MA'ADEN: BUILDING THE THIRD PILLAR OF SAUDI INDUSTRY

CORPORATE GOVERNANCE CASE STUDY

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Origins of state-owned enterprises in Saudi Arabia

Since the establishment of the Kingdom, state-led economic development has been the modus operandi for the emergence of the national economy, supported by nationalisation of assets in some sectors and the establishments of governmental enterprises in key strategic sectors. The establishment of state-owned enterprises in Saudi Arabia followed closely the establishment of the Kingdom. Beginning in the 1970s, the Saudi government sought to channel its revenues into developing and diversifying its largely oil-based economy, as outlined in successive five-year economic development plans elaborated by the Ministry of Economy and Planning. The Kingdom's first economic development plans resulted in large scale investments in infrastructure and public utilities, similarly to the development path of the neighbouring Gulf countries. This was followed by the establishment of modern education, healthcare and social services which at the beginning necessitated a heavy presence of the state.

In the 1980s, the Saudi government completed its nationalisation of the previously privately-controlled Aramco or "Arabian American Oil" which began as a concession granted to Standard Oil of California (SoCal), having already acquired a 25% share of the company in 1973. Prior to its nationalisation, Aramco was jointly-owned by U.S.-based SoCal (30%), Texaco (30%), Esso (30%) and Mobil (10%). The nationalisation of Aramco followed the 1976 establishment of state-owned petrochemicals giant Saudi Basic Industries Corporation (SABIC), which effectively brought the petrochemicals sector under complete state control. To this day, SABIC which is now the largest listed company in Saudi Arabia (and indeed in the MENA region)[1] and Saudi Aramco, which remains fully state-owned, are together considered the foundations of the Kingdom's industry and a key source of industrial competitiveness and fiscal revenues for the state.

A number of other large fully and partially state-owned enterprises, including Saudi Telecom and Saudi Airlines are also seen as the Kingdom's strategic assets. The majority of these enterprises, whether privatised or fully state-owned are effectively the vestiges of this earlier era where the role of the state in driving economic development was crucial. Their presence also highlights the logic of the King Faisal-led government which wanted to foster "infant industries" through large state-owned companies to develop entire sectors of economic activity in the country. This occurred in the context where the private sector was under developed and relatively unequipped to deal with the massive investment and development needs in the country.

Major state-owned companies in the country are in fact a direct consequence of this earlier economic development strategy, though their role in the economy has been affected by liberalisation in some sectors where they now face competition, privatisation of some SOEs such as the Saudi Telecom, establishment of joint ventures with international partners, and also the re-structuring of some activities towards more lucrative sectors. The government has a vast portfolio of SOEs operating across several major strategic sectors, including telecoms, finance, electricity, oil and gas, transport, real estate and postal services (refer to Annex I for a list of key SOEs in the Kingdom). To this day, Saudi Arabia's corporate sector is dominated by several large state-owned enterprises alongside family-owned conglomerates such as the Olayan Group.

While many federal and municipal SOEs (i.e. established at the level of individual governorates) in Saudi Arabia are unlisted and wholly-owned by the government, a number of key companies have been partially listed on the Saudi stock exchange, Tadawul. This reflects a wave of partial privatisations in the early 2000s which included: Saudi Telecom (20% share listed in 2003 and 10% subsequently); Saudi Electricity Company (15.85% share listed in 2007), National Company for Co-operative Insurance (50% floated in 2005) and an earlier privatisation of SABIC. The objectives for partially listing SOEs have varied, but generally speaking they have taken place to support capital market development, to further commercialise existing SOEs by subjecting them to the rigors of the market, and to distribute state wealth to the broader population.

[1] The market capitalisation of SABIC has reached over USD 90 billion in 2014.

The latter point is important particularly in the Saudi context where the stock exchange, the largest single capital market in the MENA region, has been closed to foreign investment (except through mutual funds and swaps), allowing any windfall gains to be recycled to domestic investors, while keeping national ownership of companies. An equally important consequence of the listing of SOEs, has been the dramatic improvement in the governance practices of these listed SOEs which became subject not only to the listing rules, but also to the securities law, and Saudi corporate governance regulations whereas their previous governance and reporting requirements were rather minimal. The listing of SOEs, as in other countries of the region, has had a secondary – but not an unintended – effect of significantly developing the capital market, dominated by family held companies.

In parallel to the dilution of state-ownership in some companies, the government has moved to reinforce its presence in some strategic sectors, in part with a view to diversify its economy, in part to further consolidate industrial competitiveness by creating value chains. While the "infant industry" argument which dominated the earlier creation of SOEs no longer applies to the same degree, the establishment of key corporate leaders in some sectors such as petrochemicals or mining, continue to be seen as requiring government leadership and support. While there is considerable debate on the consequences of the continuously important role of the government in driving industrial development in the country, the success of established champions such as SABIC is difficult to dispute. Indeed, some highly successful and efficiently run SOEs in the Kingdom are now referred to as "pockets of efficiency" (Hertog, 2010), in a sense of being a positive outlier from the overall government apparatus and from the private sector which in the Gulf remains relatively weak and dependent on the state.

Some progress has been made in diversifying the economy from the petroleum sector, where the state holds a monopoly in Saudi Arabia as well as in the wider GCC region. While from 1970 to 2009, the share of the non-hydrocarbons sector in GDP grew from 51% to 73.5% (WTO, 2012), the petroleum sector still represents 91.8% of total government revenues (SAMA, 2013).[2] These figures illustrate the ongoing dependence of government budgets on hydrocarbon outputs and exports, comparable to other countries of the Arabian Gulf such as Kuwait, but higher than others such as the United Arab Emirates. The Saudi government has taken a two-prong approach to this challenge, both by encouraging private sector development and by continuing to establish national champions to pilot economic growth in specific sectors where the government believes state leadership continues to be warranted.

Overall, the level of state participation in the economy has not declined in recent years[3], in part due to the ongoing establishment of SOEs such as Ma'aden to drive growth in specific sectors of the economy, in part due to the growing participation of sovereign investment vehicles in the capital market and also as a result of the slowdown in the privatisation momentum in the region, including in Saudi Arabia. In recent years, only one relatively small SOE, the Saudi Catering Company, was privatised, the government retaining approximately 35% of the capital through Saudi Airlines. More recently, National Commercial Bank, the largest bank by assets in the country, was also partially privatised through a 15% stake listing on Tadawul.

