



Good Public Governance for Development

**in the Middle East and North Africa
(MENA)**

Draft Terms of reference (TOR)

For the Thematic Working Groups

to be discussed at the

Experts group meeting in

**Rabat, Kingdom of Morocco
29/30 of April**

I Background

The expert meeting in Morocco is part of the preparatory phase for an initiative on good public governance for development in Middle Eastern and North African (MENA) countries. It is a follow-up on a meeting in Istanbul that among other proposals, invited the OECD and the UNDP to undertake further preparatory work to detail the terms of reference of the proposed thematic working groups that would be a key instrument for implementing the initiative.

The meeting¹ that took place in Istanbul, 10/11 of February including senior officials and representatives from 10 MENA governments and delegates from 10 OECD countries, as well as several regional and international organisations and NGOs² resulted in a consensus to move forward based on:

1. Strong encouragement for MENA countries to strengthen their anti-corruption policies and their enforcement, and to take affirmative measures to adopt and implement the UN Convention against Corruption.
2. The call of MENA country representatives on donor countries and international organisations, including the G8 and the OECD, to support the countries of the region in promoting good public governance and in improving the investment climate.
3. The call of MENA country representatives on the OECD and the UNDP to support public governance reform in the region through launching an OECD/UNDP Good Public Governance Initiative based on the full commitment of MENA countries. There was wide agreement that there is currently a window of opportunity to make a new start on implementing reform.
4. The identification of six priority themes of the policy reform agenda : i) Civil service, integrity, delivery and transparent decision-making processes, ii) Administrative simplification, regulatory reform, iii) E-government, budget transparency, iv) Public/private partnerships, v) Legal reform, audit, control and enforcement, vi) civil society and media.

¹ The opening session of this meeting was chaired by OECD Deputy Secretary-General Richard Hecklinger and Omer Dincer, Undersecretary of the Prime Minister's Office in Turkey. The concluding session, was co-chaired by Mr. Salah El-Din Al-Bashir, Minister of Justice, the Hashemite Kingdom of Jordan and Dr. José-Maria Sousa Rêgo, the Secretary General of the Presidency of the Council of Ministers, Portugal.

² MENA: Algeria, Saudi Arabia, Bahrain, Egypt, Jordan, Lebanon, Morocco, Syrian Arab Republic, Tunisia, Yemen.

OECD: Professor Helfried Bauer, Austria, Mr. Mario Garces Sanagustin, Spain, Mr. David Luna, United States, Mr. Jean-Loup Petit and Mr. Bernard Benhamou, France, Ambassador Francesco Olivieri and Ms. Fiorenza Barazzoni, Italy, Mr. Shigeo Matsutomi and Mr. Junici Sugawara, Japan, Mr. Jacek Czaputowicz, Poland, Mr. José-Maria Sousa Rêgo, Portugal, Mr. Daniel Trnka, Czech Republic, Mr. Omer Dinçer, Mr. Emin Zararsiz and Ms. Ilgin Atalay, Turkey, Ms. Axel Nicaise, European Commission.

Organisations: UNDESA, UNDP, World Bank, Union of Arab Banks, Arab Administrative Development Organisation, Arab Journalist Federation, Arab Lawyer Union, Transparency Jordan, Transparency Lebanon.

5. The proposal to organise working groups around those themes each possibly co-chaired by a country of the region and an OECD country. A core steering group would direct and monitor the working groups.
6. The offer to convene an expert group, in Morocco, in order to develop in greater detail the six themes and how to move forward on each.
7. The proposal to coordinate the work on good public governance with the related and ongoing efforts on investment and corporate governance, to the benefit of both.
8. The offer by H.E. Al-Bashir to host a ministerial meeting in Jordan later this year with a view to officially launching the OECD/UNDP Good Public Governance Initiative.

The discussions in Istanbul focussed on 6 priority areas of public governance reform, identified as those likely to yield the most promising results over a 3 year period of reform, in terms of improving the investment climate and conditions for economic development.

