

# Corporate Governance Document and Information Request List for State-Owned Enterprises

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## Document Request for State-Owned Enterprises (SOEs)

To prepare a Corporate Governance Assessment (CGA), please provide the enterprise documents noted below, as applicable, in English. If requested documents are currently being developed, such as for greenfield operations or newly acquired operations, please provide draft or specimen versions.

- 1. Ownership Structure:** Chart setting out the shareholdings, holding enterprises, affiliates, and subsidiaries of the enterprise, indicating ultimate beneficial ownership and percentages held by each.
- 2. Governance Structure:** Chart setting out the governance structure of the enterprise, indicating the principle organs of the enterprise's governance and to whom each reports (including the state and its affiliates); shareholders' assembly or general meeting; board of directors; any board committees; senior management; internal audit; external audit; and principal management units.
- 3. Organic Documents:** Enterprise's charter/bylaws/statutes and other organic documents with amendments to date.
- 4. Corporate Governance Code/Manual, Code of Ethics, Conflict of Interest Policy, and other written policies, codes, or manuals** that set out the enterprise's approach to governance; roles of its governance bodies; responsibilities and composition of the board, including copies of policies or bylaws relating to the practices of the board of directors, charters/TORs (terms of reference) for board committees, and outline of current membership of committees established; disclosure and transparency practices; and treatment of minority shareholders.
- 5. ESG Policies:** Written environmental and social (E&S) policy or environmental, social, and governance (ESG) code addressing, at a minimum, compliance with E&S laws and regulations; stakeholder engagement; integration of ESG in business activities; extent of board oversight of ESG issues.
- 6. Annual Report and Financial Statements:** Copies of the annual report and annual financial statements, quarterly statements, and auditor's opinions for the last three years.
- 7. Designated Officer Responsible for Corporate Governance Policies and Practices:** TORs/document defining the person/body responsible for the corporate governance (CG) policy in the enterprise, such as the corporate secretary.
- 8. Current Board and Senior Management:** List of the current members of the board as well as senior management, with summary CVs indicating, at a minimum, the name; position(s) currently held in the enterprise; position(s) currently held in other enterprises; affiliations with the enterprise, management, and controlling shareholders, and other enterprises on which such persons sit as board members; age and qualifications; and shareholder agreements or provisions of enterprise's charter that specify which shareholders appoint directors.
- 9. Board Appointment/Nomination Policy:** a policy setting out the process for the selection and nomination of board members.
- 10. Board Procedures:** Annual calendar of board meetings and minutes of board meetings for the past year.
- 11. Management Policies:** The charter/bylaws on the CEO and bylaws on the management board, if any.
- 12. Non-Executive Director Remuneration and Executive Director Compensation:** Principles of non-executive remuneration and executive compensation received by directors and senior management for their services.
- 13. Management Succession Plan** (or outline of main principles on succession).
- 14. Internal Control, Internal Audit, and Risk Management Policies:** Policies on internal control, internal audit (for example, an internal audit charter), and risk management; and TORs for the chief of internal control and chief risk officer. Also, include any separate policies on the integration of the Environmental and Social Management System (ESMS), approval criteria for E&S risks, and industry standards on E&S risk management adhered to (such as ISO14001 or other).<sup>1</sup>
- 15. Compliance Program:** Details of the compliance program; compliance register; and TORs for the chief compliance officer and chief ethics officer.
- 16. Management Letters** from the external auditor for the past three years.
- 17. Information Disclosure Policy.**
- 18. Ownership Policy:** a policy or set of policies that specify the state's objectives as an owner, for the overall state-owned sector as well as for the enterprise itself.
- 19. Performance Agreement:** any performance agreement or Memorandum of Understanding in place between the enterprise and the State/State ownership entity that communicates the State's expectations and facilitates periodic performance monitoring of the SOE.

<sup>1</sup> Note: If this is for an IS transaction, consult with the Environmental and Social (E&S) specialist, who should make a similar request.

