# Ownership and Governance of State-Owned Enterprises

## A Compendium of National Practices

OECD

# Ownership and Governance of State-Owned Enterprises: A Compendium of National Practices

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# FOREWORD

State-owned enterprises (SOEs) are an important element of most economies, including many more advanced economies. SOEs are most prevalent in strategic sectors such as energy, minerals, infrastructure, other utilities and, in some countries, financial services. The presence of SOEs in the global economy has grown strongly in recent years. Today they account for over a fifth of the world's largest enterprises as opposed to ten years ago where only one or two SOEs could be found at the top of the league table. This means that high standards of corporate governance of SOEs are critical to ensure financial stability and sustain global growth.

The OECD Working Party on State Ownership and Privatisation Practices is the only international forum for government officials charged with the oversight of state-owned enterprises. The Working Party is responsible for the implementation of the *OECD Guidelines on Corporate Governance of State-Owned Enterprises (the "SOE Guidelines")*. This Compendium of National Practices was developed with a view to facilitating greater awareness and more effective implementation of the SOE Guidelines. It provides a comprehensive overview of the state of SOE ownership and corporate governance in both OECD and partner countries.

The Compendium serves as a source of up-to-date information on SOEs' institutional, legal and regulatory frameworks presented country-by-country. It is organised around key pillars of the SOE Guidelines: organising the state enterprise ownership function; transparency and disclosure practices; safeguarding a level playing field between SOEs and private businesses; professionalising board of directors; and enhancing risk management. Each section draws on practices in up to 50 jurisdictions and international good practices as described in the SOE Guidelines. It compiles information collected for OECD publications issued from 2013 to 2017, updated prior to publication based on inputs from the Working Party.

The target audience includes national governments, state ownership entities, SOE board management, international organisations and academia, but also the broader policy and business communities that interact with the SOE sector on a regular basis. The SOE Compendium was prepared by Hans Christiansen, Mary Crane-Charef and Chung-a Park of the Corporate Affairs Division of the OECD Directorate for Financial and Enterprise Affairs, with substantive inputs from Korin Kane and Sara Sultan. The authors are grateful for valuable assistance provided by Pamela Duffin, Anne Nestour, Lynn Kirk, Edward Smiley and Arianna Ingle who assisted with editing and typesetting and prepared the manuscript for publication.

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## EXECUTIVE SUMMARY

### Chapter 1: The state ownership function

Under the SOE Guidelines, SOEs are ultimately owned by the general public and the government agencies who exercise the ownership rights are answerable to the general public. This report finds that there is a growing trend toward an overall increase in establishing mechanisms for ensuring transparency and accountability of the state's exercise of ownership rights including: developing a clear rationale for state enterprise ownership, a centralised or co-ordinated state enterprise ownership function, and regular and publicly disclosed aggregate reporting on the SOE sector.

- *Ownership policies*: More than half of the countries surveyed have explicit ownership policies defining the overall objectives of state ownership. In 10 of the remaining 13 countries, the expectations for state ownership may be ascertained from other laws and regulations pertaining to SOEs or company-specific acts.

- *Ownership model*: Most of the surveyed countries have either adopted a centralised model for state ownership, have established a central holding company for an important portfolio of SOEs, or have established a central co-ordinating agency, often charged with monitoring performance or coordinating governance practices across the SOE sector. Some countries have a highly decentralised system, with the ownership of SOEs being exercised by a multitude of line ministries and no co-ordinating agency in place.

- *SOE creation and termination:* Procedures for creating an SOE are set forth either in laws on the establishment of SOEs, or in the legal instrument establishing a specific SOE (i.e. legislation, decree, resolution, executive order, etc.). The procedures for terminating SOE ownership or divesting state shares are often of a similar nature. To create an SOE, governments need to provide a rationale for the need for state enterprise ownership (often to Parliament) when deciding to found a new SOE and, in some cases, are required to come up with a framework for operationalising the new business. To terminate ownership, governments usually have to demonstrate that the rationale for ownership no longer applies.

- *Aggregate reporting:* To facilitate transparency and disclosure, around 65% of the countries surveyed produce, and make available online, some form of aggregate reporting on SOEs. Most of them include all, or the majority of, SOEs in the reports.

### Chapter 2: SOEs in the marketplace

Where SOEs engage in economic activities, those activities should be undertaken in a manner that ensures a level playing field and fair competition in the marketplace, according to the SOE Guidelines. However, achieving a level playing field is sometimes more challenging in practice, particularly when economic activities of SOEs are combined with public policy objectives. The SOE Guidelines offer a number of concrete recommendations for how the legal and regulatory framework for SOEs can overcome these complexities.

The growing trend of centralising the State’s ownership function has made it easier for a number of jurisdictions to pursue competitive neutrality-consistent public policy and regulation. This has ensured the responsibility for ownership and regulation remains separate, which in turn can contribute to minimising the risk of regulatory capture. The move towards full corporatisation of SOEs, and the structural separation in many sectors of competitive from non-competitive activities, has also served to level the playing field. Incorporating SOEs has subjected these companies to similar or equal fiscal and regulatory treatment as private enterprises.

A majority of jurisdictions have pursued competitive neutrality to a certain degree in various ways through ownership, competition, public procurement, tax and regulatory policies or a combination of these policies. In most of the surveyed countries, public undertakings are subject to the same or similar tax treatment as private enterprises, especially where public undertakings are conducted as legally incorporated businesses operating at arm’s length from the government. Most countries either base SOE financing decisions on broad guidelines on capital structure efficiency, or come up with financial performance targets for at least some aspects of SOEs’ operations. To facilitate transparency and disclosure around cost allocation, more than 60% of the surveyed countries require their businesses to separate the accounts of commercial and non-commercial activities.

Measures to ensure market consistency of debt and equity financing are important in achieving competitive neutrality. However, only few countries have established an encompassing policy framework for ensuring competitive neutrality, including suitable complaints handling, enforcement and implementation mechanism in consistency with international commitments. In particular, challenges remain in the following areas:

- *Compensation of public policy objectives*: Although, almost all countries compensate undertakings (public or private) which deliver public service obligations along with their commercial activities, these compensation mechanisms are not necessarily based on a legal mechanism or provision.

- *Debt financing*: In most countries, SOEs access debt financing from the marketplace. However, only few countries have set mechanisms to ensure market consistency of financing terms or to neutralise preferential financing.

- *Equity financing from the state budget*: Recapitalisations from the state budget are a common form of SOE financing. However, very few countries have established mechanisms to ensure that related costs are market consistent.

- *Direct state support*: In most countries, direct state support for SOEs occurs and is nearly always provided in compensation for public service obligations or other public policy objectives. Yet, ensuring that compensation is calibrated to the cost of fulfilling public policy objectives seems to be a challenge to the level playing field.

- *Rate-of return requirements*: Most countries have established rate-of-return requirements for SOEs. However, it is difficult to assess whether they are comparable with those imposed on private enterprises, especially in cases where there is no structural separation between the commercial and non-commercial activities of SOEs. In this respect, some countries have established mechanisms to align return targets with those achieved by competing private enterprises.

- *Dividend pay-out expectations*: Many countries have established guidelines to align dividend pay-out levels with private sector practices. In about half of the surveyed countries, dividends are annually negotiated and not subject to guidelines.

## Chapter 3: SOE boards of directors

The SOE Guidelines indicate that boards play a central function in the governance of SOEs. The board carries ultimate responsibility, including through its fiduciary duty, for SOE performance. In this capacity, the board acts essentially as an intermediary between the state as a shareholder, and the company and its executive management. With the growing "commercialisation" of SOEs in recent decades, an increasing number of governments have made efforts to professionalise boards of directors and to give boards greater level of autonomy. The main findings of the report include:

- *Board nominations*: In jurisdictions where the state enterprise ownership function is centralised – for example via a dedicated state enterprise ownership agency – one minister may be in charge of the ownership function, including nominating members to SOE boards. In a majority of the participating countries, the responsibility for board nominations is shared between the agency exercising the state enterprise ownership function and sectorial ministries.
- *Setting clear minimum criteria for board nominations*: Roughly half of the countries who participated in the exercise reported they had established minimum qualification criteria for board members.
- *Board composition and size*: A majority of the countries surveyed for this report have a mix of directors representing the state and "independent" directors sitting on their SOE boards. State representation on the board is often justified in cases where SOEs are charged with important public policy objectives. At the same time, there is a growing consensus that, under no circumstances, should ministers, state secretaries, or other direct representatives of, or parties closely related to, the executive power be represented on SOE boards. A majority of the surveyed countries have indicative rules guiding gender diversity but they are not yet binding.
- *Board training and remuneration*: Nearly all the surveyed jurisdictions now have established policies and criteria for executive and director remuneration. However, remuneration for SOE boards in a majority of the OECD countries falls below market levels. Of the jurisdictions participating in this exercise, 70% had set some kind statutory or policy limits on remuneration for SOE boards. Nearly a third of these said that, at least anecdotally, remuneration levels impacted candidate quality.
- *Board evaluations*: Governments are increasingly encouraging board evaluations – a long-time and commonplace practice in private companies – as a way of maximising board performance and minimising risk.

*Risk management*

A key responsibility of boards of directors relates to the management and, where needed, mitigation of financial and operational risks. The SOE Guidelines indicate that risks should be understood, managed, and when appropriate, communicated. This report finds that around 60 % of the participating countries apply SOE-specific risk rules that either complement or supersede rules applicable only to private companies. The largest number of these countries includes risk-specific guidance within the broader legal, regulatory and policy framework for SOE governance (i.e., SOE governance laws, SOE codes of corporate governance, state enterprise ownership policies or guidelines, or other SOE strategic planning documents).

There has been significant progress in terms of establishing regulations or code recommendations on internal control and risk management systems. More than 70% of the participating countries reported that they undertake some forms of review of SOEs' internal risk management systems. Countries may employ more than one method for undertaking such reviews. The most common avenues for ownership entities' review of SOEs' risk management systems included: assessments carried out via reviews of SOEs' activity reports; reviews undertaken by the ownership function; via participation in or engagement with the board; and/or via the Annual General Meeting.

# INTRODUCTION

The Compendium compiles information gathered from delegations to the Working Party during the preparation of thematic reviews issued by the OECD between 2013 and 2017 (see Table 1). These reviews covered three areas that serve as the themes of the Compendium:

- the state enterprise ownership function;
- SOEs in the marketplace; and
- SOE boards of directors.

The Compendium includes information on all OECD countries, G20 countries and other partner countries who regularly participate in the Working Party.

In addition to the main sources shown in Table 1, the following governments contributed updates in the course of 2016 and 2017: Argentina, Belgium, Colombia, Germany, Greece, Hungary, Israel, Italy, Japan, Kazakhstan, Korea, Latvia, Mexico, The Netherlands, New Zealand, Norway, Poland, Spain, Sweden, Turkey and the United Kingdom. The report also benefits from a consultation with the Business and Industry Advisory Committee to the OECD and Trade Union Advisory Committee to the OECD.

The OECD plans to update the Compendium at regular intervals. The SOE Compendium is made available as a "living document" on the website: www.oecd.org/daf/ca/soemarket.htm.

**Table 1. Outline for the Compendium and main sources of information**

| Chapters | Source materials |
|---|---|
| Chapter 1. The state enterprise ownership function | |
| 1.1. Rationales for state enterprise ownership | OECD (2015), *State-Owned Enterprise Governance: A Stocktaking of Government Rationales for Enterprise Ownership*, OECD Publishing, Paris. |
| 1.2. SOE ownership models | Ownership models for SOEs in OECD and partner countries |
| 1.3 Models for annual aggregate SOE reporting | Desktop and online research was conducted on all 35 OECD member countries as well as Argentina, Brazil, China, Colombia, Costa Rica, India, Indonesia, Lithuania, Russian Federation, Saudi Arabia and South Africa. This section also incorporates results from the stock-taking reports developed for the OECD Global SOE Network Meeting in Mexico City in June 2016 and the OECD Asian SOE Network Meeting in Seoul in December 2016. |
| Chapter 2. SOEs in the Marketplace | |
| 2.1. Competitive neutrality – An overview of national practices | OECD (2015), OECD Database on National Practices and Regulations<br><br>OECD (2014), Financing State-Owned Enterprises: An Overview of National Practices, OECD Publishing<br><br>OECD (2013) Competitive Neutrality: National Practices in Partner and Accession Countries<br><br>OECD. (2012), Competitive Neutrality: Maintaining a Level Playing Field between Public and Private Business, OECD Publishing<br><br>OECD (2012), Competitive Neutrality. National Practices. |
| 2.2. Measures to ensure market consistency of debt and equity financing | OECD (2014), *Financing State-Owned Enterprises: An Overview of National Practices*, OECD Publishing, Paris. |
| Chapter 3. SOE Boards of Directors | |
| 3.1. Summary of Boards of Directors of State-Owned Enterprises: An Overview of National Practices | OECD (2013), *Boards of Directors of State-Owned Enterprises: An Overview of National Practices*, Corporate Governance, OECD Publishing, Paris.<br><br>OECD (2018), *Professionalising boards of directors of state-owned enterprises (SOEs)*: Stocktaking of national practices, OECD Publishing, Paris. |
| 3.2. Risk management by SOEs and their owners | OECD (2016), *Risk Management by State-Owned Enterprises and their Ownership*, OECD Publishing, Paris |

1. OECD Product Market Regulation data: www.oecd.org/eco/reform/indicatorsofproductmarketregulationhomepage.htm#indicators

## CHAPTER 1: THE STATE ENTERPRISE OWNERSHIP FUNCTION

*Under the SOE Guidelines, the general public is the ultimate owner of state-owned enterprises. Therefore, those government agencies who exercise the ownership rights over SOEs are ultimately responsible to the interests of the public. In fulfilling this responsibility, the state as owner owes duties toward the public that are not unlike the fiduciary duties of a board toward the shareholders. In this sense, therefore, high standards of transparency and accountability are needed to allow the public to assure itself that the state exercises its powers in accordance with the public's best interest. Mechanisms for ensuring transparency and accountability of the state's exercise of ownership rights include: developing a clear rationale for state enterprise ownership, a co-ordinated and effective state enterprise ownership function, and regular and publicly disclosed aggregate reporting on the SOE sector.*

## 1.1. Rationales for state enterprise ownership

A state enterprise ownership policy provides SOEs, the market, and the general public with predictability and a clear understanding of the state's overall objectives and priorities as an owner. The ownership policy should ideally take the form of a concise, high level policy document that outlines the overall rationales for state enterprise ownership. This section aims to provide an overview of how some governments express their state enterprise ownership rationales; the most common objectives that these rationales set forth; and the extent to which states' ownership rationales are applied in situations when new SOEs are created or when the government terminates enterprise ownership. The information included in this summary draws upon self-reporting from 28 jurisdictions that participated in a 2015 study on state enterprise ownership rationales, as well as subsequent submissions by national authorities.[1]

[1] See: OECD (2015a). Participating jurisdictions included: Belgium, Canada, Chile, the Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Sweden, Switzerland, Turkey and the United Kingdom.

Table 2. **State enterprise ownership rationales in 30 jurisdictions**

| Country | Type of rationale | | Source of rationale | | | | | |
|---|---|---|---|---|---|---|---|---|
| | *Explicit* | *Implicit* | *Decision, regulation or decree* | *Policy statement* | *Specific legislation* | *Overall legal framework* | *SOE-specific measures* | *No formal criteria* |
| Argentina | | ● | | | ○ | | | |
| Belgium[2] | | ● | | | | | | ○ |
| Canada | | ● | | | | | ○ | |
| Chile | ● | | ○ | | | | | |
| Czech Rep. | ● | | ○ | | ○ | | | |
| Estonia | ● | | | | ○ | | | |
| Finland | ● | | ○ | | | | | |
| Germany | ● | | | | ○ | | | |
| Greece | | ● | ○ | | | ○ | ○ | |
| Hungary | ● | | ○ | | ○ | | | |
| Ireland | ● | | | ○ | | | | |
| Israel | ● | | ○ | ○ | ○ | | | |
| Italy | | ● | | | | | ○ | |
| Japan | | ● | | | | | ○ | |
| Korea | ● | | | | ○ | | | |
| Latvia | ● | | | | ○ | | | |
| Lithuania | ● | | | | ○ | | | |
| Mexico | | ● | | | | ○ | | |
| Netherlands | ● | | | ○ | | | | |
| New Zealand | | ● | | | | | | ○ |
| Norway | ● | | ○ | | | | | |
| Poland | ● | | | | ○ | | | |
| Portugal | ● | | ○ | | ○ | | | |
| Slovak Rep. | | ● | | | | ○ | | |
| Slovenia | ● | | | | ○ | | | |
| Spain | | ● | | | | | ○ | |
| Sweden | | ● | | | ○ | | | |
| Switzerland | ● | | ○ | | | | | |
| Turkey | | ● | | | | ○ | | |
| United Kingdom | | ● | | | | | | ○ |

Source: OECD (2015a) and information subsequently provided by the national governments

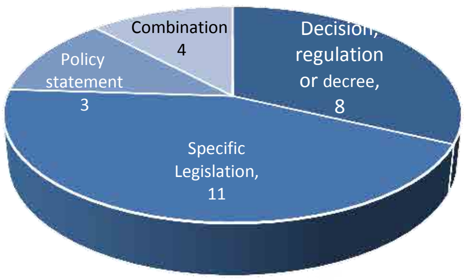
[2] The definition of an SOE in Belgium currently comprises "autonomous public companies" which are under the responsibility of the Minister for Public Enterprises and are governed by the Law of 21 March 1991 which sets their key governance principles.

*Approaches to expressing a state enterprise ownership rationale*

Governments have various approaches to expressing their state enterprise ownership rationale; some jurisdictions may have an explicit ownership rationale, while the objectives for state enterprise ownership may be implied in others. Many of the jurisdictions with explicit ownership rationales are found in Europe, particularly in northern and Eastern Europe. These jurisdictions generally have a larger SOE portfolio (with on average more than 100 SOEs), operating mostly in utilities; transportation; primary; and finance sectors. The ownership policies in these countries are set forth in different ways (Figure 1), including in specific legislation (as in Czech Republic, Estonia, Germany, Hungary, Israel, Latvia, Lithuania, Korea, Poland, Portugal, and Slovenia; via government decision, resolution, or decree (as in Chile, Czech Republic, Finland, Hungary, Israel, Norway, Portugal and Switzerland); via government policy statements (as in Ireland, Israel and the Netherlands); or via some combination of the above (as in the Czech Republic, Hungary, Israel and Portugal).

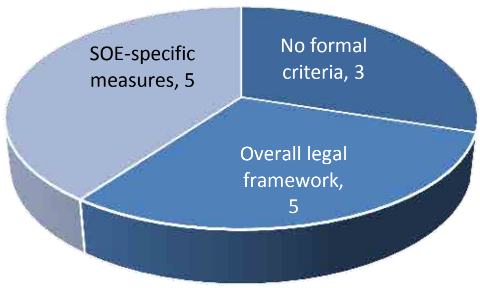
In jurisdictions without an explicit ownership policy, the objectives for state ownership may be ascertained from the overall legislative and policy framework, including from company and public administration law and sectorial policies (as in Greece, Kazakhstan, Mexico, the Slovak Republic, and Turkey), and/or from legislation creating individual (statutory) SOEs, SOE articles of association, and contracts between the SOE and relevant shareholder agencies (as in Canada, Greece, Italy, Japan and Spain). In some jurisdictions (like Belgium, New Zealand, and the United Kingdom) there are no formal ownership criteria (Figure 2). With regards to the geographic composition, jurisdictions with implicit ownership policies are diverse, ranging from the Americas and Europe to the Middle East and Asia. These countries generally have comparatively small SOE portfolios, with on average 35 SOEs operating mostly in the utilities, hydrocarbons and finance sectors.

**Figure 1. Sources of ownership rationales where the rationale is explicit**




*Source*: OECD (2015a) and information subsequently provided by the national authorities.

**Figure 2. Sources of ownership rationales where the rationale is implicit**



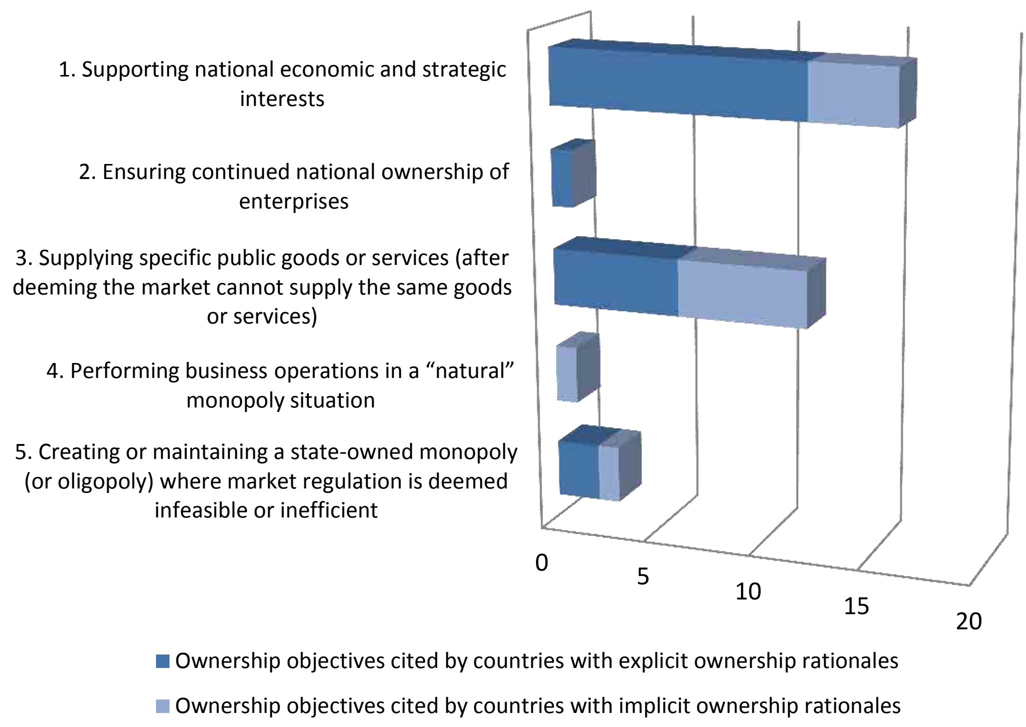

*Source*: OECD (2015a) and information subsequently provided by the national authorities.