- Civil service, integrity and transparent decision-making processes
- Administrative simplification, regulatory reform
- E-government, budget transparency
- Public/private partnership
- Legal reform, audit, control and enforcement
- Civil society and media

These priority areas are seen to be mutually reinforcing within the framework of a whole-of-government approach. This view is confirmed through the OECD country experiences, which suggest that integrated policy measures are more effective, as they address governance issues in a horizontal, cross-cutting and holistic manner. The list of themes is seen as a flexible framework that can bring in other aspects of good public governance if MENA countries request additional activities in the future.

II Objective of the Morocco expert group meeting

The objective of the Morocco meeting is to move forward the Istanbul consensus on the OECD/UNDP initiative on good public governance for MENA countries by defining Terms of references for the thematic working groups as stipulated in the conclusions of the Istanbul meeting as well as working methods of the initiative. This will include

- drafting the terms of reference for each of the six thematic working groups. The terms of reference will specify strategic issues for public sector modernisation in the MENA countries, provide questions to guide the policy dialogue and provide OECD principles, recommendations and best practice guidelines. The OECD secretariat will provide a draft text as a starting point to assist the discussions.
- defining proposals for the working methods of the public governance initiative (workshop discussions, country missions, case studies, best practice guideline, policy handbooks, country evaluations/reviews, comparative studies, etc.) and outputs/outcome of the initiative as a whole. It is to be discussed whether outputs/outcomes and working methods could vary between the thematic groups.

- contributing to the drafting of a strategic work programme including a programme of action to be submitted to a high-level launching meeting later in 2004. The experts group would also discuss strategic elements of the initiative as timing and sequencing of the individual elements mentioned above, the budget and a monitoring system.

III Working method and Participants Profile

The meeting will be structured as a small scale expert meeting to allow for genuine discussion and concrete progress in drafting a number of documents as described above. This implies an agenda without preplanned presentations but rather results-oriented flexible discussions around the draft text for the terms of reference and on the elements and building blocks of the proposed initiative. The discussions of the terms of reference of the thematic working groups can be organised in break out sessions in the afternoon of day one.

The participants would be experts in policy issues pertaining to the six issues as identified in the Istanbul conclusions. They command a good understanding of the policy challenges in MENA countries. They are not necessarily representing governments. The current participants include former ministers, academics, and other high-level actors with outstanding capacities and skills to contribute to the objectives of the meeting.

The results of the Morocco meeting will be shared with the MENA and OECD governments for comments and final approval at the high-level meeting possibly in Jordan in October 2004.

Table of Contents:

A) Terms of Reference for Thematic Working Groups (including proposed modifications for discussion)

	PAGE
1 Civil service and integrity	
• Civil Service Reform	
• Professional and integer Civil Service	
2 Administrative simplification, regulatory reform and e-government	
• Administrative simplification	
• Regulatory reform	
• Private sector consultation	
• E-government	
3 Governance of Public Resources	
• Budgeting, Financial Management and Reporting	
• Multilevel territorial governance	
4 Public/private partnership	
• Public service delivery for citizens and the private sector	
5 Role of the judiciary, audit, control and enforcement	
• Audit and Control and Enforcement	
• Judicial reform and Enforcement	
6 Civil society and media	
• Civil society and Citizen/State relations	
• Media	

B) A System to Monitor Policy Reform Progress

A) Terms of Reference for Thematic Working Groups (as proposed at the Istanbul meeting)

1 Civil service, integrity and transparent decision-making processes

2 Administrative simplification, regulatory reform

3 E-government, budget transparency

4 Public/private partnership

5 Legal reform, audit, control and enforcement

6 Civil society and media

A) Terms of Reference for Thematic Working Groups

Theme 1: Civil service and integrity

Civil Service

I Introduction

A number of MENA countries are facing fundamental challenges in the management of their Civil Services. These are in part related to overstaffing, low pay, training gaps and the difficulty to adapt to the challenges they face in a complex changing environment. MENA governments are reacting to this by reforming policy in a number of areas.