Economic diversification remains a priority, as noted in the Saudi Ninth Development Plan Growth where the stated objective is to grow non-oil exports at the annual rate of 10% to bring their share of GDP to about 23.7% by 2014. It is also the one of the most serious economic challenges in the Kingdom. Although much of Saudi Arabia's economy still relies heavily on the public sector, both directly though state participation in leading industrial concerns and indirectly through private sector dependence on government procurement contracts, there has been a drive towards increasing the role of the private sector in economic activity. As explored in recent research, a similar trend has occurred in most GCC countries, which have since the 1990s started opening many economic sectors to private sector participation to achieve their economic diversification goals (Hertog, Luciani and Valeri, 2013).

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[2] These figures fluctuate from year to year based on the price of oil.

[3] This is not based on a quantitative assessment of the SOE sector in Saudi as no consolidated list of Saudi SOEs is available and data on the size and profitability of unlisted SOEs is likewise unavailable.

The establishment of Ma’aden

Prior to Ma’aden’s establishment, most mining activities in Saudi Arabia were carried out by Petromin (the General Organisation of Petroleum and Minerals). A joint venture between Petromin and Boliden minerals operated the Mahd Al Dahab and the Al-Sukhabarat gold mines. At the outset, Ma'aden was a department under Petromin [4] operating Mahad Al-Dahab Gold Mine, and another company called Saudi Precious Metals Company. A merge in 1997 between Saudi Precious Metals Company and Petromin Gold mining department created the Saudi Arabian Mining Company.

Ma’aden (Saudi Arabian Mining Company) was established by Royal Decree to consolidate and commercialise mining activities in Saudi Arabia and to support diversification of its predominantly oil-based economy. At the time, 50% of its assets were transferred from Petromin and Ma’aden acquired the other 50% in 1999 from a Swedish company for 26 million SAR (equivalent to USD 7 million). Ma’aden’s incorporation as a joint stock company was an important step in commercialising the state’s existent mining operations.

At the time of Ma’aden’s establishment as a joint stock company, the mining industry in Saudi Arabia was underdeveloped. Ma’aden was a latecomer to the SOE sector in the Kingdom and was not established in the same “infant industry” logic as some of the older government companies such as Saudi Aramco and SABIC. Instead, the company was set up consolidate existing mining activity in the Kingdom in a single corporate structure, with multiple subsidiaries and joint ventures with international and domestic partners, not unlike the structure of other large SOEs in the Kingdom. Following this logic, in 1999, Ma’aden purchased the remaining 50% of SCPM from Boliden, effectively securing full state control over the mining and minerals sector.

These early decisions marked the start of a long process which aims to make mining in Saudi Arabia a diversified, profitable and internationally competitive industry. It also highlighted the will of the rulers to make mining the “third pillar” of Saudi industrialisation strategy, alongside the two petrochemicals giants (Saudi Aramco and SABIC). As such, Ma’aden’s objectives were defined quite broadly in its articles of association, noting specifically that “the company shall conduct activities on commercial basis and for the purpose of profit as practiced by private commercial companies” (refer to Box 1 below).

Box 1. Ma'aden's objectives

[4] Petromin was dissolved in 2005 following years of competition with Saudi Aramco. For a detailed account of the demise of Petromin, refer to Hertog, 2008.

"The Company shall have the right to perform all lawful actions for the realization of its objectives, including, without limitation, the following:

a) Acquire any of the mining licenses in accordance with the Mining Investment Regulation, and exercise all rights and assume all obligations provided for in such licenses.

b) Develop and update mining projects in the Kingdom, and attract domestic and international investments to participate in the Saudi mining industry.

c) Import its equipment and other requirements either directly or through others.

d) Conduct, on its own or through others, theoretical and practical studies and research related to minerals and mining, train technical Saudi cadres in mining, and provide or obtain consulting services that relate, directly or indirectly, to its operations and activities.

e) Cooperate with companies and organizations engaged in mining activity to facilitate reconnaissance, exploration, discovery, investment, distribution and marketing operations.

f) Establish companies either as owner or shareholder, inside or outside the Kingdom for the purpose of engaging in all or some stages of the mining industry.

g) Establish, operate, maintain, develop, integrate and manage mines, mining projects, buildings, railroads, public roads, pipelines, refinery plants, fabrication labs, communication systems, electricity generation projects and other necessary facilities to achieve the company's objectives.

h) Engage in wholesale and retail trading in fabricated products of metals, jewellery, precious stones and mineral ores.

i) Participate in any form whatsoever with, or acquire an interest in, other companies or organizations engaged in similar activities which may assist the Company in realizing its objectives, whether inside or outside the Kingdom. It may buy or affiliate with such companies and organizations, or otherwise cause them to merge into it.

j) Invest its funds in objectives similar to its own.

k) Contract loans and own real and movable property for the purpose of realising its objectives."

Source : Ma'aden's Articles of Association, 1997.

Since its establishment, Ma'aden has been a driving force behind the rapid expansion of the mining sector, at the same time bringing infrastructure and industry to some of the country's most undeveloped regions. Its objectives are therefore dual, and the CEO of the company Engineer Khalid bin Saleh Al Mudaifer admits to having to balance both shareholder value creation prerogatives with priorities of a social nature, notably the development of remote areas and employment creation. Already, 36% of the mine staff is hired from the local communities and 66% of the company's entire workforce are Saudis. "Both [commercial and social objectives] are in line with government priorities", notes the CEO, "making strategy establishment and execution a logical and coherent exercise."

In some instances, however, objectives may not be mutually complementary. For instance, the Ministry of Petroleum might have a natural interest in establishing more downstream industries however this might be detrimental to the company's growth in the long term.[5] In such cases, the company's management is given the liberty to advance its arguments. The fact that the company is faced with a multitude of non-commercial objectives does not however, imply that the state does not have expectations as to the company's profitability. The ninth development plan issued by the Ministry of Economy and Planning for 2010-2014 established a targeted annual average growth rate of 9.2% in the mining sector.

[5] Currently, Ma'aden is investing in downstream products which could be produced in its Wa'ad Al Shamal Facilty and any other downstream activities that it can undertake without incurring excessive risk.