*Objectives for state enterprise ownership*

As mentioned above, whatever the approach to expressing the state's enterprise ownership rationale, it is a commonly agreed good practice that the government should use its ownership policy to clarify and prioritise the reasons why the state should own any given enterprise.

The overall objectives for state enterprise ownership put forward by governments generally fall into the following categories: (1) supporting national economic and strategic interests; (2) ensuring continued national ownership of enterprises; (3) supplying specific public goods or services (after deeming the market cannot supply the same goods or services); (4) performing business operations in a "natural" monopoly situation; and (5) creating or maintaining a state-owned monopoly (or oligopoly) where market regulation is deemed infeasible or inefficient. Figure 3 illustrates the extent to which these objectives are cited in state enterprise ownership rationales.[3]

**Figure 3. Objectives cited in state enterprise ownership rationales**




*Source:* OECD (2015a) and information subsequently provided by the national authorities.

The overall ownership rationale may be complemented by public policy objectives establishing sub-objectives for individual SOEs. These complementary objectives can be expressed, for example, via supplementary legislation, regulations or policies. In almost all jurisdictions, the overall state enterprise ownership rationale was complemented (or, as the case may be, established) by the legislation and regulation bearing on individual SOEs. In Canada, for example, the state enterprise ownership rationale can be generally understood by referencing Crown corporations' constituting legislation, articles of incorporation, or Letters Patent. In Kazakhstan, Article 192 of the Entrepreneurial Code includes the general objectives of the State's enterprise ownership.

Complementary objectives can also target groups of SOEs. This may involve SOEs categorised by sector. For example, in Portugal, sectorial ministries set policies for their sector that specify the state ownership objective for SOEs in those sectors and that influence individual SOEs' objectives, operations, and the level of public services they are expected to provide. In other jurisdictions, the

3. Most jurisdictions cite multiple objectives in their expression of state enterprise ownership rationales.

state’s expectation may be clarified by classifying SOEs into groups according to their objectives (as in Chile, Finland, Lithuania, Norway, Portugal and Switzerland), for example, SOEs with purely commercial objectives; SOEs with a combination of commercial and public policy objectives; and/or SOEs with purely strategic or public policy objectives.

It is considered good practice to review governments’ enterprise ownership rationales at regular intervals. Practices for undertaking these reviews vary across jurisdictions. Some countries review their framework for state ownership regularly (as in Sweden, Finland, Norway and Germany) or on an as-needed basis (as in the Netherlands, Portugal and Switzerland). In jurisdictions where the rationale for state enterprise ownership is implied, this framework may be reviewed in the context of, for example, assessing individual SOEs’ fulfilment of their objectives, as is the case in Israel, where each SOE’s fulfilment of its objectives, status and ownership rationale is periodically reviewed. In other jurisdictions, such reviews are undertaken in the context of annual aggregate SOE sector reporting (as in Estonia, Germany, and Sweden), or in the preparation of broader development, investment and financial planning programmes (as in Turkey).

***Applying the ownership rationale in establishing and terminating state ownership***

Regardless of whether a country’s ownership rationale is explicit or implicit, additional insights can be gleaned from the procedures, and justifications, that are usually associated with the creation or termination of an SOE. An overview of the procedures involved in different countries is provided in Table 3, focusing mostly on whether the creation/termination is conducted (mainly) through legislation, government decision, or through a combination of these measures or other means. A measure of caution is warranted when interpreting the table: The degree of reliance on legislation will depend on the relative importance of statutory corporations, whose legal personality is established through a specific legal act, in any given economy.

The creation of an SOE in a majority of the countries under review needs legislation or a government resolution requiring parliamentary approval (Figure 4), though this requirement is conditional in some cases. In Finland, for example, legislation appears necessary only when a new SOE would have an impact on public finances, for example by receiving public subsidies for the provision of public services. Similarly, in Mexico, the procedure for SOE-creation depends on the type of SOE being established. In a sizeable minority of jurisdictions, new SOEs can be established by Cabinet decision or decree.

**Table 3. Procedures and practice for creating and terminating SOEs in 30 jurisdictions**

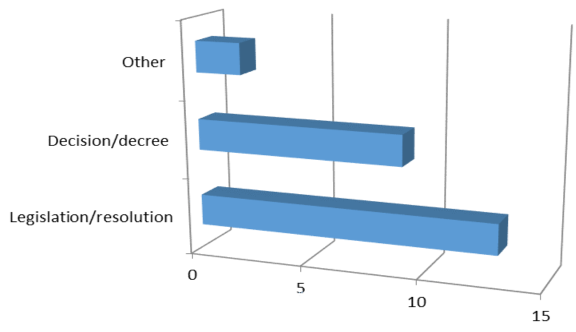
| Country | Procedure for SOE-creation | | | Procedure for SOE-termination | | | |
|---|---|---|---|---|---|---|---|
| | *Legislation/ resolution (L/R)* | *Decision/ decree (D/D)* | *Other*[2] | L/R | D/D | Other | Justification is given for privatisation[1] |
| Argentina | ● | ● | | ○ | | | |
| Canada | ● | | | ○ | | | ○ |
| Chile | ● | | | ○ | | | ○ |
| Czech Republic | ● | | | | ○ | | |
| Estonia | | ● | | | | ○ | ○ |
| Finland | | | ● | | ○ | | ○ |
| Germany | | ● | | ○ | ○ | | ○ |
| Greece | ● | | | ○ | ○ | ○ | ○ |
| Hungary | ● | ● | | ○ | ○ | | |
| Ireland | ● | | | | ○ | | ○ |
| Israel | | ● | | | ○ | | ○ |
| Italy | ● | | | ○ | | | ○ |
| Japan | ● | | | ○ | | | |
| Kazakhstan | | ● | | | ○ | | |
| Korea | ● | | | ○ | | | ○ |
| Latvia | | ● | | | ○ | | ○ |
| Lithuania | | ● | | | ○ | | ○ |
| Mexico | | | ● | | | ○ | ○ |
| Netherlands | ● | | | | ○ | | ○ |
| New Zealand | ● | | | | | ○ | ○ |
| Norway | ● | | | ○ | | | ○ |
| Poland | | ● | | | ○ | | |
| Portugal | | ● | | | ○ | | ○ |
| Slovak Republic | | ● | | | ○ | | ○ |
| Slovenia | ● | | | | ○ | | ○ |
| Spain | | | ● | | ○ | | |
| Sweden | ● | | | ○ | | | ○ |
| Switzerland | ● | | | ○ | | | ○ |
| Turkey | | ● | | | ○ | | ○ |
| United Kingdom | ● | | | | ○ | | ○ |

1. This column includes jurisdictions where there is no statutory requirement for the Government to provide a rationale for privatisation, but where this is nevertheless provided in practice.

2. The “other” columns for both “SOE-creation” and “SOE-termination” indicate jurisdictions where there may be a mixed or alternative approach to procedures applied for these purposes. The procedures in these countries (Finland, Mexico, and New Zealand) are discussed further below.

*Source:* OECD (2015a) and information subsequently provided by the national governments

**Figure 4. Procedures and practices for SOE-creation**

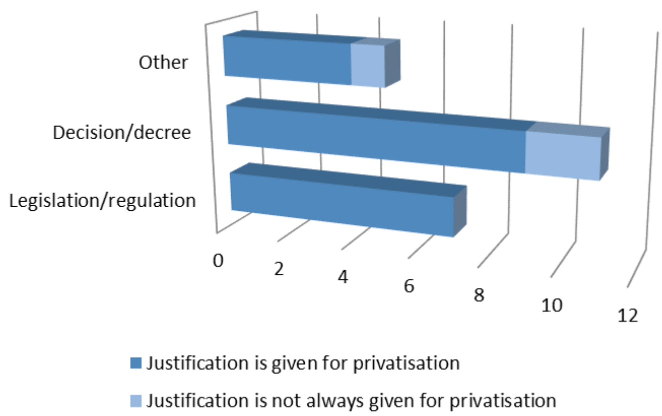



*Source*: OECD (2015a)

Procedures for terminating the state's ownership stake in an enterprise or for privatising an SOE generally reflect the inverse of the procedure for SOE creation in countries where SOEs are established by law or resolution. There are some exceptions, for example in New Zealand, where statutory SOEs are generally created with a specific, time-limited purpose with the expectation that, once their purpose has been fulfilled, they will be wound up.

In privatising an SOE, many jurisdictions prefer to pass a privatisation bill, even if the government has the authority to dispose of state-owned corporate assets without parliamentary approval, to enhance transparency and structure the privatisation process. Where legislation is involved (whether compulsory or by choice) a justification must as a rule always be provided for submitting a given bill to parliament. In cases where SOEs are terminated through government decisions or administrative procedures, government do not always need to justify their action, but in the large majority of cases they are either requested or choose to do so (Figure 5). Often, the state enterprise ownership rationale is recalled in governments' justification for privatising an SOE (as in Germany, the Netherlands, or the United Kingdom).

**Figure 5. Procedures and practices for SOE termination**




Source: OECD (2015a)

## 1.2 SOE Ownership Models

This section provides an overview of national practices for the exercise of the state enterprise ownership function by the ownership entity or entities.[4] It focuses specifically on the ownership of SOEs that are considered as "commercial" in the sense that they engage in economic activities in markets where competition occurs, or could occur. This distinction is important because a number of countries are known to apply different ownership practices to such enterprises and SOEs that are tasked mostly with delivering public policy objectives. The latter are often overseen by line ministries or other specialised public authorities.

According to the SOE Guidelines, the exercise of ownership rights should: be clearly identified within the state administration; be centralized in a single ownership entity or, if this is not possible, carried out by a coordinating body; and should have the capacity and competencies to effectively carry out its duties. Insofar as a given government differentiates its ownership practices between commercially operating and other SOEs, it is conceivable that this recommendation has been implemented specifically with regards the "commercial" company portfolio. The degree to which this is the case is reviewed in the following subsections.

### *Overview: Organisation of the ownership models for commercially operating SOEs*

For the purposes of this exercise, the "ownership function" of SOEs is defined as an entity that exercises the following faculties: The power, responsibility, or steering ability to (1) appoint boards of directors; (2) set and monitor objectives; and (3) to vote company shares on behalf of the government. The execution of the ownership function usually follows one of the "ownership models" described in Table 4.

A breakdown of 31 countries' application of these models is provided in Figure 6 (and described further in Table 5). It should be kept in mind that such a breakdown necessarily relies on a strong element of judgement. No one country generally applies one single ownership model without exceptions. For example, even those countries that have gone the furthest in centralising their ownership almost invariably retain a few SOEs which, for historical or political reasons, are overseen by bodies other than the central agency. In the remainder of the text countries which have created central SOE portfolios are generally considered as exercising a central model. This is further differentiated through the introduction of the term "centralised with exceptions" in order to separate countries that have centralised only certain parts of their SOE sector from those where centralisation is a more overarching policy objective.

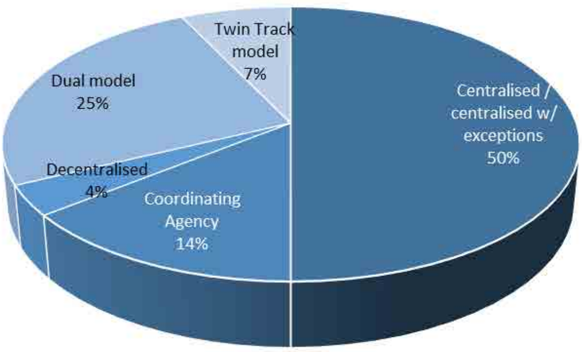
4 OECD (2018, forthcoming) and subsequent submissions by individual countries.

**Table 4. Types of ownership model structures**

| | | |
|---|---|---|
| Centralised ownership ↑ | **Centralised model** | One government institution carries out the mission as shareholder in all companies and organisations controlled by the state. This institution can be either a specialised ownership agency or a designated government ministry. Financial targets, technical and operational issues, and the process of monitoring SOE performance are all conducted by the central body. Board members are appointed in different ways but instrumental input comes from central unit. |
| | **Dual model** | Two government institutions –often one line-ministry per SOE plus the finance ministry - share in the ownership function commanding each individual SOE. Typically, one ministry sets financial objectives and another ministry formulates operational strategy. |
| | **Twin track** | Functionally equivalent to the centralised model, but with two individual portfolios of SOEs overseen by two different government institutions. This model has often been referred to as "dual", but in practice it differs materially from the dual model in that only one government body is involved in the ownership of each SOE. |
| | **Coordinating agency** | Specialised government units act in an advisory capacity to other shareholding ministries on technical and operational issues, and their most important mandate often is to monitor SOE performance. The more limited role of these central agencies, coupled with the autonomy that line-ministries thus maintain, leads to considerable overlap with the decentralised model. |
| Decentralised ownership | **Decentralised** | No one single institution or state actor acts on the responsibilities of the ownership function. Public perception often perceives line-ministries to be *de facto* running the SOE as an extension of their ministerial powers. For each of the three ownership function responsibilities, a unique state unit or a mix of state units subsume the role. |

Source: OECD (2018, forthcoming).

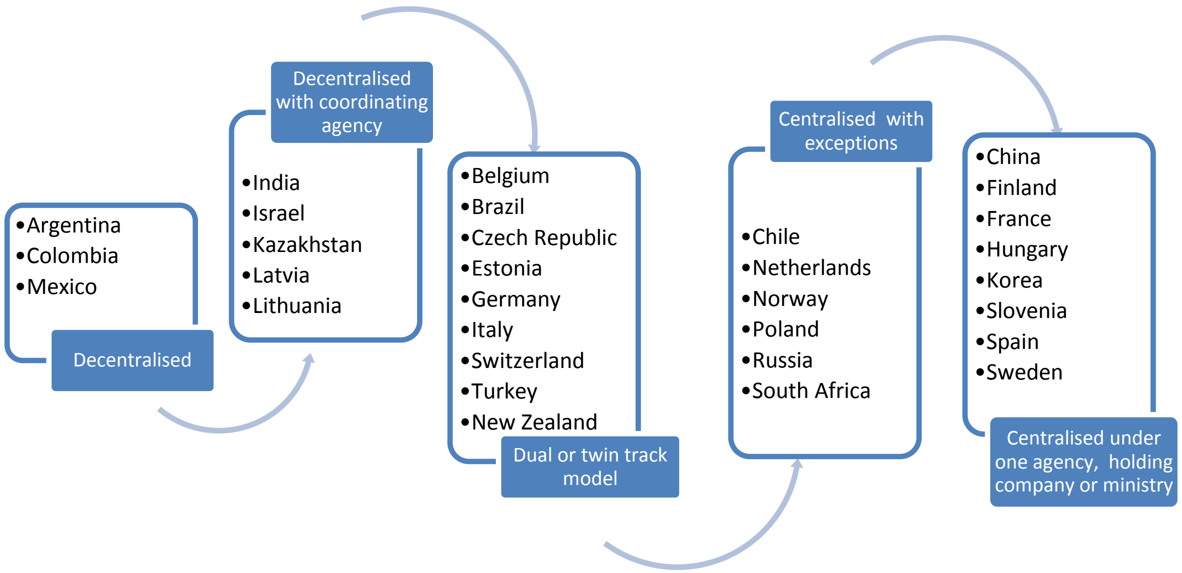
**Figure 6. Breakdown of the application of ownership models in 31 countries**




*Source*: OECD (2018, forthcoming) and information subsequently provided by the national authorities.

Reflecting the aforementioned element of judgement, Figure 7 illustrates the degree to which each country is assessed to have implemented the ownership model with which it is principally associated. For example, in respect of centralised ownership, some countries (e.g. South Africa) have a central ownership agency where relatively few, but large and strategically important, SOEs are collected, whereas some North European countries have centralised their ownership function to the point where very few commercially operating SOEs are left outside.

**Figure 7. Spectrum of state ownership models in 31 countries**




Source: OECD Secretariat classification based on information submitted by government authorities.

**Table 5. National approaches to exercising the ownership function in 32 countries**

| Country | Ownership Model | | Name of Institution(s) responsible for Ownership Function | Objectives set by whole-of-government, or by individual ministry |
|---|---|---|---|---|
| | Overall | Qualifications | | |
| China | *Centralised* | Other state managing authorities exist at various levels of government. The Ministry of Finance oversees financial institutions. | The State-owned Assets Supervision and Administration Commission of the State Council (SASAC) | Formulated by the State Counsel and communicated to SASAC. SASAC prepares annual investment plans for SOEs. |
| Finland | *Centralised* | Eight ministries have SOEs under management including Ministry of Finance, Ministry of Employment and Economy, Ministry of Transport and Communications | Ownership Steering Department in Prime Minister´s Office is responsible for preparation and implementation of the state ownership policy. | Objectives can be set by the Ownership Steering Department or line-ministries. |

| Country | Ownership Model | | Name of Institution(s) responsible for Ownership Function | Objectives set by whole-of-government, or by individual ministry |
|---|---|---|---|---|
| | Overall | Qualifications | | |
| France | | Some non-commercial entities placed under the authority of the line-ministry, in charge of the "public policy", and are considered "Opérateur des politiques de l'Etat" | The Government Shareholding Agency (APE: L'Agence des participations de l'État) carries out the mission of the state as shareholder in companies and organisations controlled by the state. | Directors appointed or nominated by the state uphold positions determined by the Government Shareholding Agency (APE)in connection with the ministers of economy and finance. |
| Korea | | Ministry of Strategy and Finance is the only government body which exercises the ownership of all the central SOEs in the country through the Ownership Steering Committee. At the same time, each line ministry controls a portfolio of businesses and related policies regarding SOEs under its jurisdiction. | The Ownership Steering Committee makes decisions on the key policy issues regarding the oversight of SOEs and the Minister of Strategy and Finance is the chairperson of the Committee. | The performance goals of SOEs are established with consideration of the government policies. By law, each SOE must develop medium and long-term management goals and then submit them to MOSF and the related line- ministries. |
| Slovenia | | Ministry of Infrastructure retains responsibilities over electricity companies. | Slovenian Sovereign Holding (SSH) is an independent joint-stock holding company owned by the state. | The objectives calibrated to certain sector policy but coordinated on whole-of-government level. Objectives "partly published" on SSH website. |
| Spain | | Some non-commercial entities placed under the authority of the line-ministry in charge of the "public policy". | The Ministry of Finance and Public Administrations exercises ownership functions for the majority of SOEs, but several line-ministries also exercise ownership. | Strategic and annual objectives are set by the line-ministry in consultation with the SOEs and the Ministry of Finance and Public Administrations. |
| Sweden | | Seven SOEs mainly with public policy objectives fall under line-ministries but are subject to central coordination. | The Division for State-Owned Enterprises. | Developed by Division for State-Owned Enterprises and Division for Corporate Governance and Analysis in coordination with SOEs. |
| Chile | *Centralised* | **With exceptions:** Codelco, ENAP, ENAMI (Ministry of Energy and Mining), TVN (Ministry of the Secretary-General of Government), Corfo, Banco del Estado (Ministry of Treasury), Defence SOEs (Ministry of Defence). | The Public Enterprise System (SEP): The main state institution responsible for most SOEs (22 of 30). | Line-ministry or the cabinet establishes "the public policy framework". |
| Denmark | | **With exceptions**: [5] Ministry for Transportation and the Ministry of Business | The Ministry of Finance exercises ownership functions for the majority of SOEs, but | Objectives set by the Ministry of Finance in most cases, but by line-ministries in others. |

[5] Denmark might be more properly characterised as a "hybrid model" with elements of a twin track structure.