II Strategic Policy Issues:

- Legal basis for Human Resource Management
- Role of a central HRM body
- Senior Public service
- Recruitment and selection policies,
- Reform policies in the professional development of staff
 - the pay system, performance-related pay (PRP)
 - job evaluation system,
 - training and development
 - performance management (PM) and appraisal system,
 - promotion system
 - retirement system.

III Questions for discussion:

- Are there strong discrepancies between the formal HRM systems and actual practice?
- Would the following categorisation of the policy discussion on HRM issues be helpful for achieving reform progress?

- institutional arrangements – governance of HRM – such as basic laws on the civil service, civil servant status, and central HRM body
 - institutionalised HR systems such as recruitment, training and development, promotion, and classification,
 - motivational aspects of HR systems which drive civil servants to enhance performance such as performance management, pay and incentives,, working conditions, and industrial relations.
- Is information on the strategic human resource management systems available or should there be a survey launched for example based on an amended survey methodology as used in the OECD?

IV Participants profile

Professional and integer Civil Service

I Introduction

Preventing corruption and promoting integrity and transparent decision-making processes in the civil service have been identified by an increasing number of MENA countries as a new policy priority. Some MENA countries have comparatively low ratings in corruption perceptions indices and recognise the urgent need to address the problem. In most OECD countries as well as in a number of MENA countries, codes of conduct have been introduced to encourage honesty in the public sector. However, experiences have shown that further to providing appropriate laws, rules and codes and promoting enforcement, achieving high standards requires a comprehensive approach to establishing a culture in which high expectations of good conduct and transparent decision-making are the norm. Training is a fundamental tool, but encouragement and example from the top government level are equally powerful in setting the right civil service cultural framework, taking into account the general culture and tradition prevailing in different MENA countries.

II Strategic Policy issues:

- Legal framework (laws and regulations) as a basis for communicating the minimum obligatory standards and principles of behaviour for every public servant. Statements of core ethical standards and principles.
- Interaction between the public and the private sector. Rules and guidelines.
- Public service conditions as key influencing factor for high standards of conduct.
- Accountability mechanisms, focussing on compliance with rules and ethical principles as well as on achievement of results.
- Systems of procedures and sanctions to deal with misconduct.

III Questions for discussion:

- Are there any specific regional or national challenges for public sector integrity in MENA countries: tradition of petty corruption, widespread of “Wasta”, linkages between political power and economical power, etc, which would require specifically designed policy responses?
- Where there is a critical gap? In the legal framework? In the institutional framework or in the capacity to implement and enforce?
- How can public decision making processes become more transparent and open to scrutiny as a key factor to preventing corruption?

- To what extent political commitment is a precondition to reinforcing the ethical conduct of public servants and what sort of political commitment is needed? How political commitment can be sustained and communicated over time?

IV Participants profile

V OECD principles, recommendations and best practice guidelines:

- Principles for Managing Ethics in the Public Service
- Guidelines for Managing conflict of Interest in the Public Service

Theme 2: Administrative simplification, regulatory reform and e-government

Administrative simplification

I Introduction

MENA countries are increasingly concentrating their efforts on administrative simplification, as illustrated in the Istanbul presentations by the Moroccan, Jordan and Egyptian representatives. One of the most common complaints raised by business and citizens, both in OECD and in MENA countries, is the quantity and complexity of government formalities and paperwork. In many cases, practices have become extremely complex and cumbersome, even irrelevant, thereby generating unnecessary regulatory burdens – so-called “red tape” which can facilitate corrupt behaviour by public sector employees and civil servants. The costs imposed on the economy as a whole are significant and red tape is identified as a key barrier for economic development. In response to these challenges, governments have increasingly focussed on reviewing and simplifying the bureaucratic burden they impose. This response includes removing obsolete or contradictory provisions, producing guidelines on administrative regulations, and introducing new ways to measure administrative regulations and reduce their impact. Initiatives in this area are a priority in most MENA countries, but there is a need to improve the effectiveness of policies that have been initiated.