- 20. Shareholders Agreements:** Agreements, links, or other informal arrangements among all or some shareholders.
- 21. Shareholders Meetings:** Charter/bylaws on the shareholders' meetings; and summary of attendance and results of all shareholders' meetings (annual and extraordinary) for the past three years, including dates, type (annual and extraordinary), number of shares represented, number of shareholders represented, agenda items, and record of votes.
- 22. Policy on Related-Party Transactions** and list of transactions that required shareholder and/or board review and approval in the past three years.
- 23. Major transactions and material events:** Timeline of major transactions and material events for the past five years (in particular, corporate acquisitions, mergers, restructurings, and sales or purchases of major assets, etc.) and a summary of such transactions in the past three years that have been subject to special review by the regulator or the exchange.
- 24. Dividend Policy:** The enterprise's formal policy on declaring and distributing dividends.
- 25. Whistleblowing Policy:** The enterprise's whistleblower protection policy covering anyone who files a complaint and protects complainants from retribution.
- 26. Stakeholder Engagement Policy:** Policy, strategy, and procedures, describing stakeholder engagement; persons and operational team(s) accountable for stakeholder relationship, and their reporting line to management and board; and standards adhered to for stakeholder engagement and reporting (such as AA 1000, ISO 26000, etc.).<sup>2</sup>

- 27. External Communication Mechanism:** Policy, strategy, and procedures, describing external communication mechanism enabling external stakeholders to liaise with the SOE; persons and operational team(s) accountable for stakeholder interaction, and their reporting line to management and board; and standards adhered to.<sup>3</sup>
- 28. Parent-Subsidiary Authorities/Agreements (if applicable):** Any policies (if they exist) that define: a) policies and procedures on the creation and dissolution of subsidiaries; b) the division of decision-making authorities between the parent enterprise and its subsidiaries; and/or c) any shared service agreements between the parent and subsidiaries (or other affiliated enterprises).

## Information Request

*Please provide the additional information noted below, as applicable, in English. If requested policies and procedures are currently being developed, please provide information on the enterprise's expected plans and timeline for implementation.*

### A: Commitment to Good Corporate Governance

- 1. SOE Legal Framework:** What is the corporate form of the SOE? Is the SOE subject to the same laws and regulations as other private-sector owned entities? Can the SOE avail itself of sovereign immunity? Is the SOE subject to public sector law (for e.g.: public enterprise law, public sector employment rules, investment and budgeting regulations, procurement laws, public financial management laws, public audit requirements)? Please specify if

the SOE is subject to the following laws and describe any differences of regulatory regime in reference to:

- Enterprise law
- Bankruptcy or insolvency law
- Commercial law
- Labor law
- Competition or anti-trust law
- Other legislation

- 2. Ownership and Governance Structure:** Are the everyday, practical governance of the enterprise and the exercise of ownership rights consistent with the formal documentation submitted? If not, how does the actual practice differ?
- 3. Enterprise Corporate Governance Code/ Manual:** What are the enterprise's procedures for monitoring its compliance with the enterprise corporate governance code and policies? Who in the enterprise is primarily responsible for ensuring that the enterprise complies with policies regarding corporate governance? Does the enterprise periodically disclose the extent to which it is complying with its corporate governance policies and procedures?
- 4. Country corporate governance code:** Are the board and the senior management familiar with the code of corporate governance for the country (if such code exists)? To what extent does the enterprise comply with the provisions of this code?
- 5. Code of ethics.** Are sanctions for non-compliance clearly specified? Does the Enterprise have in place a formal implementation program for ensuring and systematically monitoring compliance with its code of ethics (e.g., dissemination, a regular training program, a "whistle-blower / hot line" system, etc.)? Who

<sup>2</sup>Consult with assigned E&S specialist, who may have requested/obtained these documents.

