the corporate governance framework are in place but are stipulated in a way which is not clear or inconsistent with other elements of the regulatory framework or the rule of law.</td>
<td>Key elements of the corporate governance framework are part of the legislation or regulation for companies, but they are imprecise or inadequate in terms of scope.</td>
<td>Corporate governance provisions pertinent to companies are adequately addressed in relevant legislation (i.e. company or securities law) or though a non-binding governance code. Institutional structure to ensure compliance has been established.</td>
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## Chapter II-3: Structure: Business Law

### II-3 Business Law and Commercial Conflict Resolution

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<td>3.3 Traditional Business Law</td>
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<td>3.4 New Generation Business Law</td>
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<tr>
<td>3.5 Enforcement Capacities / Arbitration System</td>
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### 3.4 New Generation Business Law

<table>
<thead>
<tr>
<th>3.4.1 Market contestability - anticompetitive behaviour</th>
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<td>3.4.2 Market contestability – Abuse of dominant position</td>
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<td>3.4.3 Banking law</td>
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<td>3.4.4 Leasing and factoring laws</td>
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<td>3.4.5 Public Private Partnership laws</td>
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### 3.4.5 Public Private Partnership laws

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<td>There is no sectoral and/or horizontal legislation or regulatory frameworks covering PPPs.</td>
<td>Government is in the process of drafting sectoral and/or horizontal legislation covering PPPs.</td>
<td>The government has approved sectoral and/or horizontal legislation covering limited forms of concessions (e.g., only the operation and management of infrastructure projects). The concession law clearly identifies the roles and responsibilities of the public and private sectors.</td>
<td>The government is in the process of expanding its sectoral and/or horizontal legislation to make room for additional forms of PPPs.</td>
<td>The government has approved sectoral and/or horizontal laws providing a legal and regulatory framework for PPPs covering the entire lifetime (e.g., design, build, finance, ownership, operate and transfer) of the project.</td>
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Chapter II-3: Business Law and Commercial Conflict Resolution and Key Challenges

**Fundamental Business Law**

- Commercial code,
- Contract law, tort law, property law, company law,
- Collateral law, insolvency law

**Clarity of laws problematic, laws can be outdated/overtaken by new business models, need for unification, need for de-criminalisation of insolvency concept**

**Traditional Business Law**

- Labor law,
- Tax law
- Environmental law,
- Planning and construction laws

**Legal regimes based on strong historical/social role, equity/efficiency tension, overregulation**

**New Generation Business Laws**

- Competition/consumer protection laws
- Banking and Capital market laws
- Leasing and factoring laws
- Privatisation/PPP/Public procurement Laws

**Imported legal concepts, adaptation to national realities, enforcement agencies needed**
BCDS – Country X Process

January
- BCDS Kick Off

March
- Be in touch with key officials filling out assessment
  - Line ministries
  - EU COM
  - WB office
  - Business
- 1st mission - deadline for govt responses / business responses

May
- Mission to settle open Questions

September
- First Draft discussed with key stakeholders

November
- Publication

Drafting

Independent institutes to do independent assessment
SUMMARY OF VALUE ADDED
Targeted Support through the BCDS

- Provide a **single comprehensive document** defining a business climate reform strategy based on best practice in OECD countries.

- Provide targeted **support in the implementation** of the reforms on demand.

- Support **leadership in the government** to ensure coordination and consensus on priorities for reform throughout a broad range of policy areas affecting the business climate.

- **Involve continuously national government and private sector** throughout the process to increase buy-in for business climate reform.

- **Ensure coordination** amongst Ministries and government agencies through self-evaluation process.

- Increase **visibility** of the strengths of the investment environment – BCDS results can be used as tool for communication.