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The Governance of Joint Ventures

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by

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Introduction

*INSEAD Governance Meetings (IGM) are inspired by the vision that advances in the understanding and practice of corporate governance are most likely to occur in a cross-disciplinary environment. Our goal is to enrich public discourse on corporate governance with peer-to-peer exchanges and expert-to-practitioner interactions. The insights thus captured feed directly back into INSEAD's research and teaching agendas in corporate governance, ensuring that our activities are informed by the key issues of the day. The topic of the present meeting is the **Governance of Joint Ventures**, a complex area that is insufficiently explored and discussed in the academic and professional arenas.*

Professor Ludo Van der Heyden, The Mubadala Chair in Corporate Governance and Strategy, Academic Director of the INSEAD Governance Initiative, opened this IGM by outlining the generic issues facing any board:

- **Effectiveness:** Getting the governance task done - largely how a board preserves value (making the right decisions): people (senior appointments, reviews, remuneration and succession), capital (financial performance, risk and continued independence) and strategy.
- **Efficiency:** Doing the task with greater efficiency - which means becoming faster *while not losing effectiveness* (no trade-offs, no cutting corners!).
- **Excellence:** How a board contributes to or even leads the value creation process, which is actually very hard to do. One example is the InBev case - the Belgian brewer, who moved from position 65 to becoming number one in the beer market. This move was truly led by its board.

He further specified that governance is distinct from execution (an issue when boards are composed of both executive and non-executive directors). Governance stops when execution starts. The one area when governance enters into executive mode is in times of *crisis management* (eg BP Gulf crisis, financial crisis) when executives are no longer present, or are no longer credible.

Professor Van der Heyden quoted Tim Rowley from the University of Toronto, his co-Director for INSEAD's International Directors Programme who identifies the three typical challenges for directors: information gap (how to be 'up to speed'), time constraint (how to be more efficient) and social dynamics (how to work together).

Joint ventures (JVs) present a special challenge. First, the management of JVs is already a complex issue. Second, governance is a complex domain in its own right. The governance of JVs is therefore particularly challenging, and one that receives little attention in the literature (academic or professional). Such specific complexity motivated this meeting, led by Professor Yves Doz one of the leading academics in the area and Director of INSEAD's Management of Partnerships and Strategic Alliances programme.

Professor Van der Heyden expressed that INSEAD would like to develop a programme for directors on this topic in Abu Dhabi, as JV activity is one of the heartbeats of the region, which is growing rapidly. Also, generally speaking, JVs in this part of the world are overseen by managers of a foreign company who may not understand the region that well. The present meeting is devoted to exploring and understanding the key issues that directors face regarding JVs.

Key questions from participants

Participants included diverse business leaders such as Fathi Buhazza, President & CEO, Maximus Air; Ziad Makhzoumi, CFO, Arabtec Holding; Sultan Al Hajji, Deputy General Manager, Total Abu Al Bukhoosh; Khursheed Athar Iqbal, Regional Head of Market Risk, Middle East & Africa, Calyon-Credit Agricole (and INSEAD Alumnus); Shahzad Khan, Senior Legal Counsel, Mubadala Development Company; and Alexandre Carre de Malberg, Global Head, Commercialbank Capital, Qatar. The meeting started with each participant introducing a key question that they were interested in gaining understanding about:

- Governance and the relationship between the members of a board: the chair, CEO, board members, partners and investors - whose interest should we follow or should prevail?
- What is the actual benchmark for governance in the region, especially for publicly listed companies? And furthermore, in a JV when there are conflicts such as ‘am I a partner or am I a manager’, how does one apply governance standards that have been agreed upon or are prevailing more widely?
- In an emerging economy like Abu Dhabi, with different company structures, how does one distinguish between (the interests of) the shareholder of the company, the operating company and the JV company?
- Companies from outside the Middle East that enter the region have to face complex legal issues when entering into a JV. How does one manage this complexity?
- What are the key factors and/or behaviours that lead to the success or failure of a JV?
- When does one need a JV? Keeping in mind that there are some inherent problems in managing governance aspects of JVs, such as the tension between secondment issues (bringing in a foreign partner’s industrial expertise) and ‘Emiratisation’; the challenges of aligning the values and cultures of both parties; and who would carry the risks in an exit clause, etc. What are the significant things to examine before entering a JV?
- Keeping in mind the different business models, what governance criteria might be usefully put into place at the beginning of the JV (presented and agreed upon during the negotiation phase), so that as it evolves, we can better plan for inherent uncertainties.