The company's expansion

Over the years Ma'aden has diversified its activities and they now span phosphate, aluminium and industrial minerals. As of year-end 2013, the company generated sales of 6 billion SAR (equivalent to USD 1.6 billion) and employed over 5700 people (excluding contractors and consultants). It provides a significant contribution to the Saudi GDP as reflected in its national statistics, summarised in Table 1 below. [6] This is despite that the fact that its output of gold and silver mined was on the decrease in recent years. The levels of mining and minerals extraction in Saudi Arabia have been quite stable in the past 5 years, as presented in Annex II.

Table 1. GDP by type of economic activity (at current prices, in million riyals)

	1970	1980	1990	2000	2013 (1)	% Share 2013
A - Industries and Other Producers Except Producers of Government Services:						
1. Agriculture, Forestry & Fishing	1025	5399	25142	34973	51636	1.8
2. Mining and Quarrying :	8738	324671	140462	262399	1256481	44.8
a) Crude Petroleum & Natural Gas	8689	323048	138650	259847	1246557	44.4
b) Other	49	1623	1812	2552	9925	0.4
3. Manufacturing:	1997	22412	37635	68290	283261	10.1
a) Petroleum Refining	1356	12026	14471	21084	67331	2.4
b) Other	641	10386	23164	47206	215930	7.7
4. Electricity, Gas and Water	2557	3191	6692	8515	30623	1.1
5. Construction	829	41073	28565	41724	134445	4.8
6. Wholesale & Retail Trade, Restaurants and Hotels	1091	21911	28184	47832	241586	8.6
7. Transport, Storage & Communication	1085	13666	19928	29103	135357	4.8
8. Finance, Insurance, Real Estate & Business Services:	4199	75927	56028	76204	262656	9.4
a) Ownership of Dwellings	3692	62780	31781	43056	146408	5.2
b) Other	507	13147	24247	33148	116248	4.1
9. Community, Social & Personal Services	364	7970	17062	22176	49699	1.8
10.Less: Imputed Bank Services Charge	66	4880	8575	13334	21191	0.8
Sub-total	21818	511342	351122	577884	2424554	86.4
B - Producers of Govt. Services:	2093	33505	79211	119123	360927	12.9

[6] Please note that the Saudi Arabian Monetary Agency, which collects such statistics consolidates mining and other oil exploration and extraction activities in its public reporting.

Total Except Import Duties	23912	544847	430334	697007	2785481	99.2
Import Duties	286	2534	7000	9650	21205	0.8
Gross Domestic Product (GDP)	24198	547381	437334	706657	2806686	100.0

Source: SAMA, 2014.

Today, Ma'aden operates it main lines of business via a mixture of wholly-owned subsidiaries, joint ventures and projects. The company's headquarters, located in Riyadh, oversee the business across all operational sectors and manages marketing, exploration and support services. As of end 2013, its net profit was in the order of 1682 million SAR (equivalent to USD 448 million). The company believes that it has a number of key strengths, including licenses to access an estimated 50 000 square kilometers, and important diversification opportunities away from its initial core activity (i.e. gold mining) to ammonia, aluminium, and other industrial minerals.

The company's main lines of business are carried out as follows:

Gold and base metals. The company currently operates five gold mines across the country via its wholly-owned subsidiary Ma'aden Gold and Base Metals Company (MGBM). MGBM is developing a new gold province – Ma'aden Mansourah and Massarah project – in the Central Arabian Gold Region. As part of this project, in February 2013, Ma'aden awarded a SAR 1 billion (USD 267 million) contract to Korea's Hanwha Engineering and Construction to design and build a high capacity (2 million tonne per year) gold process plant for the Ad Duwayhi gold mine.

Industrial minerals. Ma'aden's industrial minerals are produced by the Ma'aden Industrial Minerals Company (MIMC), a wholly-owned subsidiary that was established in 2009 and started production in 2011. It specialises in extracting and adding value to the country's extensive deposits of industrial minerals, including low grade bauxite, kaolin and magnesite. Magnesite, which is used in a variety of applications from the lining of blast furnaces and incinerators to a catalyst and filler for synthetic rubber, is mined, crushed, seized and stored at the Ma'aden facility in Zarghat, 700 kilometres northeast of Jeddah in Hail province.

Phosphate. Ma'aden mines phosphate rock and processes it into phosphate products, including diammonuim phosphate (DAP) and monoammonium phosphate (MAP), the most widely used phosphate fertilisers in modern agriculture. Ma'aden's current phosphate business consists of the Ma'aden Phosphate Company (MPC), a joint venture which is 70% owned by Ma'aden and 30% by SABIC, and the Wa'ad Al-Shamal Phosphate Company. Refer to Box 2 below for additional details on the Wa'ad Al-Shamal phosphates city project.

Aluminium. Ma'aden's aluminium activities are carried out through a USD 10.8 billion joint venture with Alcoa (holding 25.1%), operating on two sites: Al Baitha in the northern Qassim province, and an integrated aluminium complex in Ras Al Khair Minerals Industrial City. Ras Al Khair hosts a refinery, smelter and rolling mill. The Ma'aden refinery is the first alumina refinery in the Middle East, and it will produce 1.8 million tonnes per year of aluminium. The smelter's annual production capacity is 740 000 tonnes per year of primary aluminium. The rolling mill capacity is 380 000 tonnes per year.

Box 2. Wa'ad Al-Shamal phosphates city project

Ma'aden Phosphate Company is a USD 5.6 billion investment and operates at two primary sites: Al Jalamid in Northern Saudi Arabia, home to Ma'aden's phosphate mine and beneficiation plant; and Eastern Province's Ras Al Khair, where Ma'aden's integrated chemical and fertilizer facility is based. The Wa'ad Al Shamal Phosphate Company is a joint venture owned by Ma'aden (60%), U.S.-headquartered Mosaic (25%) and SABIC (15%). The total cost of its phosphates city project, expected to commence production in in late 2016 is estimated at about SAR 28 billion (USD 7.5 billion). The Waad al-Shamal phosphates city project, expected to begin operations in 2016, is a large scale industrial city which will be dedicated to the mining, processing and exporting of phosphates-based products. It is to become one of the largest phosphate facilities in the world. Project debt financing will come from the Saudi Public Investment Fund, the Saudi Industrial Development Fund and commercial banks. The phosphates complex at the centre of the planned industrial city – valued at 4 billion USD – is a joint venture between Ma'aden (owning 60% of the project), U.S. fertiliser firm Mosaic (25%) and SABIC (15%). The joint venture will include the construction of roads and utilities, as well as a railway connecting to Ras Al Khair, an industrial city and port in Eastern Province. The world-scale fertiliser project has the potential for creating thousands of direct and indirect employment opportunities in one of the most under-developed areas in Saudi Arabia. However, finding local staff with adequate technical expertise is expected to be a challenge for the company. Ma'aden has launched a number of initiatives to promote the employment of local staff in the industrial city, including the establishment of specialist schools.