II Strategic Policy issues:

- The role of ex-ante policies: Avoiding that unnecessary or unreasonable burdens are not implemented.
- Top-down and bottom-up approaches to administrative simplification.
- Market-based economic policies to encourage simplification
- The role of IT in administrative simplification

III Questions for discussion:

- What are the main trends in cutting red tape in OECD countries and in MENA countries? Which could be the most promising and priority steps toward achieving reform?
- How to measure progress?
- Are one-stop shops cost-efficient?
- How to balance helping small businesses with other priorities?

IV Participants profile

V OECD principles, recommendations and best practice guidelines:

Policy Brief: From Red Tape to Smart Tape: Administrative Simplification in the OECD countries.

Regulatory Governance

I Introduction

Administrative simplification is just one aspect of the wider issues of regulatory governance, which is understood as the framework of regulatory instruments, institutions and procedures. Quality regulation -- that is, efficient, transparent and accountable regulation -- will contribute to market efficiency and the coherence of government actions. The OECD work on regulatory reform demonstrates that high-quality regulatory governance can be effective in boosting sectoral efficiency and innovation, enhancing economy-wide flexibility, spurring growth, improving welfare, and increasing government effectiveness in maintaining high standards of environmental, consumer and safety protection. Coherent regulatory governance can also help ease trade tensions by addressing multiple behind-the-border impediments to international trade and investment.

1. Delegates at the Istanbul meeting agreed that introducing high-quality regulatory governance needs to be built up progressively in MENA countries in order to achieve sustainable results. OECD experience indicates that a strategy for improvement can be based on three pillars: policy and institution-building, third-party checks and balances when issuing new regulations and systematic control of the existing regulatory framework. This progressive approach appears also relevant for MENA countries which are becoming increasingly aware of the competitive benefits of improving their regulatory systems.

II Strategic Policy issues:

- Non-discrimination in the application of competition and regulatory principles
- Comprehensive application of competition and regulatory principles to economic activity including goods and services, and private and public business activities.
- Competitive markets based on a good overall legal framework, clear property rights, and non discriminatory, efficient and effective enforcement.
- Transparency in policies and rules, and their implementation
- Clear responsibility within domestic administrations for the implementation of the competition and efficiency dimension in the development of policies and rules, and their administration
- Implementation efforts to
 - Identify and/or review regulations and measures that impede the ability and opportunity of businesses (including SMEs) to compete on the basis of efficiency and innovation
 - Practical steps to promote consistent application, eliminate unnecessary rules and regulatory procedures, improve transparency of policy objectives and the way rules are administered.

- Foster confidence and build capability in the application of competition and regulatory policy.
- Provide economic and technical co-operation and assistance and build capability to apply OECD know-how.
- Develop effective means of co-operation between MENA economy regulatory agencies and ensure that these are adequately resourced.

III Questions for discussion?

- How to adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation?
- How to ensure that regulations and regulatory processes are transparent, non-discriminatory and efficiently applied?
- How to identify the linkages with other policy objectives (for example in policy areas such as safety, health, consumer protection and energy security) and to develop policies to achieve those objectives in ways that support the regulatory reform?

IV Participants profile

V OECD principles, recommendations and best practice guidelines:

Policy recommendations on regulatory reform.

Private sector consultation

I Introduction

The private sector is increasingly assuming a key role in supporting reforms towards good public governance, and a better business climate in MENA countries. Delegates reported a range of promising initiatives in this area. For example, the Moroccan CGEM (the General Confederation of Moroccan Enterprises) has created a Committee for enterprise ethics with the objective to formalise principles of good governance in small and medium-sized private businesses, most of which are not quoted on stock markets. The committee is a key actor also in the ongoing consultations with regard to the reform of the public sector. In addition, it has launched programmes to improve the behaviour of entrepreneurs in the framework of public procurement to promote transparency and to contribute to the prevention of corruption of public officials.

