



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

Dr. Alexander Böhmer,  
Head of Unit, OECD Private Sector Development

Joint initiative of the OECD, World Bank, and MENA  
Steering Group

**MENA-OECD  
INVESTMENT  
PROGRAMME**

## 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.

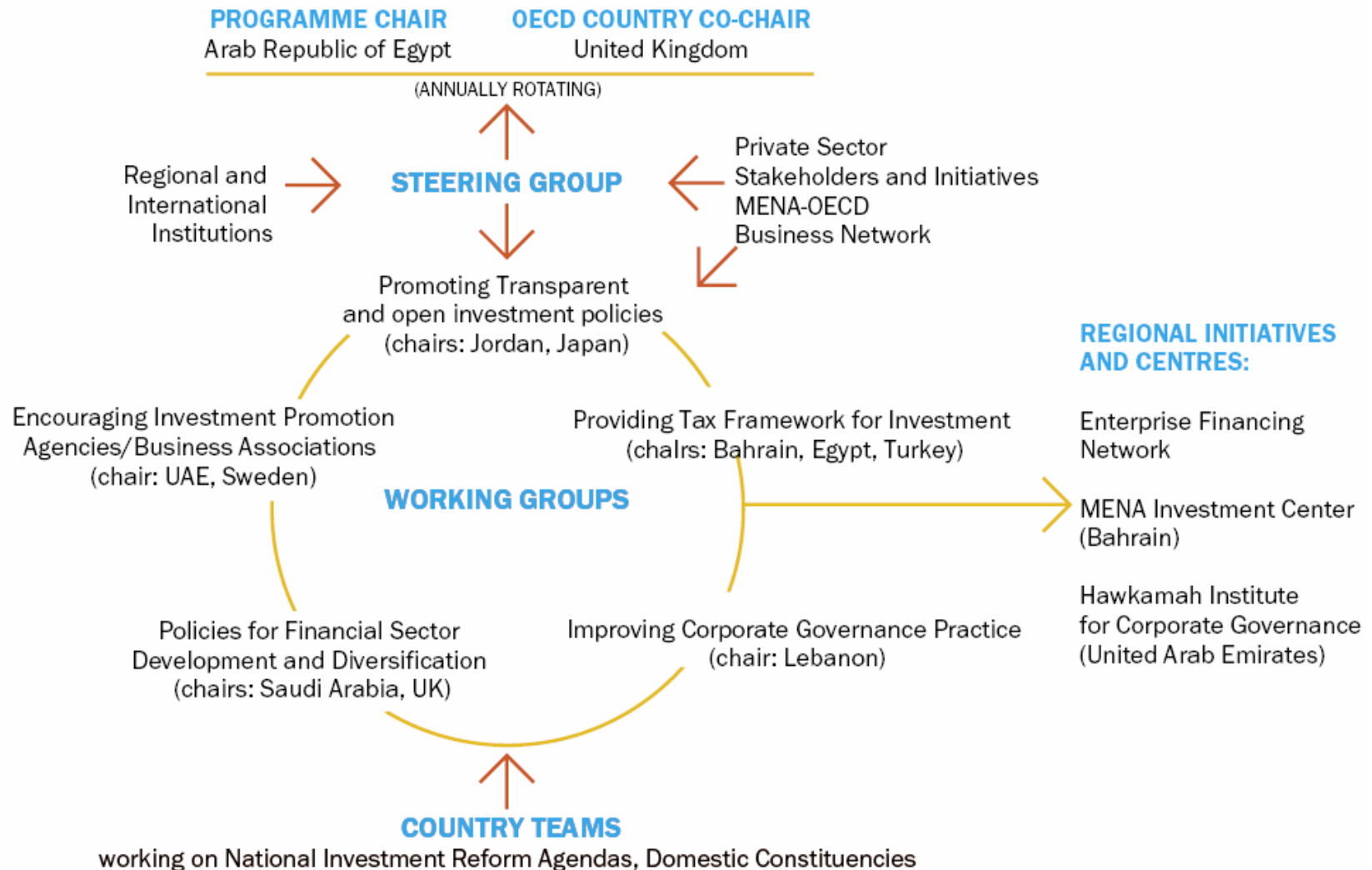
## The OECD helps governments

- 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



# **A BUSINESS CLIMATE DEVELOPMENT STRATEGY**

**AN INTRODUCTION INTO SELECTED DIMENSIONS AND INDICATORS**

# BCDS: Target and Approach

- 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:



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

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

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

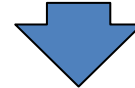
3 Sub-dimensions



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
1.1 Non-discrimination
1.2 Protection of property
1.3 Investor protection



1.1 Non-discrimination
1.1.1 Restrictions to national treatment
1.1.2 Review of restrictions to national treatment
1.1.3 Approval procedures
1.1.4 Admittance of business personnel in support of FDI
1.1.5 Transfer of FDI-related capital
...



1.1 Non-discrimination					
	Level 1	Level 2	Level 3	Level 4	Level 5
1.1.2 Review of restrictions to national treatment	The government does not undertake any reviews of its restrictions to national treatment.	The government has committed to designing a process to review restrictions to national treatment.	The review process consists of benchmarking the scope of restrictions to national treatment in its laws and practices with other similar economies.	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.	Level 4 plus the review process includes the canvassing of views and observations of national and international investors and other relevant stakeholders.

# Chapter II-2: Corporate Governance

## 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
2.1 Ensuring the basis for an effective corporate governance framework
2.2 The rights and equitable treatment of shareholders
2.3 Disclosure and transparency
...



2.1 Ensuring the basis for an effective corporate governance framework
2.1.1 Effective corporate governance framework
2.1.2 Coordination of supervisory responsibilities
...