Source: Reuters (2014) and Meed (2014).

Ma'aden has a number of exploration activities which involve regularly assessing opportunities to extract new commodities with high growth potential. In addition to its core mining activities listed above, Ma'aden began experimental production of ethylene dichloride and caustic soda in July 2013, through Sahara and Ma'aden Petrochemical Company (SAMAPCO), a joint venture between Ma'aden and Sahara Petrochemicals, each holding 50%. Ma'aden's mining activities are supported by a dedicated infrastructure subsidiary, Ma'aden Infrastructure Company, which oversees the construction and management of railways, roads, ports and utilities necessary for certain mining sites.

A complex organisational and shareholding structure

The company operates through a complex structure of subsidiaries, as highlighted in Table 2 below. A particularity of Ma'aden's ownership is that the company's subsidiaries, established in tandem with the development of the company's business lines described above, are in a number of cases structured as joint owned entities with other state-controlled actors, notably SABIC. In addition, three of Ma'aden's subsidiaries are structured as joint ventures with Alcoa, an American company listed on the New York Stock Exchange, which has selected Saudi Arabia as a cornerstone of its expansion strategy in the region. The projects undertaken by Ma'aden in cooperation with Alcoa have required high investment outlays[7] and necessitate foreign partners to expand technical and investment capacities.

[7] For instance, the Ma'aden Aluminium Company has seen total capital investment of USD 10.8 billion dollars as of end of 2013 (Alcoa, Ma'aden-Alcoa JV Fact Sheet).

Table 2. Ma'aden group structure

	Year of establishment	Type of company	Ownership structure as of 31 December 2013	
Parent Company				
Ma'aden	1997	Limited liability company	Public Investment Fund	50%
			General Organisation for Social Insurance	9.6%
			Public Pension Agency	7.3%
			General Public	33.1%
Subsidiaries				
Ma'aden Gold and Base Metals Company	1989	Limited liability company	Ma'aden	100%
Ma'aden Industrial Minerals Company	2011	Limited liability company	Ma'aden	100%
Ma'aden Infrastructure Company	2008	Limited liability company	Ma'aden	100%
Ma'aden Phosphate Company	2007	Limited liability company	Ma'aden	70%
			SABIC	30%
Ma'aden Aluminium Company	2009	Limited liability company	Ma'aden	74.9%
			Alcoa	25.1%
Ma'aden Rolling Company	2009	Limited liability company	Ma'aden	74.9%
			Alcoa	25.1%
Ma'aden Bauxite and Alumina Company	2009	Limited liability company	Ma'aden	74.9%
			Alcoa	25.1%
Ma'aden Wa'ad Al Shamal Company	2013	Limited liability company	Ma'aden	60%
			Mosaic	25%
			SABIC	15%
Jointly-controlled entities				
Sahara and Ma'aden Petrochemical Company	2010	Limited liability company	Ma'aden	50%
			Sahara	50%
Ma'aden and Barrick Copper Company	2014	Limited liability company	Ma'aden	50%
			Barrick Gold Corporation	50%

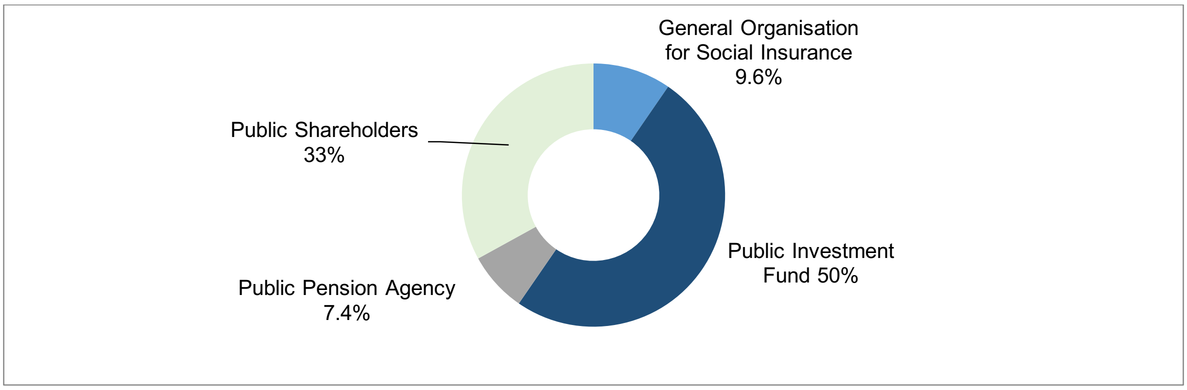
Source: Ma'aden (2013), "Driving Development: Annual Report 2013" and updated information provided by company representative.

Ma'aden's gold, industrial minerals and infrastructure activities are all undertaken by wholly-owned subsidiaries, while its aluminium, petrochemicals, copper and phosphates businesses are undertaken via joint ventures that are controlled by Ma'aden. Two companies – the Sahara and Ma'aden Petrochemical Company (SAMAPCO) and the Ma'aden and Barrick Copper Company (MBCC) – are jointly controlled through 50/50 joint ventures, with Sahara Petrochemicals and Barrick Gold Corporation, respectively.

The shareholding structure of the company and its subsidiaries is equally complex, including a number of state-owned investment vehicles, private domestic investors as well as foreign partners in specific ventures. The company has a number of large state-owned investment vehicles, the largest of which, the Public Investment Fund (PIF), holds 50% of its unlisted capital. In addition, state insurance and pension agencies together own 17% of the company's share capital via its listed shares, with the General Organisation for Social Insurance holding 9.6% and the Public Pension Agency holding 7.4% (Figure 1). Since 2008, 50% of Ma'aden's share capital is listed on the Tadawul.