II Strategic Policy Issues:

- Consultative Mechanisms between Private Sector and Government to generate understanding, focus and support for public governance reform
- Structure of business representation, business associations, self-help organisations of the private sector, employers organisations
- Private Sector and the prevention of corruption
- Private Sector as provider of public services

III Questions for discussion:

- How consultative processes may enhance the flow of information between business, government and other economic actors, not only making policy reforms more predictable, but enhancing policy design and adjustment?
- How to create a genuine sense of common "ownership" over reform ideas engendered in consultation meetings?
- Can consultation with private sector experts help strengthen their commitment to reforms while helping conserve scarce public resources through member pooling of technical expertise and sharing of costs?
- How to make sure that repeated and results-oriented interactions in public/private consultations can generate mutual trust, thereby lowering basic transaction costs while enhancing the credibility of government?

- How to deal with outsourcing of public services within the framework of an integrated overall reform strategy to improve public governance, modernisation of the administration and improving the delivery of public services?

IV Participants profile

E-government

I Introduction

A number of MENA countries, for example Dubai, Morocco, Egypt and Jordan, have started to develop policies on e-government, which is an important tool that can help to promote transparency and accountability in the region and contribute, at the same time, to improving competitiveness. Online information provision was seen by delegates as an important element in promoting administrative simplification as well as preventing corruption, as it makes information on entitlements and costs of services easily accessible, and reduces opportunities for arbitrary behaviour. At the same time, successful e-government is related to the overall governance framework and requires that reform is undertaken not only at the level of information technology but in the entire environment that determines the local governance culture.

II Strategic Policy issues:

- E-government as a factor to improving efficiency and services.
- E-government as contribution to public governance reform and to building trust between government and citizens.
- Conditions for successful e-government, transferability of OECD Guiding principles for successful e-government
- Privacy
- Access
- Financing of e-government projects
- Monitoring and evaluation of e-government initiatives.

III Questions for discussion:

- How to make e-government beneficial to public administrations and to society at large?
- What barriers are impeding the development of e-government and how to avoid them?
- What needs to be done for successful e-government implementation?
- How to mobilise support for e-government?

- How to improve co-ordination and collaboration?
- How to facilitate international co-operation?
- What competencies are necessary for e-government decision-making?

IV Participants profile

V OECD principles, recommendations and best practice guidelines:

- Guiding Principles for successful e-government

Theme 3: Governance of Public Resources

Budgeting, Financial Management and Reporting

I Introduction

The budget, as one of the key economic instruments in allocating a significant share of a nation's gross domestic product, establishes policy priorities through the allocation of funding. The basic operations of government ministries and agencies are established in the context of the budget. Overall, the budget provides the architecture for decision-making and accountability in government.

Strategic Policy Issues:

- General organization of the budget authority
- Budget formulation
- Budget execution
- Accounting, control and monitoring systems
- Budget documentation and performance management

Questions for discussion:

- What are recent trends in budget policy reform in MENA and OECD countries?
- What role parliaments can take in holding the executive accountable?
- Is performance-based budgeting a realistic target in the short and medium term in MENA countries? What are intermediate steps to move in this direction?

IV Participants profile

V OECD principles, recommendations and best practice guidelines:

- OECD best practice for budget transparency

Multilevel Territorial Governance

I Introduction

Experiences in many OECD countries have made clear that issues of governance are intimately linked to achieving the goal of improving economic performance in regions. The policy trend in OECD countries involves a shift away from command-oriented policymaking with central government playing the decisive role to more flexible forms of governance involving a broader range of partners.

This work area would assess the impact that new governance mechanisms in regions (sub-national level) are having on the effectiveness of public policy and what good practice for policy reform would follow from that. This includes intergovernmental co-ordination initiatives among sectoral ministries and across levels of government, initiatives to improve horizontal co-ordination (e.g., through amalgamations, voluntary groupings, etc.), as well as the use of partnerships with non-governmental actors. A principal objective of the activity would be to work towards a means of evaluating the outcomes from these different instruments from the perspective of the efficiency of service delivery, accountability, need for local capacity building. Fiscal issues would be a central issue within this activity.

Strategic Policy Issues:

- Fiscal relations among levels of government
- Strategic formulation of area-based policies with regard to private sector development, social and employment policies, investment promotion, etc.
- Contract based instruments for across levels of government for regional development
- Horizontal co-operation through intern-regional and inter-municipal co-operation and municipal mergers.