| Country | Ownership Model | | Name of Institution(s) responsible for Ownership Function | Objectives set by whole-of-government, or by individual ministry |
|---|---|---|---|---|
| | **Overall** | **Qualifications** | | |
| | | and Growth both oversee four SOEs each. Other line ministries are also involved. | several line-ministries also exercise ownership. | |
| Hungary | | Hungarian National Asset Management Inc. (MNV Zrt.) is entrusted to exercise ownership rights in terms of all state assets, unless the law or ministerial order provides otherwise. | Hungarian National Asset Management Inc. , state-owned company limited by shares is in charge of the management of state assets, as well as other institutions designated by law or ministerial order. | Hungarian National Asset Management Inc. communicates annual planning principles, approved by the Minister of National Development.Same rule applies to other institutions responsible for ownership functions. They act based on an approval by the responsible minister. |
| Nether-lands | | **With exceptions:** SOEs not managed by the Ministry of Finance have been specifically designated as "policy participations," and in each of these designations a different Ministry acts as the shareholder. | In 2001, the Netherlands centralised the management of state participations with the Ministry of Finance as much as possible. | General ownership policy applicable to all SOEs by law. Individual objectives of a more operational nature are laid down in legislation, concessions or contracts. |
| Norway | | **With exceptions:** The ministries of: Defence; Local Government and Modernisation; Petroleum and Energy and Transport and Communications manage commercial companies. | Ownership of the majority of companies with commercial objectives is managed by the Ownership Department of the Ministry of Trade, Industry and Fisheries. | The objectives for individual SOEs are set on a whole-of-government basis in connection with the ownership policy. The objectives are publicly disclosed in the White Paper presenting the state ownership policy. |
| Poland | | **With exceptions:** SOEs with public policy objectives are under the supervision of other ministries, in particular Ministry of Development, Ministry of Infrastructure and Construction, Ministry of Energy. | The Ministry of Treasury exercises ownership functions for the majority of SOEs, but several sector-ministries also exercise ownership for SOEs with public policy objectives[6]. | Objectives for SOEs set by the ministry with the rights over stocks or shares. |
| Russia | | **With exceptions**: A category of strategically important SOEs for which a "multi-sector model" is adopted, are outside the regular ownership policy. | Rosimushchestvo, the Federal Agency for Government Property Administration, has a prominent role as the manager of most of the state's corporate assets. | Rosimushchestvo prepares the State's position, but where SOE is of primary sector importance, line-ministry sets agenda, strategic priorities, developing instructions for board etc. |
| South Africa | | **With exceptions:** There are more than 715 SOEs in South Africa, which straddle different departments and tiers of Government | Nine large and strategically important SOEs are managed centrally by the Department of Public Enterprises. | Most SOEs operate without the backing of official legislation or defined frameworks that would indicate what their purposes should be and more specifically their objectives. |

[6] The structure of supervision over SOEs in Poland is planned to be changed by the end of 2016 – by liquidating the Ministry of Treasury and moving SOEs to appropriate sectoral ministries.

| Country | Ownership Model | | Name of Institution(s) responsible for Ownership Function | Objectives set by whole-of-government, or by individual ministry |
|---|---|---|---|---|
| | Overall | Qualifications | | |
| India | Coordinating Agency | | The Department of Public Enterprises (DPE) acts as the "nodal" agency for all SOEs. DPE formulates all policies pertaining to performance improvement and evaluation, financial accounting, personnel management and related areas. | SOEs' vision, mission and long/short term objectives developed by line-ministry and SOE in a "consultative manner", keeping in view the overall Federal policy direction of the government. |
| Israel | Coordinating Agency | Approximately 50 statutory corporations are not officially considered as SOEs. They are not subject to ownership framework. | Government Companies Authority (GCA), a unit of the Ministry of Finance, exercises ownership function in coordination with line-ministers. GCA advises line-ministers and oversees SOEs in accordance with government directives. | Government Companies Authority's sets whole-of-government objectives, which are then published to the public. Ministry of Finance and line-ministries have essentially equal powers, making decisions by consensus and with the input of the GCA's professional opinion |
| Kazakhsta-n | Coordinating Agency | | Kazakhstan has placed a non-trivial portfolio of SOEs under the purview of holding company Samruk-Kazyna. | The general objectives for State's enterprise ownership are presented in Article 192 of the Entrepreneurial Code of the Republic of Kazakhstan. |
| Latvia | Coordinating Agency | | 72 SOEs managed by 11 ministries and one public institution (National Electronic Mass Media Council) and one SOE (the Privatisation Agency), with the ownership function coordinated via the Coordination Institution, housed in the PMO's Cross-Sectorial Coordination Centre (CSCC) | Overall strategic objectives are set by the Cabinet of Ministers. Annual financial and non-financial objectives are set by the capital share-holding ministries (at the same time line ministries in most cases) and supervisory board in consultation with the SOEs and Cross-Sectoral Coordination Centre. |
| Lithuania | Coordinating Agency | | Governance Coordination Centre tasked with monitoring and implementing ownership policy according to standards issued by the Ministry of Economy. | Strategic state objectives (both commercial and non-commercial) set on a whole-of-government basis and disclosed in the Ownership Guidelines. |
| Belgium | Twin Track Model | There are two groups. The first group consists of commercial entities and the second group consists of five companies, including SNCB, Infrabel, Belgocontrol, bPost and Proximus, which are designated as "autonomous public enterprises." They are considered "commercial", but operate under specific regulations. | The first group is generally overseen by a Federal Holding, the second one by the government. The Federal Holding is itself overseen by the government. | Some objectives are set on a whole-of-government basis, others by individual ministries. |
| Turkey | Twin Track Model | | The Privatisation Administration (PA) is an | General investment and financing program of |

| Country | Ownership Model | | Name of Institution(s) responsible for Ownership Function | Objectives set by whole-of-government, or by individual ministry |
|---|---|---|---|---|
| | Overall | Qualifications | | |
| | | | executive body that directs the restructuring and privatisation process of SOEs. Most SOEs are still solely under Treasury, Directorate General of State-Owned Enterprises however. Commercial SOEs owned wholly or partially by state can be transferred to Turkey Wealth Fund upon decision of Council of Ministers. | SOEs is prepared jointly by the Treasury and the Ministry of Development and approved by the Council of Ministers and announced to public via the Official Gazette. Board nominations are undertaken jointly. |
| Brazil | *Dual Model* | | The state ownership function carried out by three sources, including the Department of Co-ordination and Corporate Governance of State Enterprises (DEST) within the Ministry of Planning, Budget and Management, but in coordination with the Ministry of Finance and line-ministries. | All objectives for individual SOEs are developed by line-ministries. DEST establishes corporate governance guidelines, remuneration, approves bylaws and capital injections. Ministry of Finance acts as shareholder and authorizes issues of debt and securities. Line-ministries set strategies. |
| Czech Republic | *Dual Model* | | The central powers are exercised by the Ministry of Finance in the case of joint-stock companies and the Ministry of Industry and Trade in the case of statutory corporations. | All objectives for individual SOEs are developed by line-ministries. Line ministries nominate board members and vote the state's shares at AGMs. Ministry of Finance oversees operational performance of the companies. |
| Estonia | *Dual Model* | | Basic ownership functions and governance of Estonian SOEs are divided between seven ministries. The Ministry of Finance controls ownership rights of SOEs under its control, and appoints half board members of SOEs governed by other ministries. | All objectives for individual SOEs are developed by line-ministries. Objectives must be disclosed in reports to Ministry of Finance. |
| Germany | *Dual Model* | | The Finance Ministry sets out the framework for managing state holdings, which is then undertaken by the individual government departments/ministries according to their responsibility. | Finance Ministry develops privatisation policy, reviews government interest. Objectives of individual SOEs defined in articles of association. Economic objectives determined by boards. Annual report and publications about all participants of the Federation (Beteiligungsbericht). |
| Italy | *Dual Model* | | Ministry of Economy and Finance and individual line-ministries share the ownership function, and sometimes two line-ministries are involved. | SOEs providing essential services or pursuing sector policy goals act follow guidelines set by line-ministries. These guidelines are publicly disclosed. |
| New Zealand | *Dual Model* | | The Commercial Operations Group is a monitoring team within the Treasury. The unit does not make decisions. It has a monitoring | Principal objective of SOE is "to operate as a successful business and […] to be as profitable and efficient as comparable |

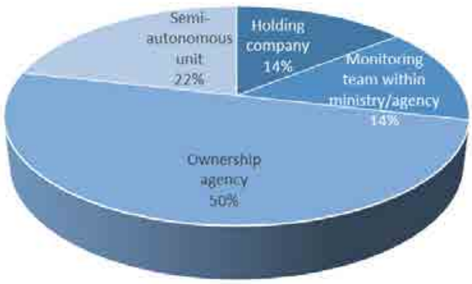
| Country | Ownership Model | | Name of Institution(s) responsible for Ownership Function | Objectives set by whole-of-government, or by individual ministry |
|---|---|---|---|---|
| | Overall | Qualifications | | |
| | | | and advisory role only. Decision rights rest with the Minister of Finance and shareholding Ministers on a 50:50 basis. | businesses that are not owned by the Crown". Monitored by Commercial Operations Group. |
| Switzer-land | | | Ownership rights ultimately vested with the Federal Council (a body of ministers exercising state authority in collective responsibility). Ownership function carried out by Federal Finance Administration and the line ministries. | Strategic objectives drafted by FFA and line-ministries, in consultation with SOE management, and proposed to Federal Council who enacts the objectives. Line-ministries concerned with "sector-task" aspects while FFA focuses on "enterprise-related" aspects. Federal Council accountable to Parliament with annual reporting. |
| Argentina | *Decentralised* | | Line ministers perform most of ownership functions in majority-owned SOEs. The government is currently developing a coordinating agency named SOEs Strategic Supervisory Board. It is a consultative body composed of high-level public officials and its primary function is overseeing the strategic direction of SOEs. | The objective/s of every enterprise is defined in its own statue. The majority of SOEs have adopted commercial law and are required to operate in practice as a private company. In the cases of companies that are nationalised, they have statutory objectives that are similar to the private operator. Meanwhile, there are some nationalisation laws that mention the rationale for state ownership. |
| Colombia | | | The Ministry of Finance and Public Credit (MHCP) is principal body for economic management, with 38 of 70 SOEs in its portfolio. SOEs in mining and extractive sectors. Defence Business Social Group (GSED) also monitors SOEs. | SOEs receive instructions from the government by laws, decrees, or development plans that affect all companies in a particular sector. Objectives translated to SOEs by MHCP and line-ministry right to a seat of the board. |
| Mexico | | | Line ministries perform most of ownership functions. The line ministry by default is the Ministry of Finance and Public Credit (SHCP). The SHCP and the Ministry of Public Function, set the standards for SOE performance evaluation, budgeting and financial policy. | National objectives, outlined in The National Development Plan, serve as a sort of blueprint. Building on blueprint, line-ministries develop the priorities and policies of SOE. Line-ministries establish development policies, coordinate programming, budgeting, and financing, and assess results. |

Source: OECD (2015); OECD (2018, forthcoming); and information subsequently provided by the national authorities.

### *Centralised model*

A centralised ownership model is characterised by one central decision-making body carrying out the mission as shareholder in all companies and organisations controlled by the State (such as in China, Finland, France, Korea, Sweden, and Slovenia) (See Figure 8). Financial targets, technical and operational issues, and the process of monitoring SOE performance are all conducted by the central body. Board members are appointed in different ways but instrumental input comes from central unit. Some States exhibit ownership models resembling a centralised model but with some exceptions (as in Chile, Hungary, the Netherlands, Norway, Poland, Spain, South Africa, and Russia). Often in these cases, a distinct collection of SOEs remains outside the central institution's purview.

**Figure 8. Centralised model: Institutions exercising the ownership function**

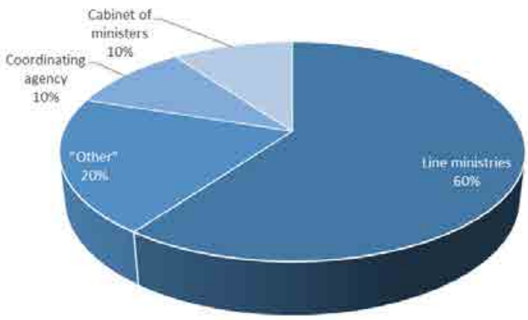



Source: OECD (2015); OECD (2018 forthcoming); and information subsequently provided by the national authorities

### *Dual model*

SOE sectors managed by a dual State ownership model (as in Brazil, Czech Republic, Estonia, Germany, Italy, New Zealand, and Switzerland) are often characterised by one line ministry per SOE plus one ministry with responsibility for financial performance and other whole-of-government objectives. This latter function is exercised in almost all cases by the Ministry of Finance. Together, these agencies share in the overall execution of the ownership function commanding each individual SOE. Figure 9 breaks down the government bodies exercising the state ownership function in countries applying a "dual model" ownership structure, with the exception ministries of finance.

**Figure 9. Dual model: Institutions other than ministries of finance exercising the ownership function**




*Note:* "Other ministries" includes Brazil's Department of Planning, Budget, and Management and the Czech Republic's Ministry of Industry & Trade

### *Twin track model*

The "twin track model" of state enterprise ownership as exercised in Belgium and in Turkey[7] is essentially functionally equivalent to the centralised model, but with two individual portfolios of SOEs overseen by two different government institutions. This model has often been referred to as "dual", but in practice it differs materially from the dual model in that only one government body is involved in the ownership of each category of SOE. The execution of the ownership function by each institutional also differs from the "centralised" model in that two non-competing ownership functions operate within the same domestic setting.

In Belgium, the Federal Holding and Investment Company (Federale Participatie-en Investeringsmaatschappij, FPIM or Société Fédérale de Participations et d'Investissement SFPI) oversees all SOEs except five "autonomous public enterprises[8]": SNCB, Infrabel, bPost, Belgocontrol, and Proximus which are overseen by the government. Infrabel and bPost are also in part overseen by the Federal Holding and the Federal Holding is itself overseen by the government. In Turkey, the Privatisation Administration (PA) oversees SOEs considered for privatisation, while the Undersecretariat of the Treasury oversees any SOE that has not yet been subject to privatisation.

### *Coordinating agency*

In Israel, India, Latvia and Lithuania, specialised government units perform the role of "coordinating agencies". They operate in an advisory capacity to other State shareholders and their most important mandate often is to monitor SOE performance. The more limited role of these central agencies, coupled with the autonomy that line-ministries thus maintain, leads to considerable overlap with the decentralised model (See Table 6).

[7] In Turkey the ownership function of the PA portfolio is exercised by only one government body which is PA. However, the ownership function of the Treasury Portfolio is exercised by both the Treasury and the line ministries. Therefore, Turkey's SOE ownership model can be considered as Twin Track because of the two different portfolio's (Treasury and PA), but within the Treasury portfolio the ownership model can be considered as Dual due to the involvement of the line ministries.

[8] The five companies which are under the responsibility of the government are called "autonomous public enterprises" and are governed by the Law of 21 March 1991 which sets their key governance principles. Although these companies are important for the Belgian economy, they do not represent the majority of the Belgian shareholdings.

**Table 6. Examples of coordinating agencies in Israel, India, Latvia and Lithuania**

| Country | Coordinating Agency | Basic tasks | Role in board nominations |
|---|---|---|---|
| India | Department of Public Enterprises (DPE) | • Policy-making<br>• Performance evaluation<br>• Setting regulatory functions (where applicable) in conjunction with the sectorial regulatory bodies | Appoints "non-official part-time directors" |
| Israel | Government Companies Authority (GCA) | • Policy-making<br>• Advises line ministries<br>• Privatisations | Maintains a pool of candidates. |
| Lithuania | Governance Coordination Centre (GCC) | • Policy-making<br>• Performance evaluation<br>• Ensure disclosure of SOE information, including aggregate annual SOE sector report | Suggests candidates for consideration |
| Latvia | Cross-sectoral Coordination Centre ( CSCC) | • Policy-making<br>• Advises line ministries<br>• Performance evaluation<br>• Ensure disclosure of SOE information, including aggregate annual SOE sector report | Participates in supervisory board and executive board nomination committees. |

Source: OECD (2015); OECD (forthcoming); and information subsequently provided by the national authorities.

### *Decentralised model*

In countries with a decentralised ownership model (including Argentina, Colombia and Mexico), no one single institution or state actor acts on the responsibilities of the ownership function. For each of the three ownership function responsibilities described above, a unique state unit or a mix of state units subsume the role. A large number of institutions are typically involved (See Table 7).

**Table 7. Decentralised ownership: Agencies executing the ownership function in Argentina, Colombia and Mexico**

| Country | Agencies exercising the ownership function |
|---|---|
| Argentina | Line ministers perform most of ownership functions in majority-owned SOEs. The government is currently organising a coordinating agency named "SOE Strategic Supervisory Board" composed of high-level public officials. Its primary role will be overseeing the strategic direction of SOEs. |
| Colombia | The Ministry of Finance and Public Credit (MHCP) is the principal body for economic management of SOEs, with 38 of 70 SOEs in its portfolio. The Ministry of Defence (via the Defence Business Social Group); Ministry of Mines and Energy; and the Ministry of Trade, Industry and Tourism also exercise the state enterprise ownership function in certain SOEs. |
| Mexico | Line ministries perform most of ownership functions.<br>The line ministry by default is the Ministry of Finance and Public Credit (SHCP). The SHCP and the Ministry of Public Function set the standards for SOE performance evaluation, budgeting and financial policy. |

Source: OECD (2015); OECD (2018 forthcoming); and information subsequently provided by the national authorities.

## 1.3. Models for annual aggregate SOE reporting

Regular reporting on the activities and performance of the state-owned enterprise (SOE) sector is an important element of government transparency and accountability. The good practice guidance contained in the OECD Guidelines on Corporate Governance of State-Owned Enterprises ("SOE Guidelines") therefore calls for the state as an owner of commercial enterprises to "develop consistent reporting on SOEs and publish annually an aggregate report on SOEs". They further call for the use of web-based communications to facilitate access by the general public.

This note provides a stocktaking of national practices towards state aggregate reporting on SOEs. In the 52 countries examined[9], it looks at whether state aggregate reports are available online and offers some observations regarding their depth of coverage and language availability. It is based on information available online and draws upon self-reporting from 11 jurisdictions that participated in a 2016 stock-taking studies on integrity and disclosure measures including aggregate reporting practices[10]. It only focuses on aggregate reports to the public – which the SOE Guidelines consider as the ultimate "owners/shareholders" of SOEs, and thus the primary intended audience for aggregate reports – and does not attempt to identify other forms of reporting, for example to Parliament. Country examples are provided for illustrative purposes throughout the text. Table 8 provides a summary overview of national practices in the countries examined.

[9] Desktop and online research was conducted on all 35 OECD member countries as well as Argentina, Brazil, China, Colombia, Costa Rica, India, Indonesia, Kazakhstan, Lithuania, Malaysia, Paraguay, Peru, Philippines, Russian Federation, Saudi Arabia and South Africa and Viet Nam.

[10] See: OECD (2016a, 2016b); Combatting corruption and promoting business integrity in state-owned enterprises: Issues and trends in national practices, OECD Publishing, Paris; Transparency and disclosure measures for state-owned enterprises (SOEs): Stocktaking of national practices, OECD Publishing, Paris. Participating jurisdictions included: Argentina, Brazil, India, Lithuania, Malaysia, Mexico, Paraguay, Peru, Philippines, Sweden and Viet Nam.

**Table 8. Aggregate reporting on state-owned enterprises by country[11]**

| | Nature of reporting: | | | Coverage: | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Aggregate reporting | Online inventory of SOEs | Available in non-national language(s) | Implementation of state ownership policy | Financial performance and value | Total employment in SOEs | Public policy objectives | Board composition and/or remuneration | Reporting on individual SOEs |
| Argentina | - | ● | - | ○ | ○ | ○ | - | - | - |
| Australia | - | ● | - | - | | | | | |
| Austria | ● (portfolio) | - | ● | ○ | ○ | ○ | - | - | - |
| Brazil | ● | - | - | - | ○ | - | - | - | ○ |
| Canada | - | ● | - | - | - | - | - | - | - |
| Chile | ● (portfolio) | - | - | ○ | ○ | - | - | ○ | ○ |
| China[12] | ● (portfolio) | - | - | - | - | - | - | - | - |
| Colombia | ● (portfolio) | - | - | - | ○ | - | - | - | ○ |
| Denmark | ● | - | - | ○ | ○ | ○ | - | ○ | ○ |
| Estonia | ● | - | - | - | ○ | ○ | - | - | - |
| Finland | ● | - | ● | ○ | ○ | - | - | ○ | ○ |
| France | ● | - | - | ○ | ○ | ○ | - | ○ | ○ |
| Germany | ● | - | - | ○ | ○ | ○ | ○ | ○ | ○ |
| Greece | ● | - | - | - | ○ | ○ | - | - | ○ |
| Hungary | ● | ● | ● | ○ | -[13] | - | - | - | - |
| India | ● | - | - | ○ | ○ | - | - | - | - |
| Ireland | - | ● | - | - | - | - | - | - | - |
| Israel | ● | ● | - | ○ | ○ | ○ | ○ | - | ○ |
| Italy | - | ● | - | - | - | - | - | - | - |

[11] A dash "- " in the table means that there is no reporting.

[12] In China, the State-Owned Assets Supervision Council (SASAC) produces an annual report on the central SOEs under its purview. Owing to language availability, the present exercise did not allow for an in-depth examination of the contents of SASAC's aggregate report.