The remaining 33% ownership of the company is quite concentrated in the hands of a few major private investors, including some executives and board members of the company. The dispute about share ownership by board members and executives is still ongoing in some countries, whereby some consider that share ownership by key executives provides incentives for performance, and others arguing that it invites short termist thinking and encourages conflicts of interest. In Saudi Arabia, but also in the wider MENA region, share ownership by key executives and board members is quite common and indeed often enshrined in corporate law as a prerequisite to becoming a board member.

Figure 1. Shareholding structure (as of December 2013)



Source: adapted from the company website.

This ownership model is effectively common for state-owned enterprises in Saudi Arabia, a number of which have the PIF or GOSI as shareholders. For instance, Saudi Telecom, another listed SOE, also has a 70% ownership by the PIF and ownership stakes by GOSI and the General Retirement Organisation. SABIC, the largest listed SOE in Arabia and by all accounts the second largest company in the Kingdom (after Saudi Aramco), is also 70% owned by the PIF and has other state-owned vehicles as minority investors. This structure reflects the de-centralised ownership model of Saudi SOEs, which is prevalent in the MENA region.

Whereas developed economies have seen a move towards consolidation or co-ordination of ownership, a similar trend is not generally observed in the region. In the neighbouring GCC countries, only Bahrain has sought to restructure its SOE sector, transferring the ownership of its commercial SOEs from the Ministry of Finance to its sovereign wealth fund, Mumtalakat, and consolidating its petrochemical SOEs under another holding company, Noga holding. In North Africa, Morocco is the only other example in the MENA region where the government has recently sought to consolidate at least financial oversight and investment functions in the Ministry of Finance and Tunisia is moving in the same direction, having announced the establishment of an ownership entity.

Ownership of Saudi SOEs

In Saudi Arabia, most SOEs are owned by sector-specific line ministries or specific state-owned investment vehicles such as the PIF or GOSI, without formal arrangements for co-ordination in the exercise of ownership rights across SOEs. Although the de-centralised ownership model is predominant, some the country's strategic SOEs are governed more along the lines of a "dual ownership model", involving both ownership by the Ministry of Finance and some level of oversight, or at least influence, by a line ministry. The Public Investment Fund, technically part of the Ministry of Finance is, as mentioned, a major owner of SOEs in the Kingdom and in listed companies more generally. It is also the official owner of Tadawul, the Saudi stock exchange.

Box 3. The Public Investment Fund

The Ministry of Finance's Public Investment Fund (PIF) (which is chaired by the Minister of Finance) was established as a joint stock company in 1971 as a vehicle to channel the state's oil revenues into developing the domestic economy. Its stated mission is to finance commercial projects that are considered strategically important to the country's economic development and which the private sector alone lacks the expertise and/or the capital to effectively implement.

At the outset, the PIF's support took mainly the form of loans and guarantees to finance specific projects, but its scope of operations has expanded rapidly since then. In 1974, following resolution 508 of the Council of Ministers, the PIF moved beyond just loan financing and acquired direct equity participations in a number of joint stock companies. In parallel, it was assigned the explicit role of managing the state's equity participations in joint stock companies and representing the state as shareholder in those companies. In 2008, the PIF was further mandated be in charge of the state's sovereign wealth fund Sanibil.

According to media reports, the PIF has been increasing its presence in the Saudi economy not only through the establishment of ventures, but also by taking stakes in publicly listed companies. It is reported that its stake in Tadawul's overall market capitalisation increased by 26.5% by August 2014 as compared to year end 2014 and it is now estimated that its stake is over 20%, invested in a range of companies in the petrochemicals, banking and telecom sectors. This reflects the legacy stakes of the PIF in privatised SOEs but also the increasing investment of the fund in the local stock market as the latter is planning to open its doors to qualified institutional investors.

Source: Arab News, 14 September, 2014. http://www.mof.gov.sa/english/Pages/investment.aspx,

Although the Public Investment Fund is technically responsible for representing the state as owner in its portfolio companies, line ministries continue to play a key strategic role in some cases. For example, in the case of Ma'aden, both the Secretary General of the Public Investment Fund and the Undersecretary for Mineral Resources (of the Ministry of Petroleum and Mineral Resources) are represented on the board. This situation is not uncommon for other SOEs in the Kingdom, which have Ministers or high level representatives of government investors directly represented on the board.

This is in part a consequence the state ownership model, where a separation of ownership and regulatory functions has not been sought in all sectors. For instance, while sectoral regulators were introduced in competitive sectors such as telecoms, the same has not occurred in other sectors and it is common that ownership and regulatory rights are exercised by the same line ministry, leading to conflicts of interest. To offer an example, the Ministry of Petroleum and Mineral Resources is responsible for overseeing Saudi Aramco (although oversight is shared with the Supreme Council for Petroleum and Minerals). The Ministry also exercises ownership on behalf of the state. The Minister of Petroleum and Mineral Resources serves as the Chair of the Board and the board also features other Ministers and high level government officials.

Governance of SOEs in the Kingdom

Owing to the rather complex and fragmented ownership structure of SOEs in Saudi Arabia, their governance arrangements have historically been quite varied, leading to wide differences in financial and non-financial performance of these companies. Whereas some companies are recognised as islands of excellence and are deemed by key stakeholders, such as the Chairman of GOSI Suliman Al Gwaiz, as leading in terms of the governance arrangements, others have been generating very low profitability, requiring explicit or implicit subsidies from the state. That said, most underperforming SOEs in the country were reformed in the past 20 years and most SOEs appear to operate under clear commercial mandates from their owners and with sufficient operational autonomy to achieve their objectives.

These individual successes of leading Saudi SOEs have occurred, as mentioned, in the vacuum of a centralised ownership or a coordination entity and in the absence of an overarching ownership policy. While individual SOEs such as Ma'aden and Saudi Telecom have developed and, as discussed below, continue working on improving their governance practices, this has been driven by executives and boards of individual companies and hence has resulted in an extremely varied and "personalised" governance structures and styles in individual companies. As Steffen Hertog puts it, the success of Saudi SOEs can be attributed to "a profit- and market-oriented management that is autonomous in its daily operations, hence insulated against political and bureaucratic predation, and that receives clear incentives from a strictly limited, coherent set of high-level principles in the political regime" (Hertog, 2010).