Questions for discussion:

- What are recent trends in multi-level governance in MENA and OECD countries?

IV Participants profile

Theme 4: Public/private partnerships

Public/Private Partnerships for public service delivery to citizens and the private sector

I Introduction

Public/Private partnerships for public service delivery to citizens and the private sector has been a trend in many OECD countries in view of fiscal pressures that forced industrialised nations to undertake major reforms of their public sectors. These reforms consisted of a progressive disengagement of the state from various sectors of activity such as natural resource management, health, social security, employment, security and justice. In parallel to the fiscal pressure governments were also necessary due to citizens and businesses becoming more sophisticated consumers demanding that Government modernise and improve the quality of its public service delivery methods.

Public-private partnerships represent a great variety of collaboration models. Sub-contracting and out-sourcing are two common types. In these cases, government retains responsibility for a service that is totally or partially operated by the private sector. The diversity of collaboration models reflects the degree to which responsibility is shared as well as the variety of potential partners from the public, private or non-profit sector.

More recently, a trend to explore new models of collaboration for public service delivery, particularly public-private partnerships has emerged in both industrialised and developing countries. These new models of partnership are critical not only because of the type of relationships that binds the private sector to the public sector, but also because of the sector of activity involved. Public administrations are turning to new means of collaboration for activities that were, until quite recently, their sole domain as they lay at the very heart of the government's mission.

II Strategic Policy Issues:

- the overall governance framework for service delivery
- organisational structures for public services including
 - provision of public services by privately owned institutions with government involvement through contracting out and regulation.
 - organisational forms for services delivered by government, including direct provision by ministries units and sub-units, and provision of services by other arm's length bodies.
- type of functions that can possibly be delivered with each organisational form and the main conditions for success, insisting on the governance risks associated to the different organisational forms—mainly around capture and lack of accountability.
- different ways of enhancing market type mechanisms in the organisational forms of public service delivery, separating the problem of ownership from that of enhancing market type mechanisms and performance oriented management

III Questions for discussion:

- How to provide a wide range of experiences on Government's role in the delivery of public services in a market economy to MENA countries?
- How to coordinate of expertise on the governance of service delivery in specific sectors (and in particular on health, education and agriculture).
- What are potential drawbacks of market type mechanisms, autonomy and performance oriented management for the delivery of public services in a weak governance environment as for example in MENA countries?

IV Participants profile

Theme 5: Role of the judiciary, audit, control and enforcement

Audit and Control and enforcement

I Introduction

This cluster of policy issues has formed an important part of the discussions during the Istanbul meeting signalling their strategically important role to achieve public governance reform in MENA countries. For example in the area of audit, most Arab countries have created national agencies responsible for auditing government expenditures and revenues. The audit institutions in principle assure the financial accountability of the public sector by supervising the management of public funds and verify government accounts. These institutions have different structures and processes. For example, the Audit Bureau of Jordan is an independent government entity, reporting to the office of the Prime Minister. The Bureau's functions include the monitoring of government revenues and expenditures, but also providing advice in the field of accountancy and undertaking performance audits, an important step towards an overall approach to performance based management in the public sector. Moreover, in Egypt as well as in a number of other MENA countries audit institutions exercise both administrative (pre-audit and post-audit) control as well as judiciary control over accounts and human resources.

Audit and control institutions have a central role to play as professional and independent institutions in the accountability system of a country. They are instrumental to guaranteeing that public funds are spent in a regular and efficient way and that possible deficiencies are remedied in a timely and effective manner. Political attention from parliament helps to put adequate pressure on government, if necessary, and contributes to a favourable environment for a follow-up on audit observations.

II Strategic policy issues:

- Overall structures and principles of administrative procedure and the supervision of the administration in MENA and OECD countries: Basic models and recent trends.
- Models of administrative law in MENA countries. Balancing the fundamental objectives of administrative law and procedures: effective administration and the respect for the rights and interests of persons. Principle of legality as the foundation stone for administrative law and its role in MENA countries.
- Administrative law and policies to improve the quality of administrative decision making: Gaps between legal provisions, administrative reality and social context.
- Judicial supervision within the framework of laws and according to established legal principles
- Ex-post and ex-ante controls: Cost and benefits.
- System-based and transaction based auditing.
- Independence of public auditors from the executive and funding of audit institutions.