<sup>3</sup>Id.



in the enterprise is primarily responsible for ensuring that the enterprise complies with its own code of ethics? How is compliance overseen and enforced? Does the enterprise disclose to its shareholders or other stakeholders, on a periodic basis, the extent to which it is complying with its code of ethics? If so, how?

6. **Mandate and Objectives of the SOE:** Where are the SOE's objectives documented (e.g.,: founding law/articles of association/performance contract/strategy/ownership policy)? Are the objectives defined as commercial or public policy/social or both? Please summarize the commercial and non-commercial objectives detailing special obligations to stakeholders like employees or the local community. If the SOE has non-commercial objectives, please describe related funding, costing and disclosures.
7. **Financial Discipline:** Is financing procured under competitive process? Can the SOE freely borrow and pledge its assets? Does the SOE have preferential access to subsidized credit? Is the SOE borrowing guaranteed by the government? Does the government provide any financial assistance to the SOE, including but not limited to grants, subventions, subsidies or loans?
8. **Specific Restrictions:** Can the SOE freely submit to international arbitration and foreign law and jurisdiction in the context of international financings? Please list any restrictions related to the strategic nature of assets held by the SOE.

## **B: Structure and Functioning of the Board of Directors**

1. **Composition of the Board:** How is the composition of the board determined? What is the process for appointing the board of directors? What is the term of appointments? How many

times can a board mandate be renewed consecutively? Is there a formal policy preventing or restricting the following from being appointed to the board: (a) ministers or other elected officials; (b) representatives or staff of regulatory agencies; and (c) civil servants?

2. **Board procedures:** How often does the full board meet? Typically, how long are board meetings? Is an agenda prepared and distributed in advance? Are minutes prepared and approved after board meetings?
3. **“Independent” Board Members:** How, if at all, does the enterprise define “independent” with regard to board members? What compensation do independent (and other) directors receive for their services? Do independent members tend to meet separately from other board members?
4. **Skill mix:** What business and other experience is represented on the board? What efforts are made to ensure an appropriate mix of skills and experience among board members? How many board members have an ESG background and/or expertise?
5. **The Board and the Management Team:** Is the board in charge of the selection, appointment and dismissal of the CEO and senior management? If so, please specify if the board is consulted only, or if it's the decision maker. Does the board formally evaluate the performance of the CEO and senior management? Are there set and documented Key Performance Indicators (KPIs)? Is compensation of the CEO and senior management linked to their performance?
6. **Audit and Other Standing Committees:** Does the board have an audit committee or other standing committees, such as governance, finance, nomination and remuneration,

conflicts of interest, risk? How are these committees established, who sits on them, and how do they function? How often do these committees meet? Do the board committees have their own budget and can they acquire internal and external consultancy on issues under their scope of authority?

7. **ESG Oversight by Board:** Has a dedicated ESG or Sustainability committee of the board been established, and if so, what is the role and composition of the committee? Does the board formally approve ESG strategy and E&S policies adopted by the enterprise? Does the board ensure that management systems are in place to identify and manage E&S risks and impacts, and if so, how is this done? Does the board review independent audits of the effectiveness of the ESMS adopted by the enterprise? Do individual board members have sufficient experience in evaluating E&S issues? What is the frequency of inclusion of ESG issues on the board meeting agenda (over the past three years)?
8. **Board Evaluation:** Does the board conduct self-evaluations or formal reviews of its effectiveness? How and how often are such reviews conducted, and with whom are the results shared?
9. **Board training:** Does the enterprise provide orientation or induction training for new board members? Does the enterprise require and/or provide on-going training in corporate governance, or on topics crucial to the enterprise's strategy and operations? Describe the extent and frequency of training offered to the board on ESG risk issues (both for industry-specific and general risks).