There are currently no general governance requirements for the entire SOE sector in Saudi Arabia, which is effectively not unique in the GCC or the wider MENA region, where for the moment only two countries – Egypt and Morocco - have developed SOE governance codes or recommendations. While other countries of the Arab world, such as Tunisia and Algeria have moved in a similar direction in 2014, this is not planned in Saudi Arabia. SOEs in Saudi Arabia are also not subject to a single piece of legislation such as the Public Business Law in Egypt, which establishes criteria, among other, for reporting and board nomination practices in SOEs. The Saudi Companies Law of 1982, currently subject to discussions and a widely anticipated revision, applies to SOEs organised in the legal forms it recognises but does not apply to statutory corporations whose governance arrangements are instead anchored in their articles of association.

Instead, the approach of the Saudi government has been largely anchored in driving governance improvements in SOEs by subjecting them to the rigors of the market through equity or debt issues on the one hand, and by adopting changes at the company level through government representation on SOE boards and other, less formal, mechanisms of influence on the governance organs of SOEs. This influence can also be exercised as a "counter bargain" to the state support offered to SOEs which includes initial equity capital and soft loans, the provision of project-specific infrastructure, and the supply of cheap energy and feedstock to support operations.

Experts agree that state support to SOEs has had some negative externalities, notably on the level playing field with the private sector and hence on the ability of the private sector to flourish without operating "under the wing" or "in the shadow" of the state. While such support has benefited the establishment of nascent industries with no existent private sector activity in 1950-1980s, the current structure of the economy and the stated objective of the government to create private sector driven growth and employment would imply that such market distortions could be damaging and costly in both short and long term for the state. It is arguable that subsidisation of SOEs has come at a high cost to the Saudi government and it is unclear whether these subsidies are the most cost efficient mechanism of obtaining the sought economic outcomes.[8]

Ma'aden's governance and regulatory framework

Maaden's own governance arrangements are anchored in a number of key pieces of legislation, notably, the Companies Law, the Mining Investment Law and also the rules and regulations of the Saudi Capital Markets Authority that apply by virtue of its public listing. The legal structure is fundamentally shaped by Ma'aden's incorporation as a joint stock company operating under the terms of the Saudi Companies Law and other regulations issued by the Ministry of Commerce and Industry. According to the Companies Law, incorporation of joint stock companies requires a license from the Minister of Commerce and Industry.

[8] For instance, if the pricing of feedstock, electricity and water for SABIC in 2013 was done according to international prices (feedstock at a price of 10 USD per million BTUs, and electricity at a price of 0.21 USD per kilowatt-hour), SABIC had avoided additional expenses representing approximately 133% of its net income in 2013 (Al Umry, 2014).

Furthermore, incorporation of certain types of joint stock companies, including those with equity participation of the government, requires a specific license issued by Royal Decree. This procedure has the effect of enabling Ma'aden as well as other SOEs in Saudi to operate as statutory corporations with "custom made" articles of association.

The Saudi Companies Law, adopted in the 1950s, is widely acknowledged to be somewhat outdated and remains rather general on the governance structures to be adopted by joint stock companies. It does however require that all joint stock companies be managed by a board of directors comprising at least three members, who are each required to own a certain nominal value of company shares. It also requires that joint stock companies hold an annual shareholders meeting and have their accounts audited. By virtue of the fact that the law is quite old whereas the governance regulations issued by the Saudi Capital Market Authority (CMA) are recent and updated on a regular basis, experts have pointed to inconsistencies between the two[9] as well as the lack of clarity between the jurisdiction of the Capital Market Authority and the Ministry of Industry and Commerce.

The Saudi Capital Market Law was introduced in 2003, establishing the Capital Market Authority as the relevant entity to oversee listed companies as well as oversee the operation of the stock exchange. The Saudi CMA is vested with a range of regulatory and enforcement companies and can be considered as one of the most active and effective regulators in the region. Since its establishment about a decade ago, the Authority has cracked down on market manipulation and insider trading activity which was not negligible in the Saudi market and has been active in enforcing Corporate Governance and other regulations applicable to listed companies, including against some state owned enterprises (Amico, 2014a). Under the leadership of a new Chairman Mohammed Al Sheikh since 2013, the CMA has been increasingly active.

A number of developments have also affected the Saudi stock exchange and its regulatory responsibilities. A Memorandum of Understanding was signed between the CMA and Tadawul with a view to ultimately transfer certain regulatory and oversight responsibilities vis-a-vis listed companies to Tadawul, in addition to some aspects being addressed by law. Tadawul was corporatised in 2007 and discussions are ongoing related to further broadening of its ownership to private shareholders[10] and further expanding its regulatory responsibilities as it currently acts primarily as a listing venue (OECD, 2012), whereas most of the responsibilities related to the oversight of listed companies, including in relation to the Corporate Governance Regulations issued in 2006, rest with the Capital Market Authority.

The Corporate Governance Regulations, the Saudi corporate governance code, apply to all listed companies on a "comply-or-explain" basis. Implementation of the Corporate Governance Regulations has been gradual, with the CMA giving listed companies a period to comply and over the years making certain articles of the Regulations it deems essential mandatory. Such articles include, for instance, the requirement for listed companies to establish the Audit Committee or Remuneration and Nomination Committee, recommendations bearing on the number of non-executive and independent board members, and disclosure of the Board of Directors report.

[9] For instance, the Saudi Corporate Governance Regulations prohibit cumulating the role of the Chairman of the Board with other executive posts, whereas the Company Law does not contain such a provision. Likewise, the Regulations establish that the boards of listed companies should contain between 3 and 11 members, whereas the Companies Law established the same minimum number but not maximum number.

[10] Its board, consisting of 9 members, already reflects private sector participation and includes 4 representatives of licensed brokerage firms and 2 representatives of listed companies, alongside representatives of the Ministry of Finance, the Ministry of Commerce and Industry, and the Saudi Arabian Monetary Agency (Saudi Central Bank).

As a listed company, Ma'aden is required to operate under all terms of the laws and regulations issued by the Capital Market Authority, including the Corporate Governance Regulations, the key elements of which are outlined in Box 4 below. Unlike in the United Arab Emirates for example, where SOEs and banks are exempt from the corporate governance code applicable to listed companies, Saudi listed SOEs are subject to CMA oversight as would any other listed company. From the perspective of corporate governance, listed SOEs are therefore adequately supervised, especially considering that prior to their listing they were not subject to any particular governance requirements or oversight as mentioned earlier, except as prescribed in their articles of association. Key elements of the Saudi Corporate Governance Regulations are detailed below.