- Performance based management as a parameter for audit, control and supervision: Measuring value for money.
- Auditing policies, standards and implementation as well as ethical standards.
- The role and structure of audit reports.
- Relations between Supreme Audit Institutions and Parliaments.

III Questions for discussion:

- What is the most suitable form of supervision of the content and merits of administrative actions?
- How can Supreme Audit Institutions contribute to Administrative and Government Reform? As an auditor, advisor, researcher, developer and as a model for effective and transparent public management (practise what you preach)? What mandate and competencies/capacities are needed to contribute appropriately?
- How non-judicial forms of supervision can contribute to better accountability: ombudsmen, special boards or inspectorates, supreme audit institutions, parliamentary committees and other institutions?

IV Participants profile

Judicial Reform and Enforcement

I Introduction

It has become clear that the existence of an appropriate legal system, as a key feature of good public governance, is paramount for the development of the private sector. Weak or nonexistent laws and judicial institutions not only create a bias against new and small firms, that have no means by which to persuade clients of their reliability, but also a bias in favour of simple over more complex transactions, since it is unlikely that legal remedies can be invoked in cases of non-fulfilment of contracts.

To this end enforcement is an issue that delegates considered to be strongly related with the question of independence of the judiciary in MENA countries. Judiciaries and legislatures are generally more independent than they were a decade ago, and they are beginning to use new approaches to hold executive authorities accountable. A number of countries, for example Egypt, Kuwait, Jordan and Morocco have taken steps towards enhancing the ability of judiciaries and legislatures to play an oversight role as well as in contributing to a better enforcement of the rule of law. Several delegates presented initiatives to improve access to legal information as a basic precondition to successful legal reform. To this end the UNDP has initiated a database to disseminate legal information globally and among MENA countries.

II Key policy issues:

- An integrated and culture-specific strategic approach to judicial reform: Achieving genuine change taking into account the overall governance environment, weakness/strength of institutions and factors impeding implementation.
- Enhancement of the managerial capability of judges, legal education, assistance to legislative drafting, equipment and infrastructure.
- Incentives to reform for judges, for different parties and other actors of the judicial process.
- Reforms based on structural modification of the judicial systems, rules and procedures.
- Budget implications of legal and judicial reform: Measuring spending on the judicial system.
- Non-judicial ways for dispute settlement (alternative dispute settlement systems)
- Regulation/Deregulation of legal services to improve competition in the sector, professionalisation of notaries, professional ethics codes.
- Monitoring results of legal and judicial reform

III Questions for discussion:

- How to measure demand in new laws? How appropriate is law change as a tool, given the state of legal institutions and governance environment within a particular country?

- How would a particular law or a set of laws fit into the overall framework of laws, and societal understandings?
- How the law should best be drafted, who is to be consulted, which branch of the government should pass the law, and is additional implementing legislation needed?
- Would judicial reform be supported significantly through an increased focus on training and supplying equipment?
- How can diagnostics be improved so that questions of demand, supply, societal understandings, governance, legal institutions and the process by which laws are made might be addressed, and how can the mechanisms by which disputes are resolved be traced so as to inform legal and judicial reform programmes?
- How can implementation of legislative reform be monitored at the country and the thematic level in order to track progress and to develop lessons and best practices?
- Which area of law reform (bankruptcy, company and property rights law, contract and competition law, banking and security markets law, etc.) is the most relevant/priority for improving the climate for business and investment?

IV Participants profile

Theme 6: Civil society and media

Civil society and State Citizen Relations

I Introduction

In OECD as well as in MENA countries there is a growing demand for transparency, accountability and participation by citizens. However, civil society still suffers from legal and practical constraints in some MENA countries, and delegates agreed that there is a need to develop a more sustainable partnership between government and civil society. Delegates noted promising policy initiatives for example in Bahrain, Morocco, the United Arab Emirates and Yemen, but it is clear that this policy area provides challenges on the way towards better governance and business competitiveness in many MENA countries.