## C: Control Environment: Internal Control Systems (IC), Internal Audit Function (IA), External Audit (EA), Risk Governance, and Compliance

- 1. Internal Control System:** Describe how the enterprise's IC (operational, financial, and for the enterprise's highly automated systems) are developed and implemented. Are the existing controls documented and the documentation reviewed periodically? Do the board and management appropriately consider control issues when planning new strategies, activities, and products? Does the external auditor report on the adequacy of the enterprise's IC? Are there areas of IC deficiency reported repeatedly by the external auditors? Are the controls risk-based? Does the enterprise undertake self-assessments of IC?
- 2. Internal Audit Function:** To whom does the IA chief report to? How often does the IA chief privately meet with the board and with the audit committee? Does IA have any operational responsibilities in addition to its audit role? Are the internal auditors rotated periodically to different areas of audit responsibility? Have IA staff reported any conflicts of interests, and if yes, how have these been handled? Are IA work plans and audits conducted in accordance with local or international standards? Does the board monitor management's response to deficiencies and weaknesses identified by the IA function? Are internal audits risk-based? Describe the (operational and financial) competencies and skills of the IA staff. Does the audit committee review the resources available to IA? What has been the turnover in the IA over the last three years? Does IA conduct IT audits? Has IA undergone a quality assessment within the last five years? Is IA or any of its work outsourced, and what is the enterprise's policy regarding the selection

of IA service providers? Does the provider have any association with the external auditor and/or are there any other services provided to the enterprise?

- 3. State Auditor:** Is the enterprise subject to audit or control by a state audit institution (e.g. supreme auditor, auditor general, public sector auditor)? When was the enterprise last audited by the State Auditor? Does the State Auditor interface with internal auditors and/or external auditors?
- 4. External Audit:** Are the financial statements audited by an external audit firm? What is the enterprise's policy for the selection of external auditors? What other services does the external auditor perform for the enterprise? How does the board ensure that the management takes appropriate measures to address deficiencies identified in Management Letters?
- 5. Risk Management:** Who is responsible for developing and implementing the risk management system? Does the enterprise have a dedicated chief risk officer (CRO)? Does the CRO report directly to the board, or to the board's audit or risk committee(s)? How are the risks identified and risk appetite set? Does the board periodically review the risk management systems? What is the role of IA in relation to risk management? Do strategy and risk management include or fully integrate E&S issues and risks? Is risk appetite information publicly disclosed?
- 6. Compliance Program:** Does the enterprise have a dedicated chief compliance officer (CCO)? To whom does the CCO/function report? Is there a compliance program in place and if so how often is it reviewed? Does the compliance program include mechanisms to report wrongdoing and misconduct? What best practices/framework is the compliance program based on? Does the compliance function maintain a

compliance register? What type of compliance training does the compliance program deliver to employees?

## D: Disclosure and Transparency

- 1. Financial Statements:** Are financial statements published timely? According to which accounting norms are the financial statements prepared? Are they audited according to the International Standards on Auditing (ISA)? Have financial statements been restated in the last three years? Have they been subject to a qualified audit opinion? Do the financial statements separately report the impact of any State assistance or benefits?
- 2. Review of Financial Statements:** Does the audit committee review audit adjustments proposed by the external auditors? Is the audit committee made aware of any changes made to accounting policies and their impact on the current financial statements? Does the audit committee review major accounting estimates and major assumptions made in the financial statements with the external auditors?
- 3. Disclosure of Major Transactions and Material Events:** What is the procedure for drafting and approving disclosure of major transactions and other material events? What limits and thresholds have been adopted to disclose and seek approval for related-party transactions?
- 4. Corporate Disclosure:** Does the enterprise prepare an annual report with management commentary, SOE policy and commercial objectives, ownership and control, risks, board composition and profile of board members? Does the enterprise disclose its (a) internal procurement guidelines, if any; (b) dividend policy, if any; and (c) executive and board compensation? Are all public disclosures made available online and if so please specify website/link.