[13] Hungary's reporting coverage includes financial value but not financial performance.

| | Nature of reporting: | | | Coverage: | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Aggregate reporting | Online inventory of SOEs | Available in non-national language(s) | Implementation of state ownership policy | Financial performance and value | Total employment in SOEs | Public policy objectives | Board composition and/or remuneration | Reporting on individual SOEs |
| Kazakhstan | - | ● | - | - | ○ | ○ | ○ | - | ○ |
| Korea | - | ● | - | - | ○ | ○ | ○ | ○ | ○ |
| Latvia | ● | ● | ● | ○ | ○ | ○ | ○ | - | ○ |
| Lithuania | ● | - | ● | ○ | ○ | ○ | ○ | ○ | ○ |
| Netherlands | ● | - | - | ○ | ○ | ○ | ○ | ○ | ○ |
| New Zealand | - | ● | - | - | - | - | - | - | - |
| Norway | ● | - | ● | ○ | ○ | ○ | ○ | ○ | ○ |
| Paraguay | ● | ● | - | ○ | ○ | ○ | ○ | - | - |
| Philippines | ● | ● | - | ○ | ○ | ○ | ○ | ○ | - |
| Poland | ● | - | - | - | ○ | ○ | - | - | - |
| Portugal | ● | - | - | - | ○ | - | - | - | - |
| Slovenia | - | ● | - | - | - | - | - | - | - |
| Spain | ● | ● | | | ○ | ○ | | | ○ |
| Sweden | ● | ● | ● | ○ | ○ | ○ | ○ | ○ | ○ |
| Turkey[14] | ● | PA portfolio[15] | | | ○ | ○ | | ○ | ○ |
| U.K. | ● | | | | ○ | ○ | ○ | ○ | ○ |

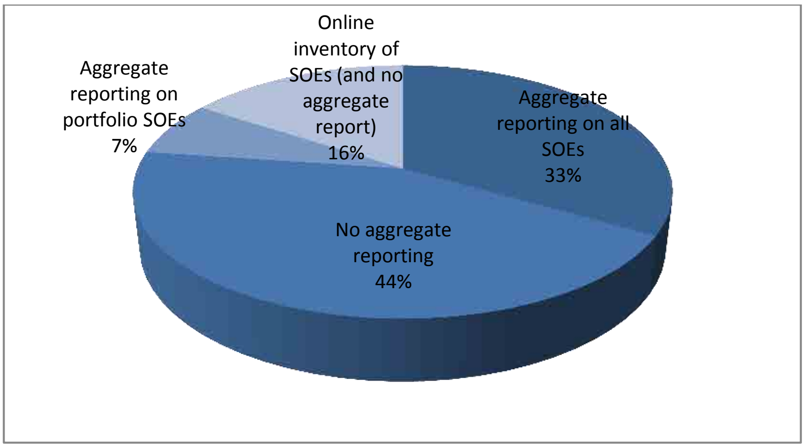
*Source*: OECD 2016a; OECD 2016b; Information available on the public websites of ministries or other public institutions responsible for the state ownership or coordinating function; and information subsequently provided by the national authorities. In countries where aggregate reporting is limited to a portfolio of enterprises under the purview of the ownership entity, this is indicated by "portfolio". Information also reflects confirmation and updates from 15 national governments including Belgium, Colombia, Israel, Japan, Kazakhstan, Korea, Latvia, Mexico, New Zealand, Norway, Poland, Spain, Sweden, Turkey and the United Kingdom.

[14] In Turkey, the Under-secretariat of the Treasury produces an aggregate report for both Treasury portfolio and PA portfolio.

[15] The Privatisation Administration (PA) gives general information on every SOE in its portfolio on its website.

### *General approach to aggregate reporting*

**Figure 10. How many countries produce aggregate reports on SOEs?**




*Source*: Information available on the public websites of ministries or other public institutions responsible for the state ownership or coordinating function; and information subsequently provided by the national authorities.

*Standard aggregate reporting*

Around half of the countries surveyed produce, and make available online, some form of aggregate reporting on state-owned enterprises (see Figure 10). Most of them include all, or the majority of, SOEs in the reports. In five countries (Austria, Chile, China, the Netherlands and Turkey), aggregate reporting is limited to information on the portfolio of enterprises under the purview of state ownership entity or holding company. For example, in Austria, the aggregate report only concerns the 8 entities directly under the purview of the state holding company ÖBIB, and not those under the direct oversight of the Federal Ministry of Finance or other ministries. Six countries make their aggregate reports available in non-national languages (Austria, Finland, Latvia, Lithuania, Norway and Sweden). In Turkey, where the majority of SOEs are either under the purview of the Under-secretariat of the Treasury or the Privatisation Administration, both institutions produce an aggregate report on their respective portfolios. The Netherlands reports on the level of individual SOEs as well.

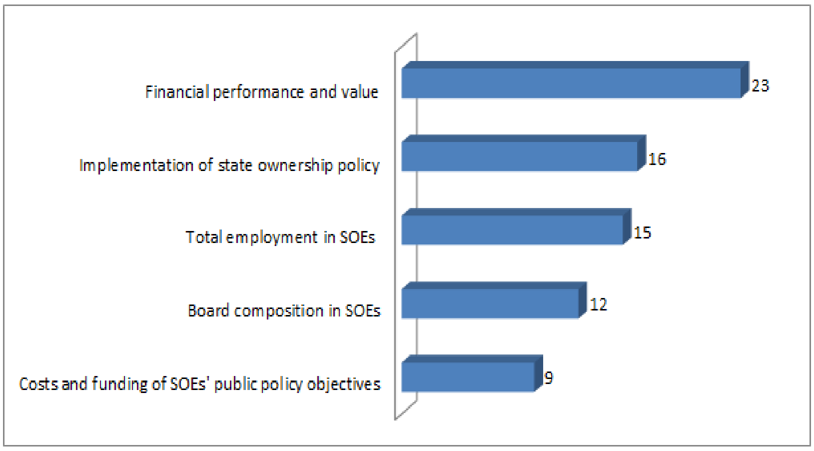
*Online inventories of SOEs*

Seven countries that do not produce aggregate reports *per se* do provide online inventories of state-owned enterprises, in most cases with links either to entities' consolidated financial statements, or to entities' websites where annual reports are generally available.[16] This applies to Australia, Canada, Ireland, Kazakhstan, Korea, New Zealand and Slovenia. For example, the website of the Treasury Board of Canadian Secretariat provides a comprehensive inventory of all federal government bodies, including links to the quarterly financial and employment data for all SOEs ("Crown Corporations"). In Korea, a dedicated website called ALIO provides an extensive reporting on individual SOEs. The website periodically provides aggregate financial and employment figures of individual SOEs including each SOE's asset value, debt-to-equity ratio, net income, total number of executives and employees, etc. ALIO also provides information on total number of executives and

[16] Some countries produce aggregate reports and also publish online inventories of SOEs, for example Lithuania. This combination of reporting mechanisms is not considered a separate category for the purpose of this exercise.

employees, remuneration of executives, welfare benefits and net income of all the SOEs at the end of every April. In Kazakhstan, reporting on individual SOEs including their financial performance is provided through the on-line inventory on SOEs entitled “The Register of State Enterprises and Agencies, Juridical Persons with State Participation in the Charter Capital.” In Argentina, while reporting of various performance dimensions of SOEs is fragmented, several government agencies and audit agencies are required to publish on their websites key information and assessments on financial performance and internal control systems of majority-owned SOEs.

**Figure 11. What is included in aggregate reports?**




*Source*: Information available on the public websites of ministries or other public institutions responsible for the state ownership or coordinating function; and information subsequently provided by the national authorities.

### *Reporting on the state ownership policy*

It is considered good practice to include in aggregate reports information on the state’s ownership policy and its implementation. Half of the countries that conduct aggregate reporting include some degree of information on the implementation of the state ownership policy (See Figure 11.) As an example, Lithuania includes in each of its annual aggregate reports an overview of the main laws and regulations concerning SOEs, a summary of the state ownership policy, and reporting on the implementation of key aspects of the ownership policy and other governmental guidelines. The latest report includes an assessment of SOE practices in the areas of transparency, board independence and competencies, and quality of strategic planning. In Finland, the aggregate report provides an overview of the main elements of the state ownership policy, recalls the legal act that governs the operations of the Ownership Steering Department within the Prime Minister’s Office, and notes that the objectives of the state as an owner are to maximise the financial and social benefit of the assets under its management.

In the countries where aggregate reporting is limited in scope to a portfolio of enterprises under a state holding company, the report usually provides an overview of the mandate of the state holding company and how this fits into the broader context of the state’s ownership or privatisation policy (for the purpose of this note such practices are considered to constitute reporting, albeit partial, on the implementation of the state ownership policy). For example, ÖIAG in Austria includes in its report an overview of its responsibilities as established by law, which mainly consist of carrying out privatisations and managing the investments in its portfolio. Similarly, the aggregate report prepared by the state holding company of Belgium (Société Fédérale de Participations et d’Investissement, or

SFPI) provides a general overview of its structure, legal basis and mandate, financial performance and value of SOEs.

All countries that produce aggregate reports include information on SOEs' financial performance and value, which according to good practice should be the primary focus of aggregate reports. For example, in Brazil, the SOE Coordination and Governance Department (DEST) under the Ministry of Planning, Budget and Management produces an annual report on state enterprises held at the federal level, with consolidated information on their financial performance and value and distinct reporting for state-owned financial institutions.

Two of the countries that do not produce aggregate reports *per se* publish online key financial performance and valuation data on SOEs. Canada publishes the consolidated financial accounts and employment data for all SOEs online. Similarly, in Australia, there is no annual aggregate report on SOEs as such, but the website of the Government Businesses Advice Branch of the Department of Finance and Deregulation provides links to the websites of the six Government Business Enterprises (GBEs) under its oversight and two SOEs considered "public non-financial corporations", where individual annual reports are accessible. Therefore while not included in the count, these two countries could nonetheless be considered to have partially implemented basic aggregate reporting on SOEs.

***Public policy objectives***

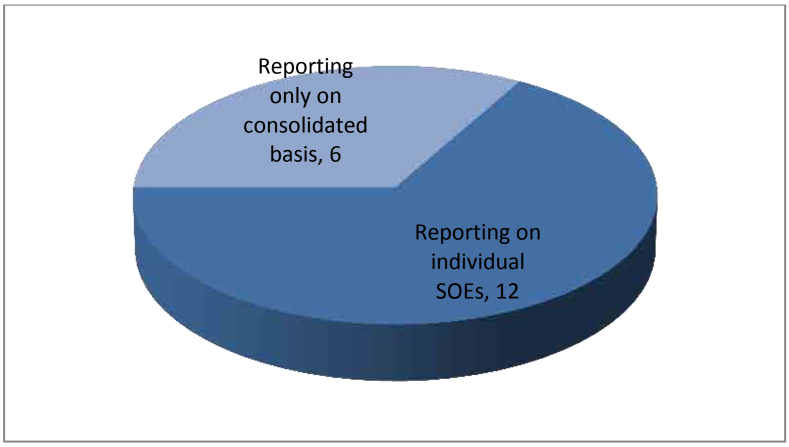
Apparently only four countries that produce aggregate reports (Lithuania, Norway, Sweden and Turkey) attempt to produce distinct reporting on the costs related to SOEs' public policy objectives, and (where applicable) the related funding provided from the state budget. In Lithuania, a section of the aggregate report is dedicated to the estimated costs taken on by SOEs for the implementation of "special obligations", and the amount of compensatory funding provided by the state. In Norway, the aggregate report provides an index of all SOEs and the value of state subsidies provided to each over the course of the year.

***Board composition and/or remuneration***

The explanatory text of the SOE Guidelines calls for aggregate reports to include "reporting on changes in SOEs' boards". About half of the countries that conduct aggregate reporting (10 countries in total) provide some level of information on the composition of SOE boards. The information ranges from aggregate figures on gender diversity in boards to the remuneration of individual board members. For example, Norway and Sweden report on the overall proportion of women in the boards of SOEs. France, Norway and Sweden include company-specific information on the remuneration of the board chair and members. In Finland, the Ownership Steering Department includes in its report information on the board composition of the largest SOEs. In Chile, the System of Enterprises (SEP) under the Ministry of Economy, Development and Tourism similarly includes information on board composition in the largest SOEs (the report only applies to the portfolio of enterprises under the purview of the SEP).

*Reporting on individual SOEs*

**Figure 12. Do aggregate reports include company-specific information?**




*Source*: Information available on the public websites of ministries or other public institutions responsible for the state ownership or coordinating function; and information subsequently provided by the national authorities.

Insofar as information about individual SOEs is readily available elsewhere including such information in the aggregate report is not considered an essential good practice. Still, it can be of interest to the general public, particularly for SOEs that are economically important and also in terms of ensuring inter-company comparability of the disclosed information. The majority of countries that conduct aggregate reporting (12 countries in total – Figure 12) include some degree of company-specific information, ranging from reporting on key recent corporate events, to the inclusion of detailed company pages – in some cases only for the largest SOEs – that present the financial accounts, number of employees and information on the board composition and remuneration. Some countries provide much more extensive details on individual SOEs. For example in Norway, company pages include reporting on corporate social responsibility efforts, as well as the percentage of women both among board members and among the board members appointed by the shareholders (shareholder elected board members). Lithuania includes in its company-specific pages a list of all board members and an identification of those considered independent. Sweden includes reporting on financial and non-financial targets on an individual basis and also includes information on whether individual SOEs reach their targets.

# CHAPTER 2: SOES IN THE MARKETPLACE

*Where SOEs engage in economic activities, then, according to the SOE Guidelines, those activities must be carried out in a way that ensures a level playing field and fair competition in the marketplace. While there is consensus on this recommendation in principle, obtaining a level playing field is sometimes more complicated in practice, particularly when SOEs combine economic activities with non-trivial public policy objectives. The updated SOE Guidelines include a number of recommendations for how the legal and regulatory framework for SOEs can meet this challenge. National practices for implementing these recommendations are summarized in this section of the SOE Compendium, including approaches to competitive neutrality (section 2.1) and ensuring market-consistent access to finance (section 2.2).*

## 2.1 Competitive neutrality – An overview of national practices

The main rationale for competitive neutrality (i.e. maintaining a "level playing field") between private and publicly-owned business is that it enhances efficiency throughout the economy. Where certain economic agents are put at an undue disadvantage, goods and services are no longer produced by those who can do it most effectively. By giving adequate attention to competitive neutrality, governments may minimise the risk of competitive activities being "crowded out" and promote their own private sectors' development, job creation and growth. Furthermore, as SOEs expand their commercial activities internationally, their observance of competitive neutrality practices beyond borders contributes to mutual trust and confidence and helps avoid protectionist responses in recipient countries that could undermine economic growth and development.

A tendency to centralise the State's ownership function in a number of jurisdictions has made it easier to pursue competitive neutrality-consistent public policy and regulation. This has ensured the responsibility for ownership and regulation remains separate, which in turn can help minimise the risk of regulatory capture (see Section 1.2). The move towards full corporatisation of SOEs, and the structural separation in many sectors of competitive from non-competitive activities, has also served to level the playing field. Incorporating SOEs has subjected these companies to equal if not similar fiscal and regulatory treatment as private enterprises. Moreover, measures to ensure market consistency of debt and equity financing (see Section 2.2); enhanced transparency and accountability requirements as reported in annual aggregate reporting (see Section 1.3); and, subjecting SOEs to reporting requirements similar to publicly listed companies (see Section 2.3), are all important elements of competitive neutrality commitments. Box 1 highlights some of the main areas to address as part of an all-encompassing commitment to competitive neutrality.

This note covers national practices in ensuring competitive neutrality with a focus on (i) regulatory and tax exemptions; (ii) transparency and disclosure practices around cost allocation; (iii) practices related to the transparent and adequate compensation of public policy objectives; and (iv) public procurement practices. Other related areas are covered (as indicated) in other sections of this document. The information is drawn from a survey of national practices conducted in 2012 and 2013 (OECD 2012a, 2012b, 2013b, 2014b), in addition to updates provided in the 2015 OECD Database on National Practices and Regulations with Respect to State Enterprises (OECD, 2015c) and subsequent submissions by individual countries in 2016 ; the section draws from practices in up to 43 OECD and partner economies and the recommended practices as highlighted in Chapter III of the OECD Guidelines on Corporate Governance of SOEs covering "State-owned enterprises in the marketplace".[17]

[17] Refer to: National Practices: www.oecd.org/daf/ca/50250966.pdf. For coverage of partner and accession countries: https://one.oecd.org/document/DAF/CA/SOPP(2013)1/FINAL/en/pdf

For access to the OECD Database on National Practices and Regulations with Respect to State Enterprises see: http://qdd.oecd.org/subject.aspx?Subject=8F22EF7D-B780-4570-A4B1-7E0CB3AD7E04

**Box 1. Maintaining a level playing field: main "building blocks" in competitive neutrality**

According to an evolving consensus, the main building blocks of competitive neutrality should cover the following priority areas:

- *Streamline government businesses either in terms of corporate form or the organisation of value chains*. An important question when addressing competitive neutrality is the degree of corporatisation of government business activities and the extent to which commercial and non-commercial activities are structurally separated. Separation makes it easier for commercial activities to operate in a market-consistent way. Incorporating public entities having a commercial activity and operating in competitive, open markets, as separate legal entities enhances transparency.
- *Ensure transparency and disclosure around cost allocation*. Identifying the costs of any given function of commercial government activity is essential if competitive neutrality is to be credibly enforced. For incorporated SOEs, the major issue is accounting for costs associated with fulfilling public service obligations (if applicable). For unincorporated entities, problems arise where they provide services in the public interest as well as commercial activities from a joint institutional platform.
- *Devise methods to calculate a market-consistent rate of return on business activities.* Achieving a commercial rate of return is an important aspect in ensuring that government business activities are operating like comparable businesses. If SOEs operating in a commercial and competitive environment do not have to earn returns at market consistent rates then an inefficient producer may appear cheaper to customers than an efficient one.
- *Ensure transparent and adequate compensation for public policy obligations.* Competitive neutrality concerns often arise when public policy priorities are imposed on public entities which also operate in the market place. It is important to ensure that concerned entities be adequately compensated for any non-commercial requirements on the basis of the additional cost that these requirements impose.
- *Ensure that government businesses operate in the same or similar tax and regulatory environments*. To ensure competitive neutrality government businesses should operate, to the largest extent feasible, in the same or similar tax and regulatory environment as private enterprises. Where government businesses are incorporated according to ordinary company law, tax and regulatory treatment is usually similar or equal to private businesses.
- *Debt neutrality remains an important area to tackle if the playing field is to be levelled. The* need to avoid concessionary financing of SOEs is commonly accepted since most policy makers recognise the importance of subjecting state-owned businesses to financial market disciplines. However, many government businesses continue to benefit from preferential access to finance in the market due to their explicit or perceived government-backing.
- *Promote competitive and non-discriminatory public procurement.* The basic criteria for public procurement practices to support competitive neutrality are: (1) they should be competitive and non-discriminatory; and (2) all public entities allowed to participate in the bidding contest should operate subject to the above standards of competitive neutrality.

Source: OECD (2012a), Competitive Neutrality: Maintaining a Level Playing Field between Public and Private Business.

### *Competitive neutrality commitments*

As mentioned, jurisdictions may pursue aspects or elements of competitive neutrality in diverse ways through ownership, competition, public procurement, tax and regulatory policies or a combination of these policies. Some countries may have selective commitment to competitive neutrality, in other words they may not address all the building blocks covered in Box 1. While this may often be a second best option, it still may suit the jurisdiction depending on the national context, the extent and nature of public policy functions imposed on SOEs, and the regulatory capacity to enforce and advocate competitive neutrality. The most effective way of obtaining competitive neutrality is arguably to establish an encompassing policy framework, including suitable complaints handling, enforcement and implementation mechanisms and in consistency with international commitments. Although few countries have done this, the approaches of **Australia** or the **EU**[18] are notable examples. Some northern European economies (**Denmark**, **Finland**, **Sweden** and the **UK**) have addressed competitive neutrality by introducing competition law based approaches in parallel with an overall restructuring of the SOE sector to ensure full incorporation of public businesses, including by municipalities and other sub-national levels of government. Country practices are summarised in Table 9:

**Table 9. Competitive neutrality commitments**

| Level of commitment | Description | Jurisdiction |
|---|---|---|
| *Full commitment and enforcement* | Encompassing policy framework, backed by formal implementation and enforcement mechanisms, including a complaints handling process. | AUS, EU member states |
| *Commitment to competitive neutrality and with elements of enforcement* | Jurisdictions have entrusted competitive neutrality with competition or other competent authority, in addition to fully corporatizing SOEs operating on a commercial basis. | DEN, ESP, FIN, GBR, ISL, SWE |
| *Commitment with limited or external enforcement* | This category covers EEA countries that rely solely on EU State Aid rules, which ensures effective control of subsidies/State aid for activities that may have an impact on competition in the Single Market. | AUT, CHE, CZE, EST, DEU, GRC, HUN, IRL, ISL, ITA, LAT, LTA, NOR, POL, SVK, SVN |
| *Elements of relevant laws and regulations that address potential uneven treatment* | These jurisdictions have laws or regulations that address aspects of competitive neutrality (e.g. public procurement, separation of ownership and/or regulation, etc). This category also includes countries that have enshrined an equal treatment of businesses regardless of ownership in their constitutions with an explicit enforcement mechanism. | ARG, BRA, CHL, CHN, IND, ISL, JPN, KAZ, KOR, MEX, NZL, RUS, TUR, USA |

Source: OECD, 2012b, 2013; and subsequent submissions by individual countries.

### *Regulatory and tax exemptions*

Where government businesses are incorporated according to ordinary company law, tax and regulatory treatment is usually similar or equal to private businesses. However, some statutory corporations and most businesses operating out of general government may be exempt from taxes (consumption and income) and regulations (market regulations and business laws). As highlighted in Table 10, departures from competitive neutrality are not widespread. Where differences do exist, governments mostly justify them citing one of two arguments: 1) the concerned SOE operates in an area involving a natural monopoly; and 2) regulatory preference is needed to compensate SOEs for public sector obligations.[19] These can be manifested as exemptions from the application of competition

[18] The supranational character of the EU's arrangements, their ownership-neutral character and the fact that they comprise competition, state aid, transparency and government procurement rules, make them quite comprehensive.