Governance challenges: in general and in JVs particularly

Professor Van der Heyden outlined some of the generic problems in governance:

- One key governance challenge is that of compliance and risk management so as to stay away from value destruction. A hypothesis that ought to be given some weight is that boards also can destroy value (rather than preserving or creating value). The value of governance is actually difficult to measure, partially because when it works well, credit is then typically given to the executives for the value creation process.
- The tendency in a JV board might be to say ‘let’s get it done and over with’, without devoting enough attention to aiming for higher performance, namely aiming for superior results. Structurally, it may be that JVs face a finite time during which energies are fully focused on extracting the expected value out of a JV, but not more. This is the case, for example, for the ‘opco’ (operating company) board focused on delivering the expected results without getting overly ambitious.
- Regarding value creation, preservation and destruction, this may be a particular issue in JVs as partners may have to trust one another for the monitoring of effectiveness (due to differential competencies of each partner).
- If you have too many shareholder representatives as directors then the board faces the risk of becoming ineffective, the possibility that short-term interests of a board member that are not well aligned with the JV may come to prevail; shareholders have the power to push, manage, take over or put their own people in front - all this comes at the expense of value creation.

Other typical hurdles for high performance in governance are the tensions [as noted by Dodd & Favaro]¹ created due to business dualities, such as the tension of short term vs. long term, unit vs. whole, profit vs. growth. One relevant duality for this region is: family vs. business.

Why Create a Joint Venture?

Professor Yves Doz, the Solvay Chaired Professor of Global Technology started his presentation by first addressing the fundamental question why JVs are created. Professor Doz immediately warned the audience that governance of a JV break downs on average more frequently and severely than in self-standing companies. A JV is one of a range of mechanisms for implementing a strategic alliance and is typically the result of two or more partners having complementary (tangible and/or intangible) assets, market positions and the desire and opportunity to learn from each other. The key focus is not necessarily about alignment between parents, but about mutual compatibility vis-à-vis the goal of the JV. The challenge is not so much in the design of a JV, but in its implementation and management:

¹ *The Three Tensions: Winning the Struggle to Perform without Compromise*; by Dominic Dodd & Ken Favaro. Published by John Wiley & Sons, Inc. 2007.

Issues such as necessary mutual adjustments; mutual dependencies that are not properly managed; or excessive burdens being put on one organisation.

Professor Doz explained the general reasons why a JV is created - one is the identity question. There are two aspects here: to create an external identity rather than a pure contractual agreement, a way to detach the identity of the organisation from the parents' brands; or to create an internal identity in regard to people, loyalty and culture. Another reason is to build autonomy with a separate management team; though sometimes decision making becomes difficult due to insufficient effective communication between the JV partners and the management.

Another major reason is for joint ventures to be typically created when credible complete contracts are not feasible ex-ante due to valuation uncertainty (contributions and results), information asymmetry and task uncertainty. You get into a JV because of uncertainty and ambiguity, which markets do not like and which make it unfeasible to write proper contracts.

Finally, the partnership can be just a common subcontracting mechanism, in which case the JV managers are not given much autonomy to do anything else.

Joint Venturing: a process, not a design

Professor Doz's major caution is that a JV is a mechanism for pushing the resolution of complex and tough issues into the future; pooling uncertain risks and returns between the partners. Partners need to create a framework upfront to resolve issues down the line, not yet knowing precisely what the situation will be a couple of years or a decade down the road. So between the two extremes - of trying to have a complete contract but then failing to comply, or keeping it too loose and undefined and then not having mechanisms to resolve problems - the balanced approach in JVs is to aim to make the contract progressively more complete with the benefit of actual experience. Basically, the perception needs to be one of looking at a JV as a process of gradual resolution of information asymmetry and ambiguity, and not as a fixed design (for which contracts are better suited).