Box 4. Key elements of the Corporate Governance Regulations

Rights of the shareholders and the General Assembly. All shareholders are entitled to the rights attached to their shares, including the right to a share of distributable profits, to attend and participate in the General Assembly and vote their shares, to supervise the activities of the board, and to inquire about and access information necessary for the exercise of their rights, without prejudice to the company's interest.

Disclosure and transparency. Listed companies are required to append a Board of Directors report to their annual financial statement, to include: information on the implementation of the Corporate Governance Regulations and explanations for any provisions not implemented; information on board members including the names of any other companies on which they serve as board members, their classification as executive, non-executive and independent and the details of their compensation.

Board of Directors Report. The Board of Directors report must also include a description of the responsibilities and composition of the board's main committees, such as the Audit and the Nomination and Remuneration Committee. It must also disclose any penalties imposed on the company by the Capital Markets Authority and the results of the annual audit on the company's internal control procedures.

Main functions of the board of directors. The Board of Directors is responsible for approving and supervising the implementation of the company's strategic plans and objectives as well as establishing and monitoring internal control procedures. The Board must develop in writing: a conflict of interest policy; a Corporate Governance Code; policies and standards relating to the membership of the board of directors; and a policy for protecting the rights of stakeholders, including a code of conduct for company executives and employees. The Board must also oversee implementation of risk management procedures and maintain the soundness of the company's financial reports.

Responsibilities of the board. The board of directors maintains ultimate responsibility for the company and must carry out its duties in good faith and with due diligence. Board members represent all shareholders and should act in the interest of the company, and not the group they represent.

Independence of the board. The majority of board members must be non-executive (as defined by not holding a full-time management role in the company). The board must comprise at least two members who are independent or make up one-third of the board, whichever is greater. To be considered independent, a board member notably cannot represent a legal person that holds at least five percent of the company's shares, or be a first-degree relative of a member of the board of the company's or the company's group.

Committees of the board. The Board of Directors must establish an appropriate number of committees to ensure it can carry out its duties, and in particular must establish an Audit committee and a Nomination and remuneration committee. The latter are mandatory provisions of the Regulations.

Conflict of interest within the board. Board members are prohibited from having any personal interest in the company's business or contracts and must inform the board of any personal interest he or she may have. The chair must inform the General Assembly of any identified conflicts of interest and provide it with a related report prepared by the company's auditor.

Source : Capital Market Authority of Saudi Arabia (2006), "Corporate Governance Regulations in the Kingdom of Saudi Arabia", English translation of the official Arabic text.

In addition, boards of listed companies in Saudi Arabia are required to develop their own corporate governance framework. Ma'aden's Corporate Governance Framework reflects a number of leading practices, reflecting international best practices. The Framework is subject to ongoing adjustments and modifications and encompasses other policies and procedures that allow the board to ensure effective governance throughout the organisation such as an Enterprise Risk Management Manual and Conflict of Interest and Business Conduct Guidelines.

Any provisions of the Corporate Governance Regulations not fully implemented by a listed company must be disclosed in the Board of Directors' report, along with the reasons for not implementing them. In 2014 for example, a number of listed companies, including notably some SOEs, were penalised for not respecting the requirement to establish explicit policies, standards and procedures for board membership. While the penalty could be viewed as symbolic (10 000 Saudi riyals, equivalent to USD 2 700 per company), the fact that many large SOEs including the Saudi Arabian Fertilizers Company, the Saudi Real Estate Company and SABIC were penalised alongside private companies can be interpreted as a positive sign in terms of establishing a level playing field between private companies and SOEs, confirming the independence of the securities regulator from possible political influence.

To ensure a standard of ethics and proper conduct of SOEs, all public entities in Saudi Arabia, including companies in which the government owns at least 25% of share capital, fall under the purview of the national anti-corruption commission, Nazaha. The commission, whose primary objective is to investigate corruption cases, was established in 2011 as an independent authority that reports directly to the King. Since its establishment, it has made important efforts at reducing public corruption, including by proposing regulations to protect whistleblowers and to have all officials, including Ministers, declare their assets.[11]

Ma'aden and other SOEs in Saudi are also subject to audits by the General Auditing Bureau (GAB) established in 1971.[12] The Saudi Basic Law of Governance, issued in 1992, provides for broad powers of the Bureau, confirms its independence from the general government apparatus and stipulates that it shall issue an annual report to the King.[13] The GAB Charter provides that the organisation should engage in post financial audits, performance and compliance audits. Furthermore, all audited entities are required to provide all accounting records, relevant financial and other documents to GAB and to provide replies to GAB within a timeframe not exceeding one month.

In addition to the governance related requirements and audits, as a mining company, Ma'aden is required to operate according to the regulations issued by the Ministry of Petroleum and Mineral Resources. This includes primarily the Mining Investment Law which regulates all activities related to the exploration and exploitation of minable land in Saudi Arabia. According to this Law, all natural mineral deposits in Saudi Arabia are the exclusive property of the state, but ownership can be transferred to a mining licensee upon extraction of the minerals and within the duration of the license.

In order for a mining company to explore or exploit minable land in the country, licenses pertaining to the particular activity must be granted by the Ministry for Mineral Resources.[14] There is no preferential

[11] The establishment of the Commission follows a broader trend to establish similar entities in the region such as in Morocco and Tunisia, where both they have also been also endowed broad powers to investigate and intervene in cases of public corruption, including in SOEs.

[12] In addition to Ministries, government departments, municipalities and rural departments, all public corporations and departments with independent budgets which the state invests in or subsidizes and any company in which the government has contributed share capital or guarantees a minimum level of profit shall be audited by the General Audit Bureau.

[13] Specifically, article 79 provides that "all revenues and expenditures of the State, as well as movable and fixed assets, shall be subsequently audited to ensure proper use and management. An annual report to this effect shall be forwarded to the Prime Minister. The Law shall specify details of the competent auditing institution, together with its affiliations and areas of authority." GAB Charter further specifies that an annual report on the results of its activities shall be referred, in addition to the King, to the Shura Council for review in presence of a high level representative of GAB.