[19] This might entail lower compliance costs (e.g. exempt or lower costs for permits, registration or licences); exemptions from zoning regulations; or preferential treatment due to their public sector status (e.g. quicker approval of projects) – there is a stronger tendency for these derogations to exist at a sub-national level.

law to certain types of activities[20] or through other forms of preferential regulatory treatment (exemptions from permits, registration or licences, preferential access to land or inputs; quicker approval of projects, etc.). Several countries (Australia**,** Estonia, Iceland, Slovenia, and Switzerland) report mechanisms to ensure compensatory payments made on the basis of regulatory advantages. However it should be noted that EU and EEA states fall under EU State Aid and Transparency rules which ring fences activities subject to a regulatory carve out if in the pursuit of a public service. Where derogations apply, the rationale and conditions should be made transparent and narrowly established to ensure competitive neutrality.

**Table 10. Regulatory treatment of SOEs**

| Country | Subject to similar or equal regulatory treatment as private businesses | Exemptions for natural monopolies, reserved markets | Exemptions for public service obligations | Other type of exemptions |
|---|---|---|---|---|
| Argentina | ● | ● | | |
| Australia | ● | ● | | |
| Brazil | ● | | | |
| Chile | ● | | | |
| China | ● | ● | | ● |
| Colombia | ● | ● | | ● |
| Israel | ● | | | |
| Korea | ● | ● | | |
| Mexico | | | | ● |
| New Zealand | ● | | | |
| Russian Fed. | | | | ● |
| South Africa | ● | ● | ● | ● |
| Switzerland | ● | ● | ● | ● |
| Turkey | ● | | | |
| United States | | | ● | ● |
| EU and EEA[21] countries | ● | | | |

Source: OECD, 2012b and OECD, 2013; and information subsequently provided by the national authorities.

In a majority of countries public undertakings are subject to the same or similar tax treatment as private enterprises, especially where public undertakings are conducted as legally incorporated businesses operating at arm's length from the government (see Table 11). Some exceptions apply to specific categories of SOEs which may be carrying out non-commercial objectives, such as universal service obligations (e.g. in postal sector), and which may be exempt from tax on income derived from such obligations in addition to being or exempt from VAT or charging VAT on these transactions. In other cases, categories of public bodies may be afforded tax advantages through partial or entirely exempt status (direct or indirect taxes or a combination of the two). These undertakings are usually public bodies operating as part of general government plus in some cases statutory corporations. In some countries, unincorporated government undertakings may be subject to some other forms of

[20] Although it should be noted that 92% of 42 countries surveyed report that they do not exclude or exempt publicly controlled companies (either partially or completely) from the application of general competition law – this is mainly for what concerns activities that occur in competitive markets.

[21] The EU and EEA countries which participated in this exercise include Austria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Netherlands, Norway, Slovak Republic, Spain, Sweden and the United Kingdom.

taxation (depending on the public body and applicable tax laws). A minority of countries consider their SOEs to be at a tax disadvantage due to higher corporate tax rates or inability to benefit from tax write-offs. Where differences in tax treatment exist, compensatory payments in lieu of taxation is not common practice in most countries, in fact only Australia and the UK report that some form of tax neutrally adjustments are made in order to compensate for differences between public and private business tax treatment. In the EU (and EEA) countries, any form of preferential tax treatment incompatible with EU rules on State aid is subject to enforcement by the EC.

**Table 11. Tax treatment of SOEs**

| Country | Subject to the same tax treatment as private enterprises | Subject to largely similar tax treatment as private enterprises | Different treatment or exceptions |
|---|---|---|---|
| Argentina | ● | | ● |
| Australia | | ● | ● |
| Austria | | ● | |
| Brazil | ● | | ● |
| Chile | | ● | ● |
| China | | ● | ● |
| Colombia | | | ● |
| Czech Republic | ● | | |
| Denmark | ● | | |
| Estonia | ● | | |
| Finland | | | ● |
| Germany | ● | | |
| Greece | ● | | |
| Hungary | ● | | |
| Iceland | | ● | ● |
| Ireland | ● | | |
| Israel | ● | | |
| Italy | ● | | |
| Kazakhstan | | ● | ● |
| Korea | ● | | |
| Latvia | ● | | |
| Lithuania | | ● | ● |
| Mexico | ● | | ● |
| Netherlands | ● | | |
| New Zealand | ● | | |
| Norway | ● | | |
| Poland | | ● | ● |
| Russian Fed. | | | ● |
| Slovak Republic | ● | | |
| Slovenia | ● | | |
| Spain | ● | | |
| Sweden | ● | | |
| Switzerland | | ● | |

| | | |
|---|---|---|
| **Turkey** | ● | |
| **United Kingdom** | | ● |
| **United States** | | ● |

Source: OECD, 2012b and OECD, 2013; and information subsequently provided by the national authorities.

### *Transparency and disclosure around cost allocation*

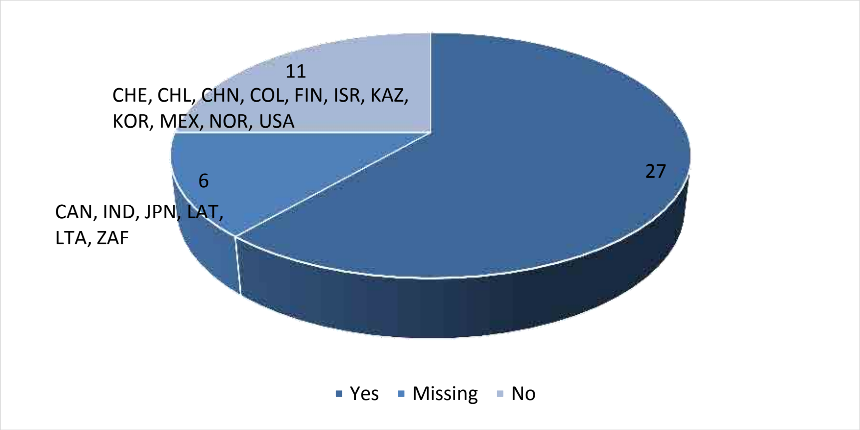
Identifying the costs of any given function of commercial government activity, and separating such costs from non-commercial activity is essential if competitive neutrality is to be credibly enforced. Shared costs may result in advantages or disadvantages for government businesses. On the one hand, advantages may arise out of shared-cost structures that artificially lower costs effectively enhancing a public entity's ability to price more aggressively than competitors (i.e. allowing for cross-subsidisation). On the other, disadvantages may also be of concern to public sector businesses, especially where public sector liabilities (e.g. guaranteeing employees' pension liabilities) are concerned. Where compensation is provided through the public purse or where costs are shared with non-commercial activities of general government, disclosure is essential to ensure SOEs are accountable to shareholders, oversight bodies, and to the general public. This sub-section addresses national approaches related to the separation of accounts. Other aspects of transparency and disclosure, and the financial situation of SOEs are equally important and are covered in other sections of this report.

To facilitate transparency and disclosure, governments in OECD economies generally require their businesses to separate the accounts of commercial and non-commercial activities (Figure 13). The effectiveness depends on the consistency in which it is applied, especially where small or unincorporated government businesses are concerned. It is commonly applied in certain sectors (e.g. utilities and energy sectors) where public service obligations are concerned. Where countries have reported "No", this usually indicates that there is no practice in the separation of accounts (Chile, China, Mexico); that such practices are not part of the national generally accepted reporting standards (Israel); that there are no specific legal requirements about separation of accounts but that it is stated in the ownership policy that costs and financing of rendering public services should to the greatest possible extent be disclosed in financial statements or other corporation itemisation of such activities (Norway); that there are no specific rules about the separation of accounts on a national basis but that some companies may practice the separation of accounts (Korea[22], Switzerland); or that for SOEs which carry out purely commercial such rules are not applicable (Finland). It should be noted that for EU countries, accounting separation, in principle, applies to all undertakings (public or private) receiving public funds or benefiting from special or exclusive rights (the methods used to calculate costs are also subject to specific requirements). Where responses for EU countries differ, this might reflect a reporting bias.

[22] The Ministry of Strategy and Finance of Korea has implemented the separation of accounts based on individual activities in 13 SOEs and has a plan to increase the number to 40 SOEs. However, the government has not required its SOEs to separate the accounts of commercial and non-commercial activities.

**Figure 13. Separation of accounts**

Legal obligations or other rules applicable to SOEs to separate accounts for commercial and non-commercial activities




*Source*: OECD, 2012b, OECD, 2013 and OECD, 2015. See OECD Database on National Practices and Regulations with Respect to State Enterprises: http://qdd.oecd.org/subject.aspx?Subject=8F22EF7D-B780-4570-A4B1-7E0CB3AD7E04

### *Compensation of public policy objectives*

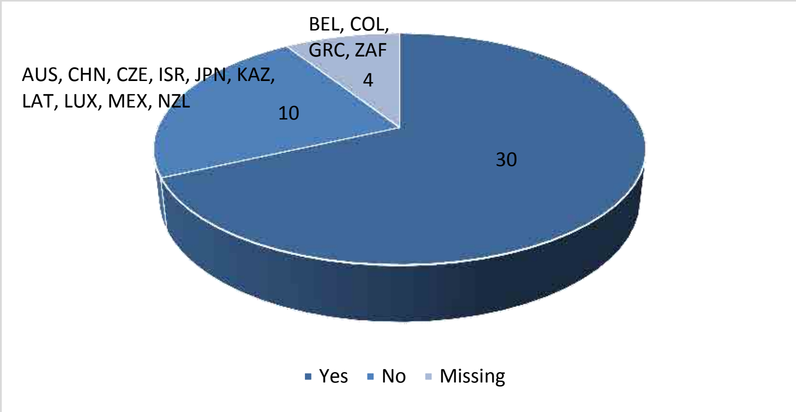
Competitive neutrality concerns almost invariably arise when public policy priorities are imposed on public entities which also operate in the market place. Good practice dictates that concerned entities are adequately compensated for non-commercial requirements on the basis of the additional cost that these requirements impose. Compensation may be provided by the public purse (methods range from direct transfers, capital grants, reimbursements and budget appropriations, to state aids/subsidies) or they can be funded entirely through user charges or a combination of both user charges and compensation. The most precise and transparent mode of compensation is direct payments provided from public sector budgets (see also section 2.2). If other modes of compensation, such as cross-subsidisation from profit-to-loss-making activities are undertaken, concerns about their impact on the competitive landscape may arise depending on the transparency of accounting.

Although, virtually all countries compensate undertakings (public or private) which deliver public service obligations alongside their commercial activities, these compensation mechanisms are not necessarily grounded in a *legal mechanism or provision* (Figure 14). However, it should be noted that this indicator is not fully comparable across countries, because some countries which report "No", do not have such legal provisions because they deliver public service obligations only through SOEs that have a specific corporate form; or this may reflect a reporting bias, as state support may apply to a specific subset of companies.[23] This is the case in New Zealand and Australia; the latter reporting that SOEs are generally expected to price efficiently and to fully recover costs. In other cases, companies may be compensated through derogations from other obligations (China); contracting out service delivery through PPPs or other competitive tendering processes (Mexico); direct capital transfers (Japan); or, through a negotiation of their tariff structures and user fees (Israel).

[23] For example, Finland and Germany reported "yes" to the question, whereas according to OECD, 2014 it is reported, that national SOEs do *not* receive state support (with exceptions in the railway sector in Germany). A similar discrepancy is noted for Australia and New Zealand, which are reported as "No," but which may report certain exceptions.

**Figure 14. Compensation of public service obligations**

Legal provision or other rules on direct state support to SOEs delivering public services




*Source*: OECD, 2012b, OECD, 2013, OECD, 2014 and OECD, 2015. See OECD Database on National Practices and Regulations with Respect to State Enterprises: http://qdd.oecd.org/subject.aspx?Subject=8F22EF7D-B780-4570-A4B1-7E0CB3AD7E04

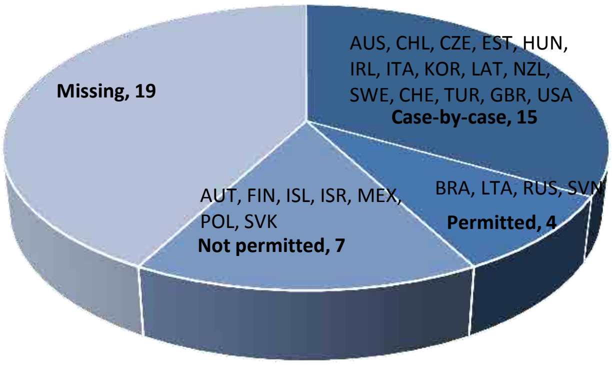
However, the importance of a legal provision, such as in the EU's State Aid Rules and the "Altmark Criteria"[24], is that it sets out clear rules as to the mechanisms that may be allowable to compensate SOEs (such as whether cross-subsidisation is allowable), and the criteria that need to be fulfilled in order for any form of compensation not to quality as State Aid.

A majority of countries permit or tolerate cross-subsidisation from profit-making to loss-making activities to fund public obligations (Figure 15). Conversely, a few countries have outright bans on cross-subsidisation across activity areas, but even then implicit transfers among client segments may be permitted. To ensure that public funds are not used to carry out commercially-oriented activities, some countries require that publicly-funded undertakings separate their commercial from non-commercial accounts (Refer to Figure 15).

[24] This refers to European Court of Justice's jurisprudence which defines four "Altmark" Criteria that need to be fulfilled in order for a compensation not to qualify as State Aid. The EU Services of General Economic Interest Framework provides further clarification as to the applicability of the rules of State Aid to compensate for the discharge of public service obligations.

**Figure 15. Cross-subsidisation practices in public service delivery**

From profit-making to loss-making activities




*Source*: OECD, 2012b and OECD, 2013.

### *Public procurement practices*

To support competitive neutrality, procurement policies and procedures should be competitive, non-discriminatory and safeguarded by appropriate standards of transparency. Some additional issues may arise. Where long-existing SOEs or in-house providers are involved, their incumbency advantages may be such that the entry of competitors is effectively impeded. To the extent that these advantages reflect economies of scale this is in principle not a competitive neutrality problem, but it may nevertheless impede governments' attempts to introduce competition in the market. This section considers the current public procurement frameworks across jurisdictions, and considers the conditions under which SOEs may participate as bidders or procurers themselves.

OECD governments have developed and implemented public procurement policies to ensure a level playing field among market participants. These rules specify under which conditions state-owned businesses are allowed to participate as suppliers. These policies are consistent with World Trade Organisation (WTO) Principles [and in the case of EU (including EEA) member countries reflect EU directives] which seek to ensure equal treatment, non-discrimination, transparency and value for money.

Some SOEs may not be subject to the public procurement laws/rules that apply to the general government sector, given their incorporated status and application of Company Law. In some cases voluntary adoption of procurement laws is encouraged. A grey area which emerges from country practices concerns in-house procurement from unincorporated business units within general government. In a number of cases, in-house procurement is not subject to public procurement rules and competitive tendering may not be required. Some OECD countries have very specific rules establishing the situations in which in-house procurement is permitted and when such practices may be exempt from competitive tendering. Others report that all government bodies are treated the same in procurement processes regardless of whether transactions are intra- or extra- government.

In some countries, a specific set of rules are in force for SOEs. For example, in Denmark, SOEs are not permitted to participate in state-binding contracts to avoid the risk of neutrality issues. In others, specific guidelines regarding the treatment of SOEs in public tenders is required (Australia, Chile, Israel, Kazakhstan, Korea, Sweden), for example in Australia government businesses must declare that their tenders are compliant with competitive neutrality principles; whereas in Sweden abnormally low tenders can be excluded when they are a result of competitive advantages emanating from government ownership or support. In the United Kingdom specific consideration of the role of competition and consumer tools has been made to remedy distortions that may arise in managed competitions.

**Table 12. Procurement practices related to SOEs**

| Country | Public procurement laws/rules bearing on competitive neutrality apply to SOEs as bidders | Specific rules apply to SOEs as purchasers to avoid the risk of competitive neutrality issues | Exceptions for in-house procurement [25] |
|---|---|---|---|
| Australia | ● | | |
| Brazil | | ● | ● |
| Chile | ● | ● | |
| China | ● | | ● |
| Colombia | ● | | ● |
| Israel | ● | | ● |
| Kazakhstan | ● | | |
| Korea | | ● | ● |
| Mexico | | | ● |
| New Zealand | ● | ● | |
| Russian Fed. | ● | ● | |
| South Africa | ● | | |
| Switzerland | ● | | ● |
| Turkey | ● | | |
| EU and EEA countries [26] | ● | | |

Source: OECD, 2012b; OECD, 2013; and information subsequently provided by the national authorities.

[25] The cases where the country has an in-house procurement practice which is not subject to public procurement rules and competitive tendering may not be required.

[26] The bullet only concerns fully commercial SOEs. The list of countries who participated in this exercise include Austria, Denmark, Estonia, Finland, Greece, Hungary, Latvia, Lithuania, Norway, Poland, Slovak Republic, Spain, Sweden and the United Kingdom. As for SOEs with public policy objectives in these countries, specific rules apply to them as purchasers to avoid the risk of competitive neutrality issues.

## 2.2. Measures to ensure market consistency of debt and equity financing

Whether SOE financing comes from the state budget or the commercial marketplace, ensuring that it is offered on market consistent terms is crucial for maintaining a level playing field with private competitors. When coupled with adequately calibrated compensation for SOEs' public policy activities, market consistent financing for SOEs' economic activities helps minimise competitive advantages or disadvantages that could distort the level playing field with private competitors.

This note attempts to synthesise and compare what measures select countries are implementing to ensure that SOEs access debt and equity financing at market consistent conditions, and to highlight potential implications for the level playing field. It draws on self-reporting from 22 countries that participated in a 2014 study on SOE financing policies and practices.[27] It looks specifically at what measures the authorities in the examined countries are taking to ensure, or approximate, market consistent conditions in the following areas: general approach to capital structure efficiency; debt financing; equity financing from the state budget; direct state support (capital transfers); rate-of-return requirements; and dividend pay-out expectations. Table 13 provides a summary overview of national practices in all areas.

**Table 13. National practices towards SOE financing: An overview**

| General approach to capital structure efficiency | Country | State guarantees on commercial debt possible | Preferential terms on commercial debt considered likely | Mechanisms in place to neutralise cheap debt financing | Mechanisms in place to ensure market consistent state equity financing | Rate-of-return targets in place | Dividend guidelines or targets in place |
|---|---|---|---|---|---|---|---|
| Well-defined capital structure guidelines inform subsequent financing decisions | Australia | | | ● | ● | ● | ● |
| | Estonia | | ● | ● | ● | ● | |
| | Ireland | | ● | | | | ● |
| | Netherlands | ● | ● | | ● | ● | ● |
| | New Zealand | | | | ● | ● | ● |
| | Norway | | | | ● | ● | ● |
| | Sweden | | ● | | ● | ● | ● |
| | Switzerland | | | ● | | ● | ● |
| | United Kingdom | | | ● | | ● | ● |
| Financial targets established in some cases | Canada | ● | ● | | | ● | |
| | Chile | ● | ● | | | ● | |
| | Israel | ● | ● | | | | ● |
| | Latvia | ● | | | ● | | ● |
| | Lithuania | | | | | ● | ● |
| | Poland | ● | | | | | ● |
| | Slovenia | ● | | | | | ● |
| | Korea | ● | | | | ● | |
| Financial decisions made on a case-by-case basis | Germany | ● | | | | | |
| | Italy | | ● | | | | |
| | Japan | ● | | | | | |
| | Greece | ● | | | | | |

Source: OECD, 2012b; OECD, 2013; and information subsequently provided by the national authorities.

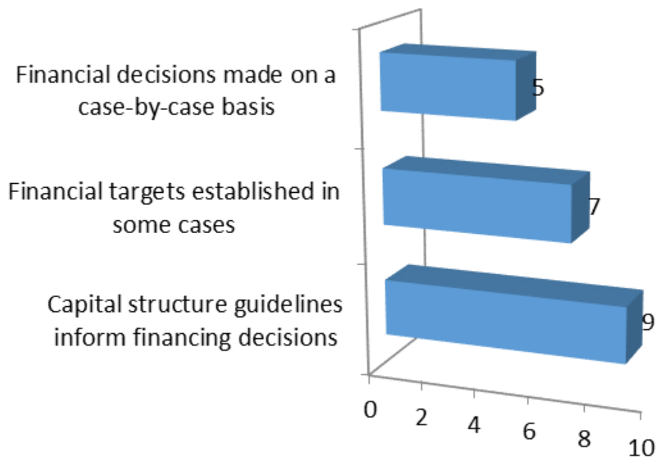
[27] See: OECD (2014a), Financing State-Owned Enterprises: An Overview of National Practices, OECD, Paris.