Professor Doz warns participants of the trap of getting mesmerized by the contract, especially in large companies, that require a lot of attention, with too many people having a stake in the JV (even if only emotionally), typically leading to a JV being put on auto pilot. He compares this situation to the military term of 'fire and forget' and this is not what a JV needs.

Governance is a dynamic process and is all the more important in a JV with the board playing a critical role, devoting much attention to making the contract more complete over time. A JV is usually complemented by various shareholders' agreements such as distinct classes of shares; voting rights and dividends; decision rights' agreements; performance clauses; and service, supply and purchase agreements.

General consensus is noted amongst the participants that it is impossible to predefine all the mechanisms. Too often it becomes a legal issue with the contract at the centre and lawyers

taking on too prominent a role during increasingly tense negotiations, when in fact what is needed is more communication between the principals.

Some noted that though the agreement framework might not be clear cut in the beginning, if the two partners enter the JV with mutual needs, a long term perspective, and with the acceptance of the fact that many things cannot be resolved initially, it did not really matter. This can be the basis for a successful alliance - one which has purpose and a lot of trust. Participants discuss an example of a highly successful 40-year old JV based on a one-page contractual document, which would shock most lawyers.

Compatibility, Commitment and Reinvention of the Joint Venture

Everyone agrees that in a JV, trust is a must. It is about intentions, compatibility and abilities; both sides delivering to expectations. Participants confirm that trust and respect, especially with different cultures, even though challenging, are fundamental to the success of a JV. Professor Doz describes this understanding as 'sustainable co-specialisation': '*you have your skills, I have mine - you don't learn mine, I don't learn yours*', leading to increased mutual dependency as the JV expands, and avoiding suspicions of encroachment.

This mutual dependency can be kept alive long after the first goals have been delivered, if the two partners are able to innovate, reinvent and find new joint market opportunities. In a dynamic market, when partners have sufficient 'goodies' in their bags to reinvigorate and create new venture opportunities with mutual gain, there is sufficient scope to deepen the alliance in a sustainable manner.

Other comments include the sentiment that in cases of diverging interests, the partnership will end - it is only a matter of time. What is important is to continuously have common goals for the JV's activities, and to redefine and re-adapt these over time. From a management perspective, this necessity must be highlighted in both companies, as it is not obvious and requires commitment, inventiveness, and focus. Only with this strong resolve to make the JV work, is there sufficient impetus to muddle through an unavoidable set of problems. If one enters a JV with a 'what can I get from this' attitude, trust erodes very quickly; you need concern for the success of the partners, not just your own.

Professor Doz underlines this central thought of both partners being engaged in the value creation process for the JV, even when both partners might separately have different goals for their individual companies. Are we playing compatible games given value extraction expectations? Is interest alignment sufficient? These are questions the partners regularly need to revisit.

Professor Van der Heyden noted a paradox: if the goals of a JV are clear and there is mutual dependency, then a contract is almost not needed. But if things are not clear, and you are in a very turbulent environment, then a contract doesn't actually solve the issue... in fact it can kill the flexibility, because it is erroneous to think that a contract will get you to fully commit

to an unstable relationship. So a thought-provoking question arises: is it worth going for contracts when contracts don't really solve issues... Contracts are no substitute for insufficient interest alignment or excess uncertainty.

Conflict of Interest

Another aspect is about understanding the thin line between focusing inside the JV and focusing outside it. Sometimes the board becomes a proxy for shareholders, who then start micromanaging the JV. Professor Doz alerts the participants that you can't have a shadow board and he talks about two essential conflict areas to watch out for. The first is when shareholders are also customers or suppliers, and this multiplicity of roles creates a conflict of interest. This is common with the key question then being '*Am I going to take the economic benefit upstream or downstream?*' In such cases, the JV relationship may become secondary to the investment relationship.