Delegates observed a trend in devolution of decision-making powers from national to regional and local levels, which in itself is an important contribution to closing the gap between government and citizens. Many have introduced new forms of public consultation and adopted new tools, such as information and communication technology. Governments are recognising that citizens' acceptance of and compliance with legislation increases when consulted early in the decision-making process. Engaging citizens effectively requires commitment, resources, time and a deep understanding of how to use innovative policy tools, as recent work in the OECD on the government/citizen dialogue is indicating.

II Strategic Policy Issues:

- Legal, institutional frameworks and socio-cultural background of civil society in MENA countries: key differences to OECD countries
- Access-to-Information policies as basic requisite for open government, consultation and participation (sound legislation, clear institutional mechanism for their applications, and an independent judiciary for their enforcement)
- Improving regulatory compliance through regulatory consultation.
- Citizen Consultation: Legal framework, Consultation Issues, Process management.
- Online Consultation: Using new ICT-tools.
- Public participation in policy making:
- Evaluation of policies to strengthen citizen-government relations: Tools and approaches.
- Building effective partnerships with Civil Society.

III Questions for discussion:

- Is there any overall policy to strengthen government-citizens relations? Which are the legal, institutional and policy frameworks for access for information, consultation and public participation?
- What are the scope, quantity and quality of government information provided to citizens? Has it changes in the last years? What is the impact of the use of new ICT including the internet?
- How to bridge the gap between citizens and governments perspectives when designing and implementing consultation

- What are the benefits in access-to-information and consultation policies for MENA countries?
What have been the experiences in OECD member countries?

IV Participants profile

V OECD principles, recommendations and best practice guidelines:

- Guiding principles for successful information, consultation and active participation measures for citizens in policy making
- OECD Handbook on information, consultation and public participation in policy-making
- Policy Brief: Engaging citizens Online for Better Policy-making.

Media

I Introduction

Representatives at the Istanbul meeting, in particular those of civil society and the media, stressed the ongoing importance of a free and viable press with regard to achieving public governance reform. Despite considerable improvements a number of participants saw this area still as a bottleneck to improving accountability and transparency of the public sector. In addition, there is also an important role for the media as a means of transferring knowledge. For the time being, MENA countries on average have lower information media to population ratios (number of newspapers, radio and televisions sets per people) compared to the world average and the average of middle-income countries.

II Strategic policy issues:

- Free, competitive press as a factor of a good business climate: Experiences from MENA countries and from OECD countries.
- Media self-regulation and media ethics
- Media interaction with parliaments
- Media as a provider of reliable economic information.
- Management of independent media organisations (management skills, training of reporters), Capacity building tools for media organisations
- Arbitrary lawsuits, censorship, state-ownership and dependency on state subsidies as parameters of freedom of press

III Questions:

- What is the media environment in MENA countries, and which laws and policies constrain the press?
- How to strengthen the capacity of the media organisations and journalist to cover economic, political and social change, and thereby genuinely contributing to transparency and accountability both in government as well as in the private sector?

IV Participants profile

B) A System to Monitor Policy Reform Progress

In order to assure that the proposed initiative on good public governance is focussing on achieving genuine change, it is key to have a monitoring mechanism in place that can measure progress against a set of policy targets proposed and agreed by MENA countries. To this end it is necessary to agree on key parameters of such a monitoring system:

- Selection of Targets (time-bound, measurable, concrete, real priority)
- Design the monitoring process (by MENA working group members or by secretariat, or jointly)
- Reporting of monitoring (periodicity of reports, report format)

Prior experiences of monitoring systems have shown that a selection and prioritisation of reform targets to a few of high priority will give the most impact in supporting policy implementation and achieving results. The expert group meeting would start to discuss how a system for monitoring within a MENA public governance initiative could be appropriately designed. This would also include discussions on which policy areas would be the best candidates to provide monitoring targets with view to ultimately maximising policy change.