[14] The Mining Investment Law identifies four types of licenses that can be granted: (1) reconnaissance; (2) exploration; (3) material collection; and (4) exploitation.

treatment to local or state-owned enterprises accorded in the Law in order to attract private investment and develop the mining industry in Saudi as a purely commercial sector. According to Khalid Al Mudaifer, the company's CEO, "just like Mobily has surpassed the state-owned Saudi Telecom, Ma'aden could face competition in the long term". For the moment however, the company's future growth is underpinned by known reserves and resources of phosphate and bauxite and the fact that its business activities are integrated, offering significant synergies and hence, economies of scale.[15]

The Mining Investment Law was revised in 2004 to facilitate investment in the sector, a move which notably streamlined mining licensing procedures and also introduced a competitive bidding process for licensing in certain designated areas. Whereas the previous Law required companies to first obtain an exploration license from the Ministry of Petroleum and Mineral Resources and then obtain a separate exploitation license via a Royal Decree, the revised Law allows the Ministry to issue all licenses required to explore and exploit mining land. Although this simplified the process for both domestic and foreign investors, foreign investors must still comply with the additional licensing requirements administered by the Saudi Arabian General Investment Authority (SAGIA), and must notably establish a domicile in Saudi Arabia.

Ma'aden's Initial Public Offering

Since its establishment in 1997, Ma'aden has made a number of steps to improve its corporate governance practices, many to ensure compliance with the regulations applicable to listed and state-owned companies. Some of the major changes occurred directly following its listing in 2008, including for example the establishment of certain board committees and related charters. Other evolutions, notably the introduction of policies related to corporate ethics and stakeholder relations, have taken place more recently and continue to be implemented. A number of these changes have brought governance structures of Ma'aden in line with the internationally accepted practices and have effectively made the company a leading enterprise among listed and private companies in the Kingdom.

The listing of Ma'aden's shares was a turning point in its corporate history and its governance structures. From being a wholly-government owned company with a single shareholder, the Public Investment Fund, the company's ownership base was significantly diversified with a 50% floatation on Tadawul (Refer to Table 3). The floatation, aiming to raise 9.25 billion riyals (equivalent USD 2.47 billion), was subscribed in part by existing shareholders (GOSI and the PPA, 10% allocation respectively), the retail tranche of the offer being allocated in a two stage process.[16] An interesting condition included in the prospectus was the prohibition of the Public Investment Fund, as the main shareholder, to dispose of any of its shares in 6 months from the trading which demonstrates that the government treated the PIF as it would any other founding shareholder in an IPO process.

[15] Its gold and phosphate businesses are integrated and the company expects that its aluminium businesses will also be rapidly integrated from mined ore to production of primary material and final consumer products.

[16] During the first stage, at least 25 shares were allocated to each subscriber, and in the event of additional demand, each subscriber of 2000 shares or less was to receive the full allocation of his subscription provided that the total allocated shareholders do not exceed the total number of retail tranche shares. In the event of additional demand, the retail tranche could be increased (Ma'aden, 2008).

Table 3. Shareholding Structure Pre- and Post-Offering

Name	Pre-Offering			Post-Offering		
	Number of Shares	%	Value in SR	Number of Shares	%	Value in SR
The Government (represented by The Public Investment Fund)	400 000 000	100%	4 000 000 000	462 500 000	50%	4 625 000 000
General Organization for Social Insurance	-	-	-	23 125 000	2.5%	231 250 000
Public Pension Agency	-	-	-	23 125 000	2.5%	231 250 000
Public[1]	-	-	-	416 250 000	45%	4 162 500 000
Total	**400 000 000**	**100%**	**4 000 000 000**	**925 000 000**	**100%**	**9 250 000 000**

Source: Ma'aden IPO Prospectus.

Note 1: Including the Individual Subscribers and Institutional Investors.

The listing of Ma'aden was primarily motivated by a drive to further improve its commercial orientation and to increase its operational autonomy from the public administration, but perhaps most importantly to finance its expansion projects. The listing was also part of a broader policy effort to recycle revenues from the operation of successful SOEs to the broader population in the economic context where the stock exchange remained closed to foreign investors. The listing of Ma'aden ushered in a number of changes to its corporate governance regime which have helped the company attract private capital and expertise necessary to implement its ambitious expansion plans.

Prior to its listing, much of its governance requirements were reflected in its Articles of Association, which included specific and in some regards unique provisions providing general orientations of how the company was to be governed. For example, its Articles of Association provided that the company's share capital may be increased by an extraordinary assembly and that the new shares would be distributed among the original shareholders who requested the subscription according to the percentage of their original shares and that the rest of the shares should be left for public subscription. The company was also allowed to issue preferred shares amounting to no more of 50% of its capital, which was possibly a mechanism aimed at ensuring government control in case of privatisations.

The Articles of Association also stipulated that each member of the board except the company president and members representing the government shall own company shares, deposited at a bank, of not less than 10 000 SR (equivalent to USD 2 600) in value. At the same time, the board was given a wide mandate including approval of establishment of subsidiaries, obtaining loans and other credit facilities and authorisation of key investments. Alongside these provisions, the Articles of Association also include a number of progressive oriented articles related to for example, the conduct of annual shareholder meetings, audit and disclosure practices.

At the time of Ma'aden's IPO, its activities were still primarily focused on gold. The company had five operational gold mines across the country and a number of exploration activities underway. In order to fulfil its mission of becoming a world class diversified mining and minerals group, Ma'aden was starting to look towards the development of future aluminium and phosphate facilities. In 2007, Ma'aden began talks with Rio Tinto Alcan to conclude a joint venture for "AlumCo" to operate its future Aluminium Project.[17] It also concluded a joint venture with SABIC for "PhosCo" which would operate the future Phosphate Project, where the latter acquired a 30% stake.

As outlined in the IPO Prospectus, one of Ma'aden's key strengths was its significant government support and backing. Ma'aden notably benefitted from government support to build crucial infrastructure

[17] Ultimately, Rio Tinto Alcan did not become an equity partner in the project, but Alcoa did.

including a railway and port[18], to provide residential and industrial land at the Ras Al-Khair site of the future aluminium complex, to supply fuel and natural gas for its power station and ammonia plant, and to subsidise the power supply connection of the Ras Al-Khair site.[19] The rights of use of the land in Raz As Sawr on which the aluminium and phosphate production facilities were planned to