

**Speech by the Rt Hon Alistair Darling**  
**Secretary of State for Trade and Industry**  
**to the Institute of Chartered Accountants England and**  
**Wales**  
**UK/US Dialogue Roundtable**  
**10 January 2007**

**Introduction – globalisation and dialogue**

1. I welcome the opportunity to address this, the second roundtable on Anglo-American corporate governance.
2. International discussion on approaches to corporate reporting and governance is as vigorous as at any time. It is right that it should be.
3. I now want to talk about how I believe we should respond to the challenges we are now seeing across the world.
4. In particular how we can get the right regulatory environment, creating fair and competitive markets. It's important because globalisation brings huge opportunities.
5. The challenge is to foster fair and competitive markets, open to international trade and investment. That's the only way countries will prosper.
6. When it comes to corporate governance, this challenge means getting the balance right between protecting investors and breaking down the barriers for companies.
7. It means giving businesses, including foreign businesses, clarity about the regulatory frameworks within which they need to operate.
8. But perhaps the biggest challenge that governments and regulators face is making a reality of the potential major economic gains that reducing the differences in corporate governance regimes could make. This is especially so if we are to see growth in trade. And these differences can act as major barriers to trade.
9. But convergence should be delivered through best practice and, in particular, around a principles-based approach. And meet the real life needs of companies and investors.

**The UK approach**

10. In the last 10 years we have put in place what we believe are the right conditions to encourage business in the global economy. The right regulatory regime.
11. Growth of the UK economy has been higher than forecast. It is currently experiencing its longest unbroken expansion on record, with GDP having grown for 57 consecutive quarters.
12. This means we are in strong position to respond to the global economic challenges of the next decade.
13. And the UK is now the Number One economy for attracting overseas investors.
14. Half the market capitalisation of the London Stock Exchange is accounted for by international listed companies.
15. While London has more foreign banks than any other financial centre, and hosts the headquarters of six of the world's 10 largest international law firms.
16. And the UK enjoys a high level of confidence in the quality of its financial reporting, the professionalism of our accounting and auditing community, and the general quality of governance in our public companies.
17. We cannot be complacent. We need to be vigilant about threats to this stability.
18. It is therefore important that when we talk about convergence that we build on the best. We know that countries start from different positions. Convergence is desirable but not if it means losing the key principles that underpin our successful approach.
19. That's why we passed the Investment Services and Clearing Houses Act at the end of last year.
20. This will guard against any adverse consequences to London's attractiveness as a place for international listing and investment that might arise from a takeover of the LSE by a foreign company
21. This legislation will give power to the Financial Services Authority to veto changes to the rules of recognised bodies, such as Stock Exchanges, in certain circumstances.
22. Put bluntly we not want to see another country export its regulatory regime to London if that would harm our trading position.
23. And it will also enable the FSA to stop rule changes that would benefit issuers and others disproportionately to the public.
24. But it is vitally important that any corporate governance framework responds to changes in a way that enables enterprise to continue to flourish, and capital markets to remain effective. Economic conditions and expectations change. We must be able to adapt.
25. The UK framework has developed over time in this way. It reflects the fact that corporate governance encompasses both company and finance law and crucially the overlap between the two.

26. Key to our approach is ensuring that shareholders have sufficient information to hold companies to account and to exercise their stewardship functions.
27. As we look ahead to the next decade, we need to maintain a good balance between principles-based rules on corporate reporting, and voluntary but codified best practice on corporate governance. This is exemplified by the Combined Code and the “comply or explain” approach.
28. We don’t attempt to regulate for every eventuality and neither should we. There are many areas where professional standards and codes of best practice will best serve the needs of companies.
29. There are some areas where it is appropriate to impose requirements on companies through legislation or regulation.
30. But we are prepared to legislate when it is necessary. For example, we have just undertaken an extensive review of our company law. Involving extensive discussions with business, investors and all those with an interest.
31. The new Companies Act embodies the principles that we believe are fundamental to an effective framework for businesses to grow and flourish. And which we have had very much in mind throughout our review.
32. The Act promotes shareholder engagement and a long-term investment culture, and gives new rights to those holding shares indirectly – as most now do.
33. The statutory statement of directors’ duties reflects modern expectations of corporate behaviour. The Act also clarifies the liability attached to reporting, which should help openness.
34. We believe that the Companies Act strikes the right balance between the interests of managers and investors.
35. Looking ahead, we’ve got to guard against the risk, that across the world legislators and regulators get the balance wrong. When they react to a real problem – like Enron and then impose new requirements that have unintentional consequences.
36. And it is always a temptation to try to legislate and develop rules for every eventuality. We’ve got to tread the fine line between sufficient regulation, to protect the public interest, and over regulation which can work against the investor and the very people you set out to protect.
37. That is why we place so much emphasis here in the UK on the principles rather than rules based approach to corporate governance and reporting. And on a risk-based approach to legislation.
38. And from time to time the whole regulatory framework comes under pressure from new developments and threats to the market. Regulators and legislators need to approach these challenges with the same balance.
39. In the UK our response to market developments and corporate scandals has I believe been measured.

40. In the last decade the accelerating complexity of the financial markets and services led to the creation of the Financial Services Authority.
41. The creation of the FSA brought together regulation of the various financial services sectors to create a single regulator allowing for a consistent, principles based regulatory approach attuned to the needs of the market.
42. In the current decade the great challenge to legislators and regulators internationally, has been Enron and other corporate scandals.
43. In the UK our response was a measured one. Building on the strengths of the existing system.
44. We expanded the role of the Financial Reporting Council to provide stronger, more independent oversight of accountancy and audit. This was well received by companies and investors alike.
45. The US response was Sarbanes Oxley.
46. During a visit to the US last year I was struck by the extent to which the approach taken by Sarbanes Oxley – overly burdensome and prescriptive rules – was now seen as the wrong response.
47. We welcome the debate that there is currently about Sarbanes-Oxley in the US and the determination of the US authorities to find a better balance of protections and burdens in their regulation, both for domestic and foreign companies.
48. It is important for the strength of international economy that they do. And, of course, numerous important UK companies are directly affected.
49. We are encouraged by the establishment of the US Commissions to look at the competitiveness of Capital Markets. We will be interested to see the outcome of their work.
50. It is important that interested parties in the UK engage with and influence these developments in the US.
51. The DTI here has recently brought together a group with extensive experience in operating in both the UK and US markets, which will help us further in identifying and influencing these policy developments.
52. We do need to learn from other's experiences. But we've got to keep our objectives in front of us - to strengthen trade - and protect investors.
53. Getting the balance right is critical.

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