### *General approach to capital structure efficiency*

*Most countries either base SOE financing decisions on broad guidelines concerning capital structure efficiency, or establish financial performance targets for at least some aspects of SOEs' operations.*

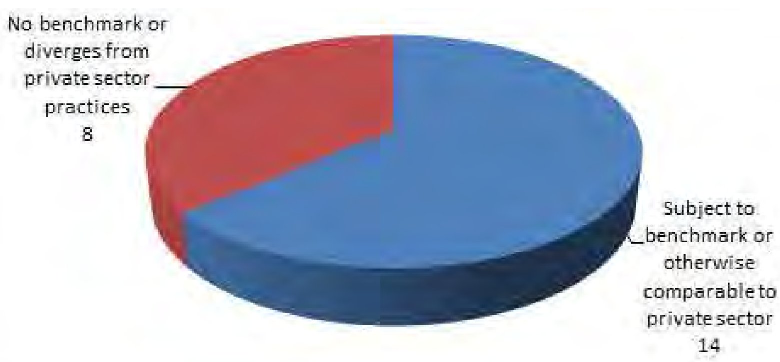
As elaborated in further detail in the following sections, the authorities in most countries surveyed have either established broad capital structure efficiency guidelines to inform SOE financing decisions (nine countries), or have established more specific financial targets such as rate-of-return expectations or dividend guidelines (an additional seven countries) (Figure 16). In five countries (Australia, Ireland for large SOEs, the Netherlands, Sweden and Switzerland) the authorities communicate explicit guidelines for developing an optimal capital structure for SOEs – often in the form of an investment grade credit rating – which then provides the basis for all subsequent decisions affecting SOEs' capital structure. Fourteen countries either benchmark SOEs' capital structure with private sector peers, or report that in practice SOEs' capital structure is comparable with that of private sector peers (Figure 17).

**Figure 16. Basis for SOE financing decisions**




Source: OECD (2014b)

**Figure 17. Is the capital structure of SOEs benchmarked against the private sector?**




Source: OECD (2014b)

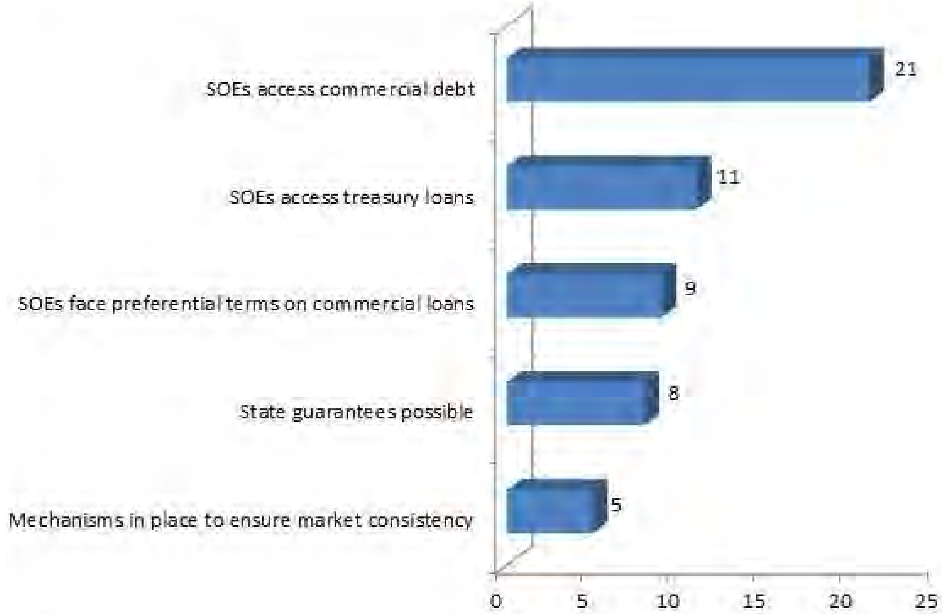
### *Debt financing*

*In most countries, SOEs access debt financing from the marketplace. Very few countries have established mechanisms to ensure market consistency of financing terms, or to neutralise preferential financing.*

In the large majority of countries, SOEs can access debt financing from the commercial marketplace (21 countries, Figure 18). In about half of those countries, SOEs can also access debt financing from the state treasury, but this is usually only applicable to individual SOEs or to a subset of SOEs, and subject to certain conditions. The United Kingdom is the only country where commercial debt financing is rare, and most SOEs obtain loans directly from the state treasury, either via the National Loan Fund or from the relevant shareholding ministries (with loan terms being agreed with the state treasury). One SOE in Germany, Deutsche Bahn, is able to access state treasury loans free of interest.

Several countries report that SOEs are likely to face advantageous loan conditions given that commercial lenders may perceive a lower associated risk (eight countries). Similarly, several countries allow for state guarantees on SOEs' commercial debt (eight countries). Very few countries have established mechanisms to "neutralise" any actual or potential preferential terms on SOE debt financing. Five countries (Australia, Estonia, Hungary, the United Kingdom and Switzerland) take measures to approximate market conditions for interest on loans from the state treasury. Australia is the only country where such measures also apply to loans accessed on the commercial marketplace. Australian SOEs are required to pay a debt neutrality charge to the national treasury if, based on an independent credit rating, it is found than an SOE pays lower-than-market rates on its debt.

**Figure 18. Sources and conditions of SOE debt financing**



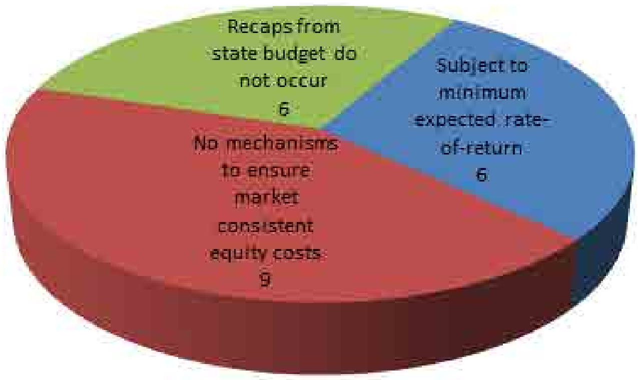

Source: OECD (2014b)

### *Equity financing from the state budget*

*Recapitalisations from the state budget are a common form of SOE financing. Very few countries have established mechanisms to ensure that related costs are market consistent.*

In most countries, recapitalisations from the state budget – equity capital injections in exchange for increased shares – are a commonly occurring means of SOE financing. As shown in Figure 19, among the 15 countries with recent cases of SOE recapitalisations, six subjects state capital injections to a minimum expected rate-of-return on investment (Australia, Estonia, Hungary, New Zealand, Norway and Sweden). The remaining nine have not established mechanisms to ensure that the cost of capital is market consistent. Six countries have no recent SOE recapitalisation history on which to characterise related conditions.

**Figure 19. What are the conditions for state equity injections?**




Source: OECD (2014b)

### *Direct state support*

*In most countries, direct state support for SOEs occurs and is nearly always provided in compensation for public service obligations or other public policy objectives. Ensuring that compensation is calibrated to the cost of fulfilling public policy objectives appears to be a challenge to the level playing field.*

The large majority of countries surveyed allow for direct state support to be provided to SOEs, generally in the form of capital transfers (19 countries). (Direct state support differs from the state equity injections discussed above in that it is not offered in exchange for increased share capital.) With the exception of two countries (Israel and Japan), direct state support is provided primarily to compensate SOEs for public service obligations. Two countries report that state support is either rare for commercial SOEs or is only provided in exceptional cases (United Kingdom and Israel, respectively). Three countries do not provide direct state support to SOEs (Slovenia, Czech Republic and Finland).

Countries in the European Union are prohibited from providing state support to SOEs that could distort competition. EU rules allow state support in compensation for the discharge of public service obligations under certain conditions, notably provided that the procedures for calculating compensation are determined in advance and that the level of compensation does not exceed the cost of delivering the public service.

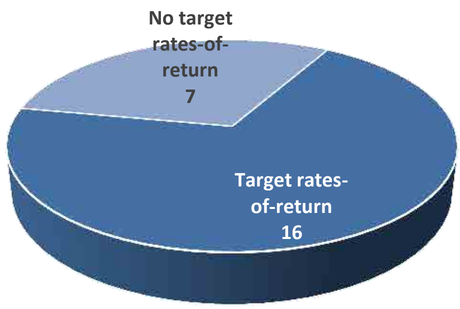
In at least one country (Lithuania), SOEs are compensated for the achievement of public policy objectives via lower overall rate-of-return requirements. This stems from the fact that SOEs' economic and public policy activities are not structurally separated and accounted for, making it difficult to apply market consistent rates-of-return purely to SOEs' economic activities.

***Rate-of-return requirements***

*Most countries have established rate-of-return requirements for SOEs. Four countries have established mechanisms to align return targets with those achieved by competing private enterprises.*

In the majority of countries surveyed, SOEs are subject to target rates-of-return on equity, either established by the state as shareholder or elaborated by individual SOE boards (15 jurisdictions, Figure 20). In six countries, the state ownership body and SOE boards communicate specific details on how to identify the cost of capital used as the basis for calculating rate-of-return targets, using sector-specific benchmarks (Estonia, Kazakhstan, Lithuania, Netherlands, New Zealand and Sweden). Among the seven countries where SOEs are not subject to explicit rate-of-return requirements, two indirectly establish return targets, or at least influence returns, through tariff or pricing regulations in certain industries (Ireland and Israel).

**Figure 20. Are SOEs subject to rate-of-return targets?**




Source: OECD (2014b) and information subsequently provided by the national authorities.

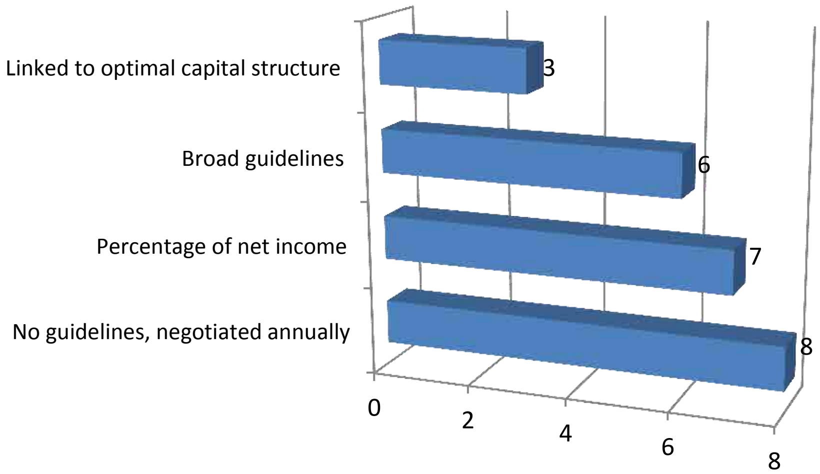
***Dividend pay-out expectations***

*Many countries have established guidelines to align dividend pay-out levels with private sector practices. In about half of countries, dividends are negotiated annually and not subject to guidelines.*

The majority of countries surveyed establish some form of dividend guideline or target (Figure 21). This is expressed as either (1) broad guidelines identifying the factors that should be taken into account when establishing dividend levels (six countries); (2) an explicit percentage of net income (seven countries); or (3) the level of dividends required to maintain an optimal capital structure, as measured by the achievement of a target credit rating (three countries). This latter practice – implemented by Australia, New Zealand and Sweden – would presumably result in dividend levels most consistent with private sector practices.

Eight countries have no dividend guidelines or targets in place, and dividends are negotiated annually between SOE boards and the state shareholder. This arguably introduces the risk that dividend levels be influenced by temporary fiscal needs, rather than by commercial profitability, future investment plans and capital structure optimisation.

**Figure 21. How are dividend pay-outs determined?**




Source: OECD (2014b) and information subsequently provided by the national governments.

## CHAPTER 3: SOE BOARDS OF DIRECTORS

*The overall directions of the SOE Guidelines imply that boards play a central function in the governance of SOEs. The board carries ultimate responsibility, including through its fiduciary duty, for SOE performance. In this capacity, the board acts essentially as an intermediary between the state as a shareholder, and the company and its executive management. With the widespread "commercialisation" of SOEs in recent decades, governments have made efforts to professionalize boards of directors and to give boards greater powers and autonomy. This chapter highlights national practices regarding the nomination, responsibilities, capacity, and evaluation of SOE boards of directors (section 3.1), including their responsibility vis-à-vis managing SOEs' exposure to risk (section 3.2).*

## 3.1 Boards of directors of state-owned enterprises: an overview of national practices

Boards of directors play a fundamental role in company stewardship and performance, in determining corporate strategies and monitoring managerial performance. This role is no less important in state-owned enterprises than in private companies. The board carries the ultimate responsibility, including through its fiduciary duty,[28] for SOE performance. It acts as the intermediary between the State, as the Shareholder, and the executive management/company, and it has a duty to act in the interests of both.

With the widespread "commercialisation" of SOEs in recent decades, governments have made efforts to professionalize boards of directors and to give boards greater powers and autonomy. This note provides a brief overview of areas where "good practice" is developing vis-à-vis SOE boards of directors, using as a benchmark the OECD Guidelines for Corporate Governance of State-Owned Enterprises ("SOE Guidelines"). The analysis here is limited to practices related to non-executive directors in commercially oriented, non-listed SOEs.[29] For jurisdictions with a two-tier board structure, the focus is on supervisory board members. The information included in this summary draws upon self-reporting from 30 jurisdictions that participated in a 2013 study on SOE board practices[30] and subsequent submissions by individual countries.

### *Board nominations*

The right to nominate members to SOE boards is almost invariably exercised by the relevant minister, or through some form of inter-ministerial process. The processes applied by governments to nominate SOE board members are influenced by the degree to which the state has centralized its enterprise ownership function, as well by the size of the state's ownership stake in an SOE (See Figure 22 and Table 14).

In jurisdictions where the state enterprise ownership function is centralized – for example via a dedicated state enterprise ownership agency, such as in Chile or Slovenia – one minister may be in charge of the ownership function, including nominating members to SOE boards. In a number of countries, the responsibility for board nominations is shared between the agency exercising the state enterprise ownership function and sectorial ministries. To varying degrees, this is the practice pursued in Brazil, Estonia, Latvia and Turkey. Where ownership is more decentralized, line ministries are more often responsible for nominations, though parts of the general government responsible for public finance may retain the right to appoint one or more representatives to the board. In these cases, it is good practice to subject ministerial decisions concerning board nominations to some form of consensus by a wider group of ministers, the Cabinet or Head of State. This is the practice, for example, in Sweden.

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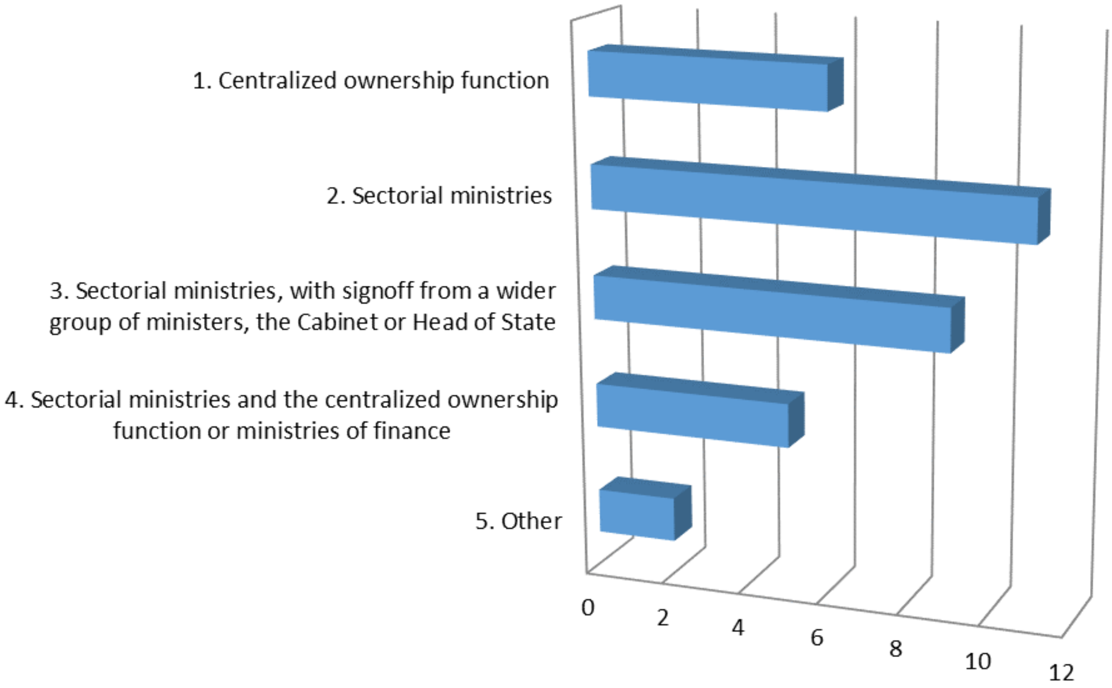
28 Fiduciary duty is commonly defined as a combination of duties of care and loyalty. According to annotations to the OECD Principles for Corporate Governance, the duty of care requires board members to act on a fully informed basis, in good faith, with due diligence and care.

29 For the purposes of this summary, "non-executive director" is interpreted widely and can include any ex-officio directors, and directors for the State.

30 See: OECD (2013), *Boards of Directors of State-Owned Enterprises: An Overview of National Practices,* OECD Publishing. Participating jurisdictions included: Australia, Austria, Belgium, Brazil, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Israel, Italy, Korea, Latvia, Lithuania, Malaysia, Mexico, New Zealand, Norway, Pakistan, Poland, Portugal, Slovenia, Sweden, Switzerland, Turkey, and the United Kingdom.

**Figure 22. Who is responsible for nominating members to SOE boards?[31]**




*Source*: OECD (2013)

The decision to nominate members to SOE boards should be supported by transparent and consistent methods for nominating candidates to the board. These methods, which according to the SOE Guidelines should involve the sitting SOE board as well as non-state shareholders (where they exist), can include:

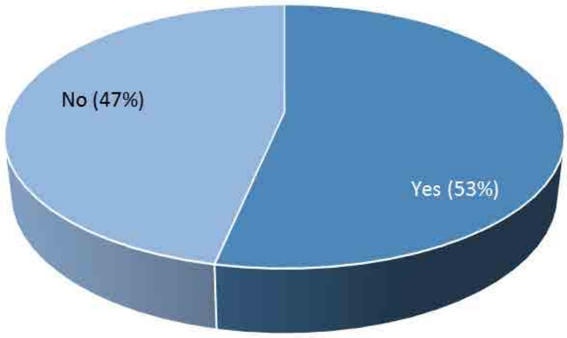
- *Setting clear minimum criteria for board nominations.* Roughly half of countries participating in this exercise reported they had established minimum qualification criteria for board members. (See Figure 23.) These criteria commonly relate to candidates' education and professional backgrounds and are developed in order to improve board composition and to bring uniformity to the assessment process. For example, in Canada, there is a formal process requiring SOE boards to establish a board profile to identify potential directors for appointment. In France, the ownership function managers a "directors' pool" of candidates pre-selected according to a formal evaluation. In Israel, board appointments are subject to the approval of a Committee, which confirms whether candidates meet the minimum board member criteria set forth by law. Also the Government Companies Authority (GCA) leads board members recruitment process[32]. In Portugal, board candidates are vetted according to specific criteria by the Committee on Recruitment and Selection for Public Administration. Beyond these formal minimum requirements, it is good practice for "professional" boards to

31 Some jurisdictions may apply more than one approach to board nominations, depending on the type of SOE. This is the case, for example, in Canada and Italy.

32 It is a public process to identify professional and qualified candidates for boards of government companies.

take a tailored approach to identifying the right mix of skills, experience and personal characteristics, when looking to fill a vacancy on the board.

**Figure 23. Are minimum board member qualification criteria established?**




*Source*: OECD (2013)

- *Informally vetting or advising on ministerial board nominations.* In jurisdictions with a centralized ownership function, the centralized ownership unit can serve as a kind of clearing house for applications to SOE boards. To varying degrees, this is the practice, for example, in Australia and the United Kingdom, where coordinating agencies advise ministers and/or make recommendations on possible board candidates. In New Zealand, the coordinating agency develops long and short lists of potential candidates for nominating ministers, conducts due diligence and background checks, and even provides board induction training.

- *Establishing nomination committees.* In some jurisdictions, at least some large SOEs will follow private sector practice and establish external nomination committees attached to their annual general meeting of shareholders (AGM), which ultimately has the right to appoint the board. In Norway, nominations to the boards of listed SOEs are made via nomination committees made up of representatives from the State and non-state shareholders. Sweden has the same process as Norway for listed SOEs while there is a formal process for non-listed companies. In Latvia, nomination committee should be established to decide on a detailed criteria and evaluation procedure, conduct evaluation of candidates and nominate candidates for election. Also, specific requirements for potential participants in nomination committees are set up by the government regulation.