## 2.1 Ensuring the basis for an effective corporate governance framework

	Level 1	Level 2	Level 3	Level 4	Level 5
2.1.1 Effective corporate governance framework	There is no legal or regulatory framework outlining corporate governance requirements/recommendations for private companies.	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.	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.	Corporate governance provisions pertinent to companies are adequately addressed in relevant legislation (i.e. company or securities law) or through a non-binding governance code. Institutional structure to ensure compliance has been established.	The legal and regulatory requirements affecting corporate governance address all key aspects of the OECD Principles for Corporate Governance. There is evidence of enforcement action by the relevant authorities and development of a body of case law on key corporate governance provisions.

# Chapter II-3: Structure: Business Law

II-3 Business Law and Commercial Conflict Resolution
3.1 Business Law Reform
3.2 Fundamental Business Law
3.3 Traditional Business Law
3.4 New Generation Business Law
3.5 Enforcement Capacities / Arbitration System



3.4 New Generation Business Law
3.4.1 Market contestability - anticompetitive behaviour
3.4.2 Market contestability – Abuse of dominant position
3.4.3 Banking law
3.4.4 Leasing and factoring laws
3.4.5 Public Private Partnership laws



## 3.4 New Generation Business Law

	Level 1	Level 2	Level 3	Level 4	Level 5
3.4.5 Public Private Partnership laws (concession laws, privatisation laws)	There is no sectoral and/or horizontal legislation or regulatory frameworks covering PPPs.	Government is in the process of drafting sectoral and/or horizontal legislation covering PPPs.	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.	The government is in the process of expanding its sectoral and/or horizontal legislation to make room for additional forms of PPPs.	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.

# 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

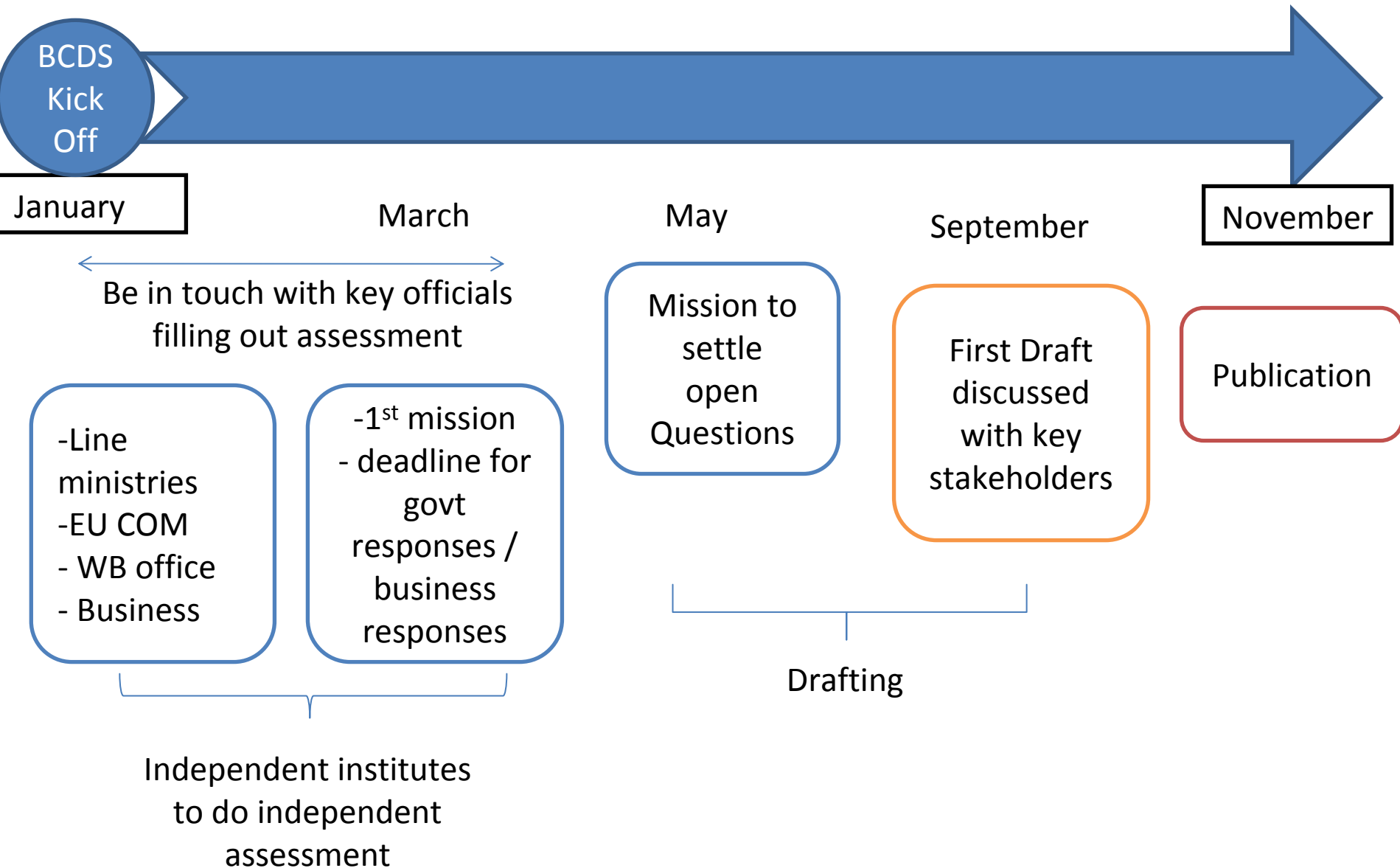
**Legal regimes based on strong historical/social role, equity/efficiency tension, overregulation**

## 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





# **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.