It is noted that in the MENA region, conflict of interest is very common because one has to go through JVs for almost everything - to get suppliers, customers, etc. And often, there is no standard market price, which is the reason one enters into a JV in the first place.

The second conflict area results from the partners having very different positions, economically, in particular when one partner draws most benefits from the JV proper, and the other from activities enabled by the JV's existence, but outside its scope.

Professor Doz notes that if the potential value returned by a JV is much higher than the potential value or profits being created upstream or downstream, then the JV interest becomes overwhelming. A second point is that the more the JV has to rely on external funding for building the business, the more you will get lenders and financial institutes who will push you to be more precise than you realistically can be upfront. Though there is an advantage in being vaguer upfront with partners, this is not easily acceptable to lenders. Lenders then become a hurdle that does not exist if partners bring their own financing.

Revisiting the notion of contracts, the process of governance and of the premise that 'learning together cannot be put in a contract' (and that you may not be able to itemise the process of regularly revisiting and revising the alliance) - the participants agreed that one of the worst situations you can get into is where you make a commitment without items being sufficiently well-defined and without specifying what is going to follow. One then gets into the problem of renegotiating issues, often one at a time, when you are already in a situation of mutual dependency and moving dynamically. This can become extremely divisive; you are back to the exploratory discussion stage, and have no outside option. You are stuck on relatively small matters, and every time you discuss it, you open a little wound or make an existing wound bigger ... and the alliance "dies of a 1000 wounds". The paradox is that the contract which was to provide clarity and trust becomes the alliance killer.

A true board is therefore a key and necessary substitute to contracts in providing a governance mechanism to the JV over time. It enables the continuous monitoring of the JV and allows for the necessary adjustments to be made. The board is (or should be) focused only on the JV and can also shelter the JV from arbitrary discrepant or misguided interventions from shareholders and partners. These destroy trust, which is the point we turn to next.

Managing the Trust Deficit

Some participants felt that typically, in the event of a trust deficit in a JV, both sides would check ‘what was going on’, which if used unobtrusively, may be a mechanism to restore trust. Professor Doz confirmed this practice by giving the example of a very successful JV where the quality inspectors from both companies would watch over each other’s shoulders to make sure that no corners were cut.

One participant pointed out that a JV also needed ‘JV champions’ - managers who were empowered to do their jobs, who would continuously steer the JV to achieve its objectives. It is paramount that JVs have sufficient autonomy from the parents, while providing these parents with the same, and sufficient, amount of transparency.

One participant asked about conflicts of interest that arise when the manager is also a shareholder. This is precisely where governance steps in. Governance goes much beyond just reporting, it ensures compliance, control, audit, risk management, etc. So it is important to be clear right from the start of the JV about roles and responsibilities. Defining the role of management becomes more complex and more important in JVs. If there isn’t sufficient clarification of roles and responsibilities, it can result in significant conflict and cost to both partners. This is particularly prone to happen when the manager is also one of the shareholders - he may be tempted to manage the JV for his own interest, at the expense of the partners. This happens everywhere when a partner does not sufficiently distinguish his role as a manager from his role as a board member, and does not feel he needs to be accountable to the other partners. So, when he is held accountable by a board of directors, he talks as a shareholder and not as a manager - this can be the norm particularly in family businesses and amongst entrepreneurs.

Another issue is the nature of relations amongst board members: professional exchanges must be the norm. In the case of friendships, when the need to protect relationships overrides the need to be professional in board roles, it impedes board effectiveness. Some commented that because the JV requires continued discussion and adjustments, there is a greater demand on people and a greater need for positive relationships in JVs. The example was taken of the arrival of a new CEO: if the CEO had little emotional intelligence, he could quickly alter the spirit of the JV and conflicts would rapidly follow. JV managers are more challenged than managers in single parent companies, to demonstrate respect, emotional intelligence and professionalism.

Governance Standards, Value Creation and Value Capture

The conversation turned to how one ensures that the JV has proper governance standards and processes? And that if something goes wrong, how can it be detected quickly?