**Table 14. Board nomination: Formal responsibility**

| | Formal nomination power | Parliamentary approval | Accreditation or vetting across government | Ownership entity involvement | Board appoints CEO |
|---|---|---|---|---|---|
| **Argentina** | Shareholding Ministry | | | | |
| **Australia** | | | | | Yes |
| **Austria** | Shareholding Ministry | | | Yes | Yes |
| **Belgium** | Royal Decree | | Yes | | No (Gov't)* |
| **Brazil** | President | | Yes | | |
| **Canada** | Governor in Council/Minister | | | | No (Gov't)* |
| **Chile** | | | | Yes | |
| **China** | | | | Yes | |
| **Colombia** | Split | | | | |
| **Costa Rica** | Government Council (Executive and Cabinet) | | | | |
| **Czech Republic** | Prime Minister/Split | | | | Yes* |
| **Denmark** | Shareholding Ministry | | Yes | | Yes* |
| **Estonia** | Split | | | | |
| **Finland** | | | | Yes | Yes |
| **France** | Shareholding Ministry | | | Yes | |
| **Germany** | Shareholding Ministry | | | | Yes* |
| **Greece** | Shareholding Ministry/ Line Ministries | Yes (for a few selected SOEs) | | Yes (for SOEs under its portfolio) | Yes |
| **Hungary** | Organisations exercising ownership rights | No | No | Yes | No (Organisations exercising ownership rights) |
| **Israel** | Split | Yes | | Yes | Yes |
| **Italy** | Split | | | | No (Gov't)* |
| **Japan** | | | | | Yes (Gov't approval) |
| **Korea** | Ministry of Strategy and Finance | | | Yes | No (Gov't) |
| **Latvia** | Shareholding Ministry based on recommendation of nomination committee | | | Yes | Yes |
| **Lithuania** | Shareholding Ministry | | Yes | Yes | |
| **Mexico** | Shareholding Ministry | Yes (for a few selected SOEs) | | | No (President or Line Minister) |
| **Netherlands** | Shareholding ministry | No | No | Yes | No |
| **New Zealand** | Shareholding Minister | | Yes | Yes | Yes |
| **Norway** | Shareholding Minister | No | No | Yes | Yes |

| | Formal nomination power | Parliamentary approval | Accreditation or vetting across government | Ownership entity involvement | Board appoints CEO |
|---|---|---|---|---|---|
| **Poland** | Shareholding Minister | | | | Yes |
| **Portugal** | Split | | Yes | | |
| **Russian Fed.** | | | | Yes | |
| **Slovak Republic** | | | | | No (Gov't) |
| **Slovenia** | | | | Yes | |
| **Spain** | Split | | | Yes | Yes (Gov't proposal) |
| **Sweden** | Shareholding Minister | No | Yes | Yes | Yes |
| **Switzerland** | Federal Council | | | | Yes |
| **Turkey** | Split | | Yes | | No (line minister) |
| **United Kingdom** | Secretary of State | | | Yes | No (Gov't)* |

Source: Authors and information subsequently provided by the national authorities in 2016. *information from 2005.

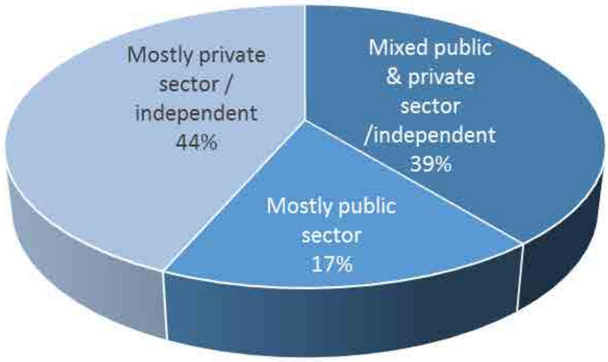
### *Board composition and size*

According to the SOE Guidelines, SOE boards of directors should be composed so that they can exercise professional, objective and independent[33] judgment. SOEs must strike a sometimes-delicate balance when choosing directors, so that the board can effectively steer the SOE toward meeting the interests of both the enterprise and its shareholder. This includes, for example, deciding whether or how many representatives from the State to include on the board, as well as the types of skills, experience and characteristics directors should have (See Table 15).

A number of OECD countries have a mix of directors representing the state and "independent" directors sitting on their SOE boards (See Figure 24). State representation on the board is often justified in cases where SOEs are charged with important public policy objectives. To avoid undue state influence on the board, some jurisdictions employ measures to limit the number of public servants serving on SOE boards, such as quotas for public servants (like in Finland), or explicit exceptions for when representatives from the state enterprise ownership function can be appointed to the board (such as in Australia and Sweden). There is growing consensus that, under no circumstances, should ministers, state secretaries, or other direct representatives of, or parties closely related to, the executive power be represented on SOE boards.

33 Board "independence" should not be confused with "independent" directors. An independent and objective board is one that operates under a legal framework, which is subject to public governance and that is designed based on board profiles. Independent directors (subject to national definitions) are individuals who are not directly representing any particular stakeholder interest in the company, but who are sought to bring certain skills and competencies to the board.

**Figure 24. Board composition: Mostly public sector, mostly private sector, or a mix of both?**




*Source*: OECD (2013)

To strengthen SOE boards' independence and professionalism, some countries impose set terms (usually three to five years) for directorships. In addition, large and/or commercially oriented SOEs may also be required to appoint a certain number of independent directors to the board, in compliance with the same or similar rules for private companies. For example, in the United Kingdom, the Combined Code on Corporate Governance – which applies to both private and state-owned companies – requires a majority of independent directors on boards. Similar rules also apply in Austria, Denmark, Finland, Germany, Kazakhstan, Korea, Latvia, the Netherlands, New Zealand, Norway, and Sweden. In Latvia, government regulation requires that half of directors are independent ones. In Korea, independent directors in the listed SOEs with more than USD 1.8 billion (2 trillion won) should represent the majority of the (non-executive) directors. In other listed SOEs whose asset size does not exceed USD 1.8 billion, more than one fourth of the total number of directors should be independent ones. In all cases other than the selection of candidates from the state enterprise ownership function, relevant commercial or financial expertise is essential.

It is considered good practice to strive toward gender diversity in board composition. Encouraging measures such as disclosure requirements, voluntary targets and initiatives that enhance gender diversity on boards and in senior management of listed companies and considering the costs and benefits of other approaches such as boardroom quotas are also important. A majority of the surveyed countries have indicative rules guiding gender diversity but they are not yet binding. Moreover, to ensure transparency regarding principles guiding SOE board composition, a majority of the surveyed countries have formal legal arrangements (including through legal provisions or corporate bylaws) that safeguard employee representation (see table 16). For example, in Sweden, the employees (usually through their unions) have the right to appoint two members of the board if the company has at least 25 employees. If the company has more than 1000 employees they can appoint three members. The number of employee members should not be more than 50% of the total. The employees can appoint alternates as well.

Determining the ideal board size is also important to ensuring a well-functioning, effective and professional board. Board size depends on a myriad of factors, including an SOE's size, risk profile, and areas of operation, which means there is no one-size-fits-all approach for determining board size in the public sector. That said, boards of SOEs operating in OECD economies generally have between five and eight members (see Table 15).

**Table 15. Practices on board size**

| Country | Maximum size | Minimum |
|---|---|---|
| Austria | 20 | 3 |
| Brazil | 6 | - |
| Canada | 12 | 9 |
| Chile | 7 | 3 |
| Denmark | - | 3 |
| Finland | 10 | 3 |
| France | 18 | 9 |
| Greece | 7 | - |
| Hungary[1] | 7 | 3 |
| Israel | 12 | 5 |
| Italy | 5 | 3 |
| Kazakhstan | - | 3 |
| Korea | 15 | - |
| Latvia | 5 | 3 |
| Lithuania | 15 | 3 |
| Mexico | 15 | 5 |
| Netherlands | 9 | 3 |
| New Zealand | 9 | 2 |
| Norway | - | 1 |
| Poland | - | 3-5 |
| Portugal[1] | - | - |
| Slovenia | - | 3 |
| Spain | 15 | - |
| Sweden | 9 | 3 |
| Switzerland | 10 | 5 |
| Turkey | - | 6 |
| United Kingdom[1] | - | - |

1. Formal rules apply to individual SOEs.

*Source*: OECD (2013) and information subsequently provided by the national authorities.

**Table 16. Board composition and efficiency**

| | Independent directors (min/max) | State representatives on boards | Employee represent -atives on boards | Maximum board appoint- ments | Rules guiding board diversity | |
|---|---|---|---|---|---|---|
| | | | | | Binding | Indicative |
| **Argentina** | | | Yes | | | |
| **Australia** | Yes (Full board) | No* | No | | | |
| **Austria** | Yes (almost all) | Yes (proportional to ownership) | Yes (one-third) | 10 | | Only for SOEs. Currently, 25 % female quota. 35 % for supervisory boards by 2018. |
| **Belgium** | Yes | Yes | No | | 33% female quota | |
| **Brazil** | | Yes (majority) | | | | |
| **Canada** | Yes | Yes | No* | | Gender diversity and ethnic minorities quota | |
| **Chile** | | | | 5 | | 40 % female quota |
| **Colombia** | Yes (min. 25 per cent) | | | | | |
| **Costa Rica** | | | | | Quota (for state-appointees) | |
| **Czech Republic** | Yes (majority) | Yes (proportional to ownership) | Yes (one-third) | | | |
| **Denmark** | Yes (almost all) | No* | Yes (one-third) | | | Equal gender balance encouraged |
| **Estonia** | | | No | 4 | | |
| **Finland** | Yes (almost all) | Yes (Up to 2) | Yes (minimum one fifth) | | | 40 % female/male quota encouraged |
| **France** | Yes (one-third)* | Yes (one-third)* | Yes (one-third) | | 40 % female quota | |
| **Germany** | Yes (almost all) | Yes (Up to 2) | Yes (one-third, up to half) | | 30% female quota | |
| **Greece** | Yes (min. 2) | Yes | Yes (1 member) | | female quota (only state participants) | |
| **Hungary** | Yes | Yes | Yes | 7 (depending on company | None | None |

| | Independent directors (min/max) | State representatives on boards | Employee represent -atives on boards | Maximum board appoint-ments | Rules guiding board diversity | |
|---|---|---|---|---|---|---|
| | | | | | Binding | Indicative |
| | | | | type) | | |
| **Iceland** | | | No | | 40 % female/ male quota | |
| **Ireland** | | | Yes (one-third) | | | 40 % female participation on all state boards encouraged |
| **Israel** | | Yes | Yes | | Ethnic minority representation encouraged. Equal representation of women and men. | |
| **Italy** | | No* (observer, no voting rights) | No | | 33% female quota | |
| **Japan** | | No* | No* | | | |
| **Korea** | Yes (more than a half of the directors should be independent directors in public corporations and quasi-governmental institutions of which asset size exceeds USD 1.8 billion) | No | No | | | |
| **Latvia** | Yes (half) | Not forbidden | No | | No specific requirements | No specific requirements |
| **Lithuania** | | | No | | | |
| **Luxembourg** | | | Yes (one-third) | | | Appropriate representatio-n of both genders encouraged |
| **Mexico** | Yes | Yes (majority) | Yes (for a few selected SOEs) | | | |
| **Netherlands** | Yes | No* | Yes (one-third)* | No | | Voluntary target of 30 % female quota |

| | Independent directors (min/max) | State representatives on boards | Employee represent -atives on boards | Maximum board appoint-ments | Rules guiding board diversity | |
|---|---|---|---|---|---|---|
| | | | | | Binding | Indicative |
| **New Zealand** | Yes (almost all)* | No | No* | | Ethnic minority representation (preference) | |
| **Norway** | Yes ( majority) | No* | Yes (up to one-third) | No | Gender-balanced representation (approximately 40% of each gender) | |
| **Poland** | Yes | Yes | Yes (2-4 members & up to 2/5) | | | Balanced participation of women and men encouraged |
| **Portugal** | | | Yes (law not implemented) | | | 30% female quota encouraged |
| **Slovak Republic** | Yes (majority) | Yes* (proportional to ownership) | Yes (half)* | | No specific requirements | No specific requirements |
| **Slovenia** | | | Yes (1/4 up to ½) | | Female quota (state appointees) | 40% representation of each gender encouraged |
| **Spain** | 50% target | Yes | Yes (2-3 members) | | | Gender balance encouraged |
| **Sweden** | Yes (90 per cent) | No. Only Investment directors and no other government officials are on boards. | Yes (2 members, up to half) | No | Gender balance (40% target) | |
| **Switzerland** | Yes | Yes | | | No (language preference) | |
| **Turkey** | No*[34] | Yes | No | | No specific requirements | No specific requirements |
| **United Kingdom** | Yes (majority) | Yes (one non-Exec.) | No | | | 25% female quota for listed companies |
| **United States** | | | No* | | | |

[34] According to the Capital Market Law (Law Nr:6362), appointment of independent board members to boards of publicly-traded SOEs is compulsory.

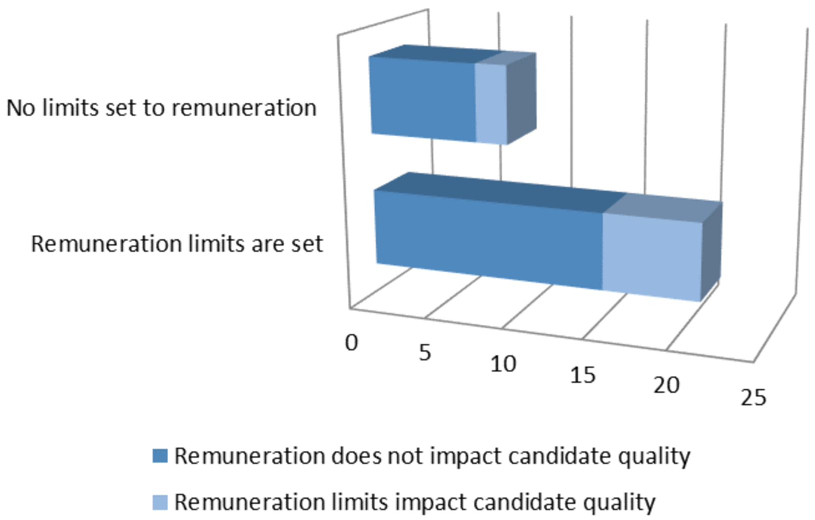
Source: Authors; Gender balance on corporate boards, European Commission, 2015, http://ec.europa.eu/justice/gender-equality/files/womenonboards/factsheet_women_on_boards_web_2015-10_en.pdf; Workers' voice in corporate governance – A European perspective, Economic Report Series, TUC, 2013 https://www.tuc.org.uk/sites/default/files/workers-voice-in-corporate-governance_0.pdf ; and information subsequently provided by the national authorities in 2016. *information from 2005

### *Board training and remuneration*

To enhance SOE board professionalism and performance, the SOE Guidelines include specific recommendations on director training and remuneration. On the former, the Guidelines recommend that directors, once appointed, receive a minimum level of training (i.e., induction training), in order to inform SOE board members of their responsibilities and liabilities. Induction sessions should take place within the first month of appointment and always before the first board meeting. New Zealand's Commercial Operations Group, for example, organises inductions for both new and recurrent directors. A smaller number of jurisdictions complement their induction sessions by encouraging on-going professional development for individual directors or on a board-wide basis. These trainings focus on thematic areas where supplementary training is needed, for example on accounting standards, tax codes, or laws, regulations and other areas of relevance. Israel's Government Companies Authority (GCA) develops professional trainings for SOE's board members who are appointed by the state of Israel. The programs consist of induction for new directors, training on financial statements as well as human resources management.

Remuneration schemes for SOE boards should also reflect market conditions to the extent that this is necessary to attract and retain qualified directors. In practice, however, remuneration for SOE boards in a majority of OECD countries falls below market levels. This is because, in deciding on board remuneration, governments generally wish to avoid public controversy over excessive pay in the public sector. For example, the Czech Republic, Finland, Latvia, Norway and Spain have in recent years imposed some limits and restrictions on the remuneration and employment conditions of SOE directors and executives. In Sweden, the owner proposes and decides on remuneration for directors at the AGM and there is a strong will to keep the director pay below market level. Of the jurisdictions participating in this exercise, 70% had set some kind statutory or policy limits on remuneration for SOE boards. Nearly a third of these (29%) said that, at least anecdotally, remuneration levels impacted candidate quality, for better and for worse (See Figure 25.).

**Figure 25. Remuneration levels and their impact on candidate quality**




*Source*: OECD (2013) and information subsequently provided by the national authorities.

*Board evaluations*

Governments are increasingly encouraging board evaluations – a long-time and commonplace practice in private companies – as a way of maximising board performance and minimising risk. Board evaluations help form a clearer view of the board's overall functioning, the desirable attributes that the board should possess and, in so doing, helps identify any needs that could be addressed through future nominations.

Evaluation practices vary from informal evaluations conducted by the Chair, to formal self-evaluations, to formal evaluations conducted by external experts and facilitators (See Table 17). Evaluations may concern individual directors and/or boards as a whole. For example, Brazil's Ministry of Planning requires SOE boards to conduct annual self-evaluations based on a detailed questionnaire and to share the results of the self-evaluation with the Ministry. Chile's ownership agency coordinates the performance reviews for all SOE boards of directors, but outsources much of the evaluation work to corporate governance centres. In Israel, in 2015, the GCA developed a structured process of board evaluation including a system for self-evaluations. The evaluation focuses on the board as a group as well as individual directors. In Poland, the Ministry of Treasury periodically evaluates supervisory boards of enterprises within the ministry's portfolio, based on documentation prepared by the boards of directors and submitted to the Ministry. As for the SOEs with public policy objectives which are under the supervision of sectoral Ministries, an evaluation is made by the appropriate Ministry. SOE boards in Switzerland are evaluated against strategic goals that are set every four years. SOE boards are assessed as a whole, and feedback is provided to the Chair. Whatever the practice, board evaluations should focus on performance of the board as an entity and should not be limited to "box-ticking" exercises.

**Table 17. Board evaluations**

| | Top-down evaluation by ownership function | Have formal requirements to process and procedures been established? | Self-evaluation of performance by the board (formal/informal) | Are external facilitators involved? | Do the results of the evaluation process play a role in board nominations? |
|---|---|---|---|---|---|
| **Argentina** | No | No | Formal (Listed only) | No | |
| **Australia** | Ad hoc* | | | | |
| **Austria** | No | No | | No | |
| **Belgium** | No | No | Formal | No | |
| **Brazil** | No | Yes(survey) | Formal | No | No |
| **Canada** | Ad hoc | Yes (non-binding guidelines) | Informal | No | Yes (informally) |
| **Chile** | Yes (annual) | Yes (survey) | Formal | Yes | Yes |
| **Colombia** | | | Formal (Listed only) | | No (with exceptions) |
| **Costa Rica** | No | | No | | |
| **Czech Republic** | Ad hoc | Yes | Formal | Yes | Yes |
| **Denmark** | No | Ad hoc (survey) | Formal or Informal | No | Yes |
| **Estonia** | No | | Formal (Listed only) | | Yes |
| **Finland** | No | Yes | Formal or informal | Yes | No |
| **Greece** | No | Yes (Audit Committee, Executive board members) | Formal (Listed only) | | No |
| **Hungary** | Yes (annual) | No | No | No | Yes |
| **Israel** | | Yes | Yes | | No |
| **Kazakhstan** | Yes | Yes | | No | |
| **Korea** | No | | | | Yes (informally) |
| **Latvia** | Yes | No | Formal | No | |
| **Lithuania** | | | Formal | | Yes (informally) |
| **Mexico** | No (with exceptions) | Yes ( a few companies) | No | Yes | No |
| **Netherlands** | Yes | Yes | Yes | Yes | Yes |
| **New Zealand** | No | No | Formal | | Yes |
| **Norway** | Yes | Yes | Informal | No | Yes |
| **Poland** | Periodic | | No | | Yes (informally) |

| | Top-down evaluation by ownership function | Have formal requirements to process and procedures been established? | Self-evaluation of performance by the board (formal/informal) | Are external facilitators involved? | Do the results of the evaluation process play a role in board nominations? |
|---|---|---|---|---|---|
| **Portugal** | No | No | Formal | No | Yes |
| **Russian Fed.** | | | Formal (Listed only) | | |
| **Slovenia** | No | Yes (Manual) | Formal | No | Yes |
| **Sweden** | Yes (annual) | Yes | Formal | Yes (regularly in most companies) | Yes (informally, chair talks to owner) |
| **Switzerland** | Yes | No | Informal | No | Yes (informally) |
| **Turkey** | No | No | No | No | No |
| **United Kingdom** | Ad hoc | No | Informal | Yes (as necessary) | Yes (informally) |

Source: Information provided by the national authorities.*information from 2005

### 3.2 Risk management by SOEs and their ownership

Risk taking is integral to SOEs' activities and, as far as their economic activities conducted in the marketplace are concerned, are equivalent to the actions of private companies. However, SOEs may be more willing to take more risk than their privately owned competitors, who are subject to two disciplining factors that are weaker or not applicable to SOEs: the risks of bankruptcy or hostile takeovers. In addition, public ownership may raise additional concerns about the degree of oversight, at the level of general government, over the actual and contingent liabilities vis-à-vis corporate risk management practices.

Effective implementation of the OECD Guidelines on Corporate Governance of State-Owned Enterprises should ensure that risks are understood, managed, and, when appropriate, communicated. This note identifies practices employed by SOEs and their owners to prevent excessive risk-taking by SOEs in the broader context of their normal business operations. It draws upon self-reporting from 32 jurisdictions that participated in a 2016 study on risk management by SOEs and their ownership[35] as well as the national governments who have contributed their updated information.

35. See: OECD (2016d), *Risk Management by SOEs and Their Ownership*, OECD Publishing. Participating jurisdictions included: Argentina, Austria, Brazil, Chile, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Japan, Kazakhstan, Latvia, Lithuania, Mexico, Netherlands, New Zealand, Norway, Poland, Philippines, the People's Republic of China (hereinafter "China"), Portugal, Slovenia, Spain, Sweden, Switzerland, Turkey and the United Kingdom.