5. **Disclosure of public service or policy objectives:** Does the enterprise publicly disclose and report on public service or policy objectives as distinct from commercial ones? Does the enterprise separately disclose the costs of meeting these public policy objectives?
6. **ESG Disclosure:** Does the enterprise publicly disclose its Stakeholder Engagement policy? Does the enterprise make meaningful periodic reports on its ESG data and performance, in line with minimum national reporting requirements (if any)? What ESG/sustainability reporting standards does the enterprise adhere to in addition to national requirements (for example, those set by GRI, IIRC, SASB, or other organizations)? Is ESG information included in the enterprise's annual report? Are ESG data subject to an annual audit/evaluation by an independent provider? Are ESG reports subject to board-level review (if yes, how, and by what committee)?

#### E: Treatment of Minority Shareholders

1. **Exercise of Ownership Rights by the State:** Which Ministry or Government Agency formally owns the enterprise? Which ministry or Government Agency is responsible for (or executes the ownership rights for) the enterprise? What Ministry or government Agency influences and how the enterprise's strategic decisions for the following: (a) setting mandate/objectives; (b) changes in capital structure; and (c) large borrowing or issuance of bonds. How, if at all, is the ministry/agency involved in (a) setting the strategy; (b) major new projects or investments; and (c) setting/approving annual budgets?
2. **Special Rights held by the State:** Has the State been vested with golden shares or other types of special rights which would allow the state to block major corporate decisions?

3. **Performance Monitoring by the State:** Overall, how does the State monitor the enterprise's performance? Is the enterprise benchmarked against other public sector and/or private sector entities? Please describe valuation methods used to monitor the enterprise's performance?
4. **Shareholders Meetings:** Who in the enterprise is responsible for calling, organizing, and reporting the results of annual and extraordinary shareholders meetings? How many days of notice do shareholders receive? How can shareholders add items to the agenda? Are shareholders consulted on major issues, such as executive compensation, and is shareholder approval required for compensation?
5. **Changes of Control (for mixed ownership SOEs):** Are there tag-along rights for minority shareholders that would obligate a new controlling shareholder to make an offer to purchase their shares at the same price and conditions and/or any other to make a tender offer concurrent with or following the change of control of the enterprise?
6. **Minority Shareholder Rights (for mixed ownership SOEs):** Do shareholders of the same class have equal voting, subscription, and transfer rights? Are there any types of transactions or other events that require special voting procedures (such as supermajority approval by the shareholders, or majority vote of minority shareholders)? Is there any history of disputes or legal action from any shareholders (if yes, describe)? Is there a program for engaging minority shareholders?

#### F: Governance of Stakeholder Engagement

1. **Stakeholder Identification:** Describe the stakeholder identification process.

2. **Stakeholder Relationships and External Communication:** Who or what department/unit is accountable for stakeholder relationships and external communication, and what is their reporting line to management and the board? Is there a senior executive responsible (if so, who)?
3. **Strategy and Target Setting:** Does the enterprise integrate stakeholder engagement into strategy and target setting?
4. **Board Decision Making:** Are stakeholder engagement activities and outcomes included in board decision making?
5. **Communication with Stakeholders:** How does the enterprise communicate its commitment to stakeholder engagement to staff, contractors, and primary suppliers?
6. **Grievance Mechanism:** Is there an HR policy/procedure for worker engagement and a grievance mechanism for workers? Is there a grievance mechanism for dealing with Affected Communities? Please describe. How are stakeholder issues resolved?
7. **External Communications Mechanism (ECM):** Is there an ECM? If so, is it externally and publicly available?
8. **Affected Communities Engagement:** Do personnel designated to engage with Affected Communities have clearly defined responsibilities, training, and reporting lines to senior management and the board?
9. **International Standards:** Has the enterprise implemented any international standards related to stakeholder engagement (AA 1000 Standards on Stakeholder Engagement and Accountability Principles (SEAP) and ISO 26000)? Does senior management participate actively in international industry discussions on related topics?

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