One participant underlined the role played by management in keeping a JV working smoothly. The concept of good governance thus needs to be clearly defined: the question being ‘What beyond management?’ and ‘How to ensure good management of the JV?’

The answer starts with two partners agreeing that they can add value to each other, with clarity, processes and standards for the management to follow. Boards ought to ensure that this is the case.

Professor Yves Doz added, “Partners need to be clear on how value is going to be created in the JV? Are we creating it around the same dimensions, complementing each other? Another aspect to consider is whether we expect to capture value in a mutually compatible way, i.e., partners must understand the various kinds of goals that may be pursued within the JV by the various partners and contributors.”

Is continuous learning essential for sustainability of a partnership? Not necessarily. Professor Doz explained, “When partners complement but don’t try to learn each other’s skills, there certainly is less threat and one can more easily carry out a compatibility analysis on objectives, resources, what each is contributing; what one can bargain for in the future; what kind of constraints the JV faces and what kind of strategy the JV is going to follow?”

Everyone agreed that owners must understand and accept the value creation logic. As one participant queried, in a JV wouldn’t it be better to have a soft exit strategy so that partners don’t have to stay in the relationship longer than necessary? Another emphasised that an exit strategy should be part of all long term JVs in one way or another, with the hope that the exit strategy will not be needed. But its presence provides an ‘outlet’ for those that are not satisfied; its very presence will also be a positive incentive to manage the partners well since they are not locked into the JV. On the contrary, it has been seen that the absence of an exit option did lead to some people and subgroups becoming negatively active - only to fall in line as soon as the exit option was established.

Role of the JV Board

The function of the board of a JV is that of governance, just as in an independent public company, but the roles are more complex and more multi-skilled. JV boards, more than public companies, need to secure and manage resources such as skills, finance and capabilities. They also need to maintain commitment from the parent companies in the view of possibly shifting objectives and requirements, while at the same time shielding the JV from arbitrary interventions of shareholders and parent companies. Boards also need to support the flow of talent to and from the JV; continuously develop a road map for the JV, with check points and process mechanisms that validate and support its evolution; have

dispute resolution recourse and avoid separate and biased reporting of disputes to the parent organisations. Boards in such settings can play very important roles to support JV managers including the CEO, who do not immediately see the support they can obtain from their board, and instead sometimes perceive the board as an additional hurdle to manage.

Let us take a dispute between the parent companies in a JV. Such disputes can kill a JV, or in any case prohibit it from delivering the hoped for value. CEOs and JV executives ought to understand the benefit from well-functioning boards in avoiding and managing these incidents in a JV's life. Investing in effective board relationships is like buying insurance protection against value destruction.

Discussing the tough issues of dispute resolution in JVs, Professor Van der Heyden illustrated a unique previously unheard of dispute resolution method used by a JV board, termed the 'nuclear option'. Each party on the board had a right to exercise their veto on an issue however, once used, the veto right passed to the other partner. In a decade of partnership, the JV never saw the veto used. The parties claimed that this structural feature instilled trust in the JV, as both had the power to protect themselves. At the same time, both parties had equal interest in avoiding the tit-for-tat exercise of the nuclear option, which both saw as very destructive for the JV. Hence, it was never used, just as with nuclear weapons in the cold war.

Building Better Boards

After a coffee break, participants were asked for points they would like to discuss in greater depth. The following issues were identified:

- How do you put the JV board together? Profiles of the board members, roles of directors, role of independents and role of general manager on the board.
- Dynamic strategy, differential benefits, managing imbalance between partners, recommitment & renewal of the agenda.
- Key issues specific to JV governance.

One participant shared his experience in a JV where the board made no decisions. He strongly advised that in JVs that start small, directors should be empowered and they should spend more time communicating with the management than the shareholders. Value creation is typically done by managers, and not by shareholders - who hire managers for this purpose of value creation. At the beginning of a JV, lots of decisions need to be approved, and reverting to shareholders for every issue becomes detrimental. Board members need to have the trust of the shareholders and of the managers - if there is a deficit this ought to be addressed as soon as possible.