**Table 18. Overview: Risk management practices by SOEs and their owners**

| | *Legal and regulatory framework* | | *Risk management (RM) at the level of the SOE* | | | *RM at the level of the state* | | | |
|---|---|---|---|---|---|---|---|---|---|
| *Country* | At least large SOEs must apply same RM rules as listed companies | SOEs subject to specific RM rules[1] | Board required to establish specialized committee to oversee RM[2] | Board required to establish & oversee RM system[2] | Specialised risk staff required | Ownership function reviews RM systems | State audit conducts audits of SOEs | Audits review RM systems | Ownership entity audited for super-vision of SOE RM |
| Argentina | | ● | ○ | ● | | ● | ○ | | |
| Austria | | ● | | | | ● | ○ | ● | |
| Brazil | | (Forth-coming) | (Forth-coming) | ● | | ● | ○ | | |
| Chile | ○ | ● | ○ | | | | | | |
| China | | ● | | | | | | | |
| Czech Rep. | | | | | | ● | | | |
| Denmark | | | ○ | ● | | ● | | ● | ○ |
| Finland | | | | | | ● | ○ | ● | |
| France | | | ○ | | | | ○ | ● | ○ |
| Germany | | ● | ○ | ● | ○ | | | | |
| Hungary | | ● | | | | ● | ○ | ● | ○ |
| Iceland | | ● | | | | | ○ | | |
| Ireland | | ● | | ● | ○ | ● | | | |
| Israel | | ● | ○ | ● | ○ | ● | | | |
| Japan | | | | | | ● | ○ | ● | ○ |
| Kazakhstan | | ● | ○ | ● | ○ | | | | |
| Korea | | ● | | | | ● | ○ | ● | |
| Latvia | | ● | | ● | | ● | ○ | ● | ○ |
| Lithuania | | ● | ○ | | | ● | ○ | ● | |
| Mexico | | ● | ○ | ● | | ● | ○ | ● | |
| Nether-lands | ○ | | ○ | ● | | ● | ○ | ● | |
| New Zealand | | ● | | | | ● | | | ○ |
| Norway | ○ | | | ● | ○ | ● | ○ | | ○ |
| Philippines | | ● | ○ | ● | ○ | ● | ○ | ● | |
| Poland | | ● | | | | ● | | | ○ |

| | *Legal and regulatory framework* | | *Risk management (RM) at the level of the SOE* | | | *RM at the level of the state* | | | |
|---|---|---|---|---|---|---|---|---|---|
| ***Country*** | **At least large SOEs must apply same RM rules as listed companies** | **SOEs subject to specific RM rules**[1] | **Board required to establish specialized committee to oversee RM**[2] | **Board required to establish & oversee RM system**[2] | **Specialised risk staff required** | **Ownership function reviews RM systems** | **State audit conducts audits of SOEs** | **Audits review RM systems** | **Ownership entity audited for super-vision of SOE RM** |
| **Portugal** | | ● | | | | ● | ○ | | |
| **Slovenia** | | ● | | ● | | ● | | | |
| **Spain** | | | ○ | | | ● | ○ | ● | |
| **Sweden** | ○ | | | ● | | ● | ○ | ● | |
| **Switzerland** | | ● | | ● | | ● | ○ | ● | ○ |
| **Turkey** | | (Forth-coming) | ○ | ● | | ● | ○ | ● | |
| **UK** | | | ○ | | | ● | | ● | |

1. SOE-specific risk rules may be codified in, for example, law, regulations, State decisions, or policy documents. These rules can be complementary to, or have precedence over, rules for risk management for private entities (where SOEs may be subject to both general commercial law and SOE-specific legislation).

2. Entries in these columns are made when at least all large SOEs are required to establish specialized committees and internal risk management systems, regardless of whether the SOE is listed or operating in the financial sector.

*Source:* OECD (2016d), *Risk Management by SOEs and Their Ownership,* OECD Publishing; and information subsequently provided by national authorities.

### *Legal and regulatory framework applicable to SOE risk governance*

SOEs in the vast majority of countries (26 out of 32) are generally subject to commercial law, since in most of these countries the majority of SOEs are similarly incorporated as private enterprises. In five reporting countries, all or most SOEs are established as statutory corporations or incorporated pursuant to specific SOE laws. It follows, therefore, that in the majority of countries (25 out of 32), risk rules for SOEs are generally comparable to those applicable to private companies. In three countries (Chile, Netherlands and Sweden), at least large SOEs are required to apply the same risk rules as listed companies.[36]

Nineteen countries (59%) apply or play to apply[37] SOE-specific risk rules that either complement or supersede rules applicable only to private companies. The largest number of these countries includes risk-specific guidance within the broader legal, regulatory and policy framework for SOE governance (i.e., SOE governance laws, SOE codes of corporate governance, state enterprise ownership policies or guidelines, or other SOE strategic planning documents). In three countries (Argentina, Israel and Mexico), SOE-specific risk rules are set forth in *standalone government resolutions or policy documents*. In two countries (Austria and Germany), the SOE-specific risk rules are limited to *additional risk reporting* applicable only to SOEs.

### *Risk governance at the level of the SOE*

While SOEs' internal risk management systems may reflect their legal and regulatory environment and the expectations of the state ownership function, they are ultimately implemented at the company level. Responsibilities of SOE boards regarding risk oversight include the requirement in 12 reporting countries (38%) for at least large SOEs to establish a specialised board committee to oversee implementation of the SOE's risk management measures. (In contrast, 62% of listed companies in OECD and Partner countries are required either by law, recommendation or listing rules to establish such committees.[38]) In most of the reporting countries that have this requirement, SOEs meeting a certain size threshold or taking a certain legal form are most often required to assign risk oversight to an audit and/or risk committee.[39] The source for this requirement varies across countries, but can include provisions in commercial laws and codes that also apply to SOEs; SOE-specific laws or binding government resolutions or decrees; ownership guidelines or policies; or SOE codes of corporate governance (See Figure 26).

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36 . A number of countries noted that SOEs are strongly recommended but not explicitly required to apply the corporate governance code for listed companies. In many of these cases, countries reported SOEs voluntarily apply these rules. In addition, many countries reported that SOEs operating in highly regulated sectors (such as finance) and listed SOEs must apply specific corporate governance rules.

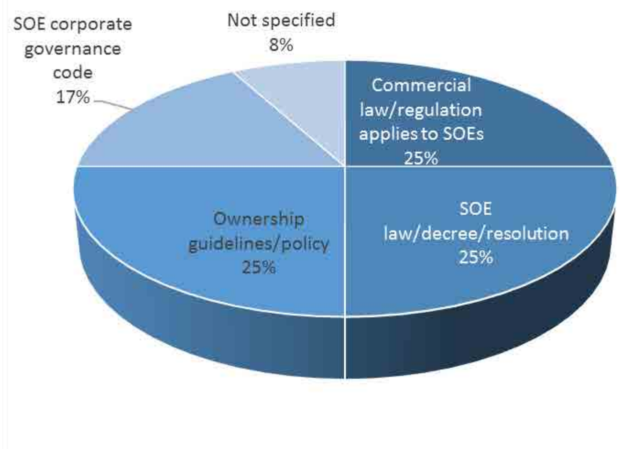
37 . Brazil and Turkey reported that SOE-specific risk management rules were under consideration at the time of writing. In addition, according to information provided by the Korean government in August 2016, the government systematically manages financial risks of SOEs by evaluating their financial performance against their mid-and long-term financial management plans on annual basis according to the Act on the Management of Public Institutions.

38 . OECD (2015d), *OECD Corporate Governance Factbook*, OECD Publishing, p.83.

39 . These requirements refer to those applicable to SOEs regardless of whether they are listed or whether they operate in the financial sector. In nearly all responding jurisdictions, all listed entities and all financial sector entities—private sector or government-owned—were required to establish some kind of body at the level of the board for risk oversight.

Boards of directors of SOEs in 15 countries (47%) are also required to establish and oversee the implementation of internal risk management systems. In four countries, this requirement is set forth in commercial laws and is applicable to all commercial enterprises, SOEs included, or in codes of corporate governance for listed companies, where these rules apply to SOEs (as in the Netherlands and Sweden). But in a number of other jurisdictions, SOE-specific rules vest SOE boards with this particular responsibility. This kind of SOE-specific requirement appears most often in SOE-specific government resolution/decree or policy document (in six countries), and/or in SOE codes of corporate governance (in three countries)[40] (See Figure 27.). In eight reporting countries, these systems are subject to internal audit and to external audit in eight.[41]

**Figure 26. Sources of requirements for SOE boards to establish specialised committees to oversee risk management**

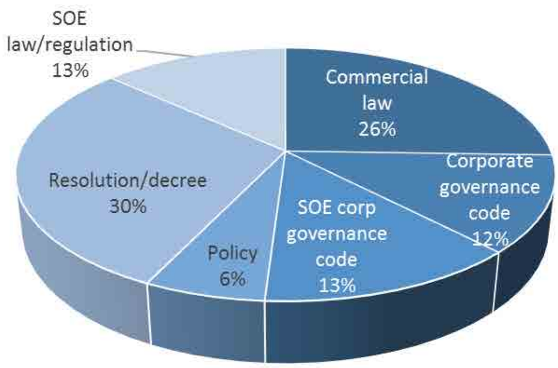



Source: OECD (2016d), Risk Management by SOEs and Their Ownership, OECD Publishing; and information subsequently provided by national authorities.

40 . Additional risk-management requirements often apply to listed SOEs and SOEs operating in highly regulated or higher-risk sectors like the finance industry.

41 . As noted above, the degree of these requirements (i.e., obligations versus recommendations) varies in many countries from sector to sector, and according to whether SOEs are listed. Countries referenced here are those that apply these requirements to SOEs regardless of—or in addition to—requirements on SOEs that are listed or operating in sectors like the financial sector.

**Figure 27. Sources of requirements for SOE boards to oversee establishment of risk management systems**




Source: OECD (2016d), Risk Management by SOEs and Their Ownership, OECD Publishing; and information subsequently provided by national authorities.

National practices for identifying and reporting risk to the board are fairly standard and generally reflect private sector practices. Risk is most often identified by the audit or accounting function, by a specialised risk committee, or by management. These risks are usually reported to the board by management or a specialised committee. Risks are most commonly reviewed by the board on an annual, quarterly, and/or on an as-needed basis. At the level of SOE management, five countries require at least large SOEs to employ specialised risk staff (i.e. a risk officer) (Germany, Ireland, Israel, Kazakhstan, and Philippines), though at least large SOEs in 11 reporting countries voluntarily establish a risk function within the enterprise (Brazil,[42] Chile, China, Czech Republic, Denmark, Finland, Latvia, New Zealand, Norway, Sweden, and Switzerland). This function can be voluntarily assigned to specialised risk staff (in six reporting countries); to senior management, for example the CEO or CFO (in four reporting countries); and/or to specific business units (in three reporting countries) (See Table 19.).

**Table 19. Practices for identifying and reporting risk to the board**

| Country | *Risks identified by:* | *Risks are reported to the board by:* | *Reports to the board are made:* |
|---|---|---|---|
| **Argentina** | Risk committee | Risk committee<br>Senior management | Annually<br>As needed |
| **Austria** | Management | Management | Annually<br>Quarterly<br>Ad hoc/as needed |
| **Brazil** | Audit/accounting | Audit committee<br>Internal audit<br>Risk / compliance function | |
| **Chile** | Audit/accounting | Internal audit<br>Risk/compliance function<br>Audit committee | Quarterly<br>Annually |
| **China** | Management<br>Risk committee | Management | Annually<br>Ad hoc/as needed |
| **Czech Rep.** | | | Quarterly |

42 . At the time of writing, Brazilian authorities were considering a proposal to require the employment of specialised risk staff

| Country | Risks identified by: | Risks are reported to the board by: | Reports to the board are made: |
|---|---|---|---|
| | | | Annually<br>As needed |
| **Denmark** | Management<br>Audit/accounting<br>Whistle-blowers | Audit<br>Management | Monthly<br>Quarterly |
| **Finland** | Management<br>Risk committee | Management<br>Risk committee | Annually |
| **France** | Risk committee<br>Audit/accounting | | |
| **Germany** | Audit/accounting | Audit | Annually |
| **Greece** | Audit/accounting<br>Internal auditors | Audit Committee<br>Internal auditors | Quarterly/ As needed |
| **Hungary** | Audit/Accounting /Management/Internal auditors | Management | Annually/ad hoc-as needed |
| **Israel** | Risk function<br>Risk committee<br>Audit/accounting | Risk function<br>Risk committee<br>Audit/accounting | Annually |
| **Kazakhstan** | Management | Sr. management | Quarterly |
| **Latvia** | Management, Audit | Audit<br>Management | Annually |
| **Lithuania** | Audit/accounting | Management | Annually |
| **Mexico** | Management/Risk committee (for finance institutions and energy enterprises) | Sr. management | Annually |
| **Netherlands** | Audit/accounting | Management | Annually |
| **Norway** | Management<br>Audit/accounting<br>Whistle-blowers | Audit<br>Management | Annually<br>As needed |
| **Philippines** | Risk function | Risk function | Annually<br>As needed |
| **Poland** | Management<br>Audit | Management<br>Audit | Annually<br>As needed |
| **Slovenia** | Management | Management<br>Audit committee | Semi-annually<br>Annually<br>As needed |
| **Spain** | Management<br>Audit/accounting | Management<br>Audit/accounting | |
| **Sweden** | Audit/accounting | Management | As needed |
| **Switzerland** | | Compliance / risk function | Semi-annually |
| **Turkey** | Management<br>Risk committee | Management<br>Risk committee | Every two months/<br>As needed |
| **United Kingdom** | Audit/accounting<br>Risk committee | Risk committee | Quarterly |

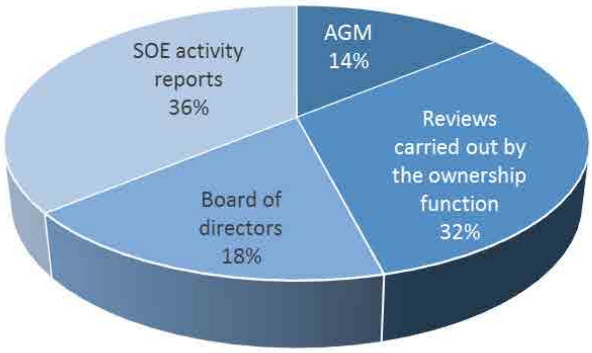
Source: OECD (2016d), Risk Management by SOEs and Their Ownership, OECD Publishing; and information subsequently provided by national authorities.

### *Risk governance at the level of the state*

Most countries do not have a sector-wide, explicit risk tolerance level for their overall ownership stake in the SOE sector: Only five countries report set their overall risk tolerance level either in the context of overall strategic planning (Chile, China, and Lithuania) or via a sector-wide law, regulation or policy (Philippines and Poland). More typically, governments communicate their risk tolerance level vis-à-vis individual SOEs. Governments may use more than one channel of communication for expressing their risk expectations. These can include: deferring to, or participating in decisions made by the board (13 countries); direct communications between the ownership function and the SOE (10 countries); providing risk-taking guidelines (4 countries); via the extent of state guarantees (3 countries); and/or state control over major transactions (3 countries).

Twenty-three of the 32 countries (72%) contributing to this stocktaking report that they undertake some forms of review of SOEs' internal risk management systems. Countries may employ more than one method for undertaking such reviews. The most common avenues for ownership entities' review of SOEs' risk management systems included: assessments carried out via reviews of SOEs' activity reports (10 countries); reviews undertaken by the ownership function (9 countries); via participation in or engagement with the board (5 countries); and/or via the AGM (4 countries) (see Figure 28).

**Figure 28. Methods employed by the State to review SOE risk management systems**




Source: OECD (2016d), Risk Management by SOEs and Their Ownership, OECD Publishing; and information subsequently provided by national authorities.

Finally, 19 countries (59%) report that their state audit institutions perform audits of SOEs in their jurisdictions.[43] In 13 of these 19 countries, audits may include reviews of SOEs' risk management systems. In seven, audit institutions may also audit the state ownership function for their supervision of risk governance in the SOE sector (See Table 20.).

43 . The United Kingdom is not included in the list of countries whose state audit institutions regularly audit SOEs. However, while the National Audit Office has no specific role regarding risk management by SOEs, its remit covers SOEs and it can seek to review/report on any or all procedures conducted by SOEs that might lead to financial risk.

**Table 20. Highlights of national practices for state audits of SOEs and their risk management systems**

| | | Country | Description of audit practices |
|---|---|---|---|
| *Most direct involvement of the state audit function* | *State audit function is regularly engaged with individual SOEs* | Argentina | Argentina has two control agencies, established by Law No. 24.156. The first is the Comptroller General's Office, the Sindicatura General de la Nación (SIGEN). SIGEN attends (but does not vote) in board meetings, shareholders' meetings and meetings of the audit committee. SIGEN also coordinates SOEs' internal audit functions. The second is the General Audit Office (AGN) under the National Congress. The AGN's responsibilities include undertaking financial, accounting, and management audits of SOEs. |
| | | Brazil | All SOEs are audited by two specialized public institutions: the CGU, and the Federal Court of Accounts. The CGU provides SOEs' internal audit functions with a risk matrix to guide audit planning (as required under CGPAR Resolutions 2 and 3). This audit planning is approved by the Board with a summary description of the risks attached to each audited item. The risk matrix evaluates the probability and impact of risks on firms' objectives. |
| | | Iceland | The State Audit oversees the appointment of accountants for most SOEs and holds regular meetings with these accountants to discuss the enterprises' financial position. If the State Audit believes that risk is existent, then it is reported in the State Audit´s report on the State Account. The State Audit also issues various reports on risk management confronted by the State. In recent years, examples of such risks have increased. |
| | *SOEs regularly audited by the state audit function* | Denmark | The state audit agency audits SOEs fully owned by the state, or where the state has majority ownership. The audit is not only financial but also administrative, which means that the audit examines whether due financial considerations have been taken when administrating funds. The audits can include assessments of the risk management systems in the SOEs and potentially also assessments of the risk management conducted by the state with regard to its SOE portfolio. |
| | | Hungary | The State Audit Office (SAO) audits the responsible management of SOEs, in compliance with the stipulations of the respective laws. The audit covers financial issues, compliance and performance. |
| | | Latvia | The Supreme Audit Institution of the Republic of Latvia (State Audit Office, SAO) may perform compliance and performance audits of SOEs. The selection of audit topics and target SOEs is based upon an annual risk assessment by SAO auditors for each sector of the Latvian economy. During the pre-audit planning phase, the SAO first assesses SOEs' internal control systems, which includes an assessment of risk management policies and practices. The compliance and performance audits of SOEs undertaken by the SAO include an assessment of governance policies and practices of SOEs and of the state enterprise ownership function. Financial audits of SOEs' annual financial statements are performed by certified external auditors. The SAO relies on the external auditors' results when auditing the consolidated state budget. These audit reports are categorized and assessed as part of the State's long-term investments, since SOEs as legal entities are not included in the State's consolidated financial statement. |
| | | Mexico | The Congress Federal Audit Office (Auditoría Superior de la Federación, ASF) is responsible for overseeing federal public resources invested in SOEs. The ASF reviews risk management through: (1) Performance audits (as per the Ley de Fiscalización y Rendición de Cuentas de la Federación, Law on Supervision and Accountability of the Federation), and (2) Oversight and review of the Federal Public Treasury Report (as per the Law on Supervision and Accountability of the Federation), which culminates with a Results Report (Informe de Resultados de la Revisión de la Cuenta Pública), which is presented to the Chamber of Deputies. |
| | | Switzerland | According to the Federal Audit Act (art. 8), all SOEs are subject to financial oversight by the Federal Audit Office. (Listed SOEs are excepted, as they are subject to audit under the Stock Exchange Market Act). The Federal Audit Office audit jurisdiction also includes audit of SOE ownership entities, in order to assess their management systems for dealing with risks associated with state enterprise ownership. |
| | | Turkey | SOEs under the portfolio of the Treasury are subject to annual compliance and performance audits by the Turkish Court of |

| | | | |
|---|---|---|---|
| | | | Accounts. The compliance and performance audit of SOEs aims to determine whether SOEs' activities are in line with laws, regulations, articles of association, etc., and whether the SOE's activity results are in line with the SOE's established objectives and performance indicators. The compliance and performance audit also includes an assessment of the SOE's efficiency and profitability. |
| ***Least direct involvement of the state audit function*** | ***SOEs audited as part of the state audit function's overall review of the public administration*** | Austria | The state audit agency ("Rechnungshof") conducts audits on the public federal administration and, generally speaking, majority owned SOEs, and it reports to the Austrian Parliament. The state audit agency will examine the management of SOEs with regard to completeness and accuracy of the figures provided, compliance with the applicable laws and, in particular, compliance of the management with the State's principles of frugality, expediency and profitability. There is no explicit provision in the Austrian State Audit Agency Act providing for the audit of a risk management system. Accordingly, the state audit agency will examine the risk management in the course of its examination of the SOEs´ management´s compliance with the applicable law. However, the state audit agency may conduct horizontal reviews on any relevant issue, including risk management. |
| | | Finland | The state audit agency may every now and then survey and evaluate risks and risk management by SOEs, especially in cases of mismanagement. |
| | | France | SOEs may be audited by the Cour des Comptes, which if necessary can prepare an audit report that can be made public. In the case of audits of SOEs and/or the ownership function, the Court may consider risk management. |
| | | Japan | The "Board of Audit of Japan" audits the State accounts, as well as those of public organizations and other bodies as provided by the Board of Audit Act. The Board of Audit of Japan pays sufficient attention to the effectiveness of internal controls, including risk management by SOEs and by the State. |
| | | Sweden | The Swedish National Audit Office (Sw. Riksrevisionen) regularly performs reviews with respect to the different governmental bodies' efficiency. |

Source: OECD (2016d), Risk Management by SOEs and their Ownership, OECD Publishing; and information subsequently provided by national authorities.

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