Professor Van der Heyden illustrated two extremes of a JV framework²: one which is too small and tight, and feels like 'Alcatraz', where the JV actors feel like they are in a prison,

² This terminology is due to Alain Goudsmet, Founding Director of the Mentally Fit Institute (Brussels).

having to follow strict rules and be careful about everything; not disposing of any autonomy. While on the other side, it is so loose that there is no control. It's 'rock n' roll', with no clear direction and little value added for the others. The aim is to be somewhere in between, where people are empowered and have autonomy, but are guided by a well specified frame with enough space for creative action.

Role of Independent Directors on the JV Boards

Professor Doz emphasized the central need to bring in external/independent directors to complement the directors sent by partners. There was extensive discussion and some disagreement about the value of this proposal, which is one of the fundamentals of governance, particularly relevant in JV settings. The point is that independent directors will naturally be more focused on the JV than the directors and managers sent by one side or another.

Professor Neil Jones, Affiliate Professor of Strategy, stressed that for certain JVs the purpose was not so much about creating value for the JV, but rather creating value outside the JV. In that case, it may not be clear what value creation directors ought to monitor.

Professor Doz agreed that at the end of the day, the independent directors may not always be in a position to exercise a decision. The differentiator in a JV would be in separating the management from governance and to think of board members, not as representatives of the parent companies, but as wise individuals. Directors who would help create value and contribute personally to the success of the JV company, or if indeed value delivery to partners was the objective, to ensure that partners received the expected value. An independent director is focussed not purely on the interest of the JV, but on ensuring that the JV meets its obligations to the founding shareholders of the JV.

Professor Van der Heyden said that often, for big companies, one great challenge was that the directors faced serious conflicts of interest, because their 'bosses' send them to oversee a JV in another country, with short-term goals (eg immediate dividend, more turnover) when the JV company has been established with a long-term perspective. So, one way of solving this and clarifying the situation would be to ensure that bosses understand that the two goals are not necessarily in opposition as long as the JV can meet its short-term obligations to the parents, while also managing for the long-term objective.

There was an energetic debate about the role of independents, with some feeling that these roles were very important in a JV, more so than in a regular company, because they help avoid the interest of either party taking hold at the expense of the JV. The question then is whether JVs face more of the dilemma already faced in public companies, namely managing the short-term interests of some shareholders at the expense of long term value creation.

Others still admitted some discomfort with the role of independent directors and felt that for them the overriding need for an independent director wasn't clear; for them it would be better to get an advisor instead, so that the working processes, voting systems on the board, agreed by the partners, would not be put in jeopardy.

A valuable role of the independent director would be to provide a mechanism for conflict resolution between the two parties should such conflicts arise. Indeed, it appears very important that such conflicts be identified as soon as possible, and be addressed in a more objective manner. The independent director might be better informed than both parties, more objective, less visible and divisive and thus better able to restore the situation. Concern was expressed regarding voting and blocking by the independent director on the board. It was noted that he is liable to the shareholders through the general assembly, and is by himself a minority in any case...

These considerations of course led to the question as to whether each JV partner ought to have a non-executive director representing the company on the JV board? Or in a JV, where by definition you have 2-3 shareholders, should the independent director represent the value of a share, not a particular shareholder?

Most participants noted that independent directors unequivocally led to more dynamic board discussions and were essential to promoting good and open exchange on difficult issues that the board ought to have. Having only representatives of the partners on the board would be far less valuable.

After a fairly lengthy discussion about who should chair the board, an understanding was reached that an independent chairman can indeed be an asset for a JV board. He would be more of a conflict resolver and mentor; would have a holistic view of the entity and create a buffer zone between the managers and partners; would advise and mediate. Professor Van der Heyden recalls a fundamental result from the theory of teams that an optimal team size is three and not two - the independent chairman is that third person who plays more of a balancing role, sometimes negotiating, mostly influencing, always listening— absolutely a governance role and not one of execution.

The question of partner representatives on the board receives an easy answer: partners must have a voice on the JV - and this voice ought to be legitimate both on the JV side and on the side of the partner. The major reason is that the JV will face lots of issues during its evolution, and it is important that in these decisions the voice of the partner be clearly heard. Short of this, the board loses all credibility and cannot perform its function.

Role of General Managers on the JV Boards

The general principle is that since non-executives and directors should be kept - short of crisis situations - out of operational decisions, it is a good idea to have the general manager on the board, recognizing that he is there mostly to execute the board decisions, after having had the opportunity to have his say. Some participants pointed to the common practice for one of the JV partners to suggest a CEO - if not to appoint one right away. Being hired by one of the parties suggests a possible bias and conflict of interest (if not loyalty).

The arguments from participants for the general manager to be involved in decision making on the board came with a clause: In a JV, it is better to have a one-tier board rather than a two-tier board, because the latter typically separates the strategy board from the management board. Though there were concerns regarding the possibility of bias, the rationale for having

an executive on the board was that the board, from a governance point of view was there to guide and not to make decisions. If you take all executives out of the board, how can there be sufficient accountability and responsibility for execution at the board level?

For a JV unitary board, every director has the same shared responsibility, irrespective of whether he is an executive or non-executive. However, there was a suggestive question - could the general manager also be part of the process without actually being on the board, with the ultimate responsibility lying with the directors?

Dynamics and Strategies in a JV Board

The big argument presented is that in JVs there are many mutual adjustments required and the benefit of a unitary board is powerful, because it is more committed; there is typically less bureaucracy and it helps to make decisions together.

Everyone agreed that for a JV board to be dynamic and efficient with quick decision making abilities, especially in a chaotic market, it would be better to have a unitary board. This choice of a one or two-tier board is not so much nation dependent, but in fact for JVs anywhere in the world it makes more sense structurally to have a unitary board.

Joint ventures need to review, discuss and change goals periodically and recommit to the mutual strategy. It is also important not to get stuck in inefficiency and it is wise always to have an exit strategy in place at the time of creating a JV. The worst thing in a crisis is when no one makes a decision – you need an ‘either you buy me or I buy you out’ option. Many problems can be avoided if this is well documented and there are clear governance policies in place.

There was consensus that board directors, rather than operational people, should be more active in formulating strategies. However, there are two particular local dynamics in this region which make balancing the dynamics of a JV difficult. First, people are very happy to be on many boards and once there, it is very difficult to remove them; second, the local legal environment can oppose a smooth and easy break-up of JVs.

The UAE has a unique problem where board members and chairmen can be on the boards of 10-12 different companies, resulting in a dangerous problem of time constraint, attention span and commitment challenge. In such an environment, JVs are even more demanding and time consuming. Everyone felt that there should be an accepted norm that a chairman/director should not be on more than 4-5 boards.

It was also thought important that directors coming into this region from outside be given training and development to better understand the local market dynamics, the legal issues, and the cultural challenges, in short, to help them to fit in. The selection, preparation and development of directors in a JV company are bigger concerns than in a normal company. So if governance is already hard in publicly traded companies, going to JVs, the challenge only becomes harder.

Conclusions: Key takeaways

At the end of the meeting, participants were asked to share some of the key insights the meeting generated for them:

- ***“It was very beneficial for me to hear other perspectives. We are in the process of looking at governance issues in our company and so there are some valid points that were expressed that we ought to consider, like criteria for selecting independent directors; how to ensure continuity; how do we capture value, and continue creating value.”***
- ***“It opened my mind in many areas that I wasn’t clear about before, such as choosing and training people for JV work; and another insight I gained was that even if the business might be a perfect fit, if processes are not in place the JV won’t work.”***
- ***“It was fascinating and interesting learning about some examples, including the nuclear option that is used to avoid conflict. That was very striking.”***
- ***“It was refreshing to hear different thoughts. We have a number of JV negotiations at MOU stage, and clearly too little attention is spent on governance and too much on the contribution from each party, laws, management. There needs to be greater emphasis on important governance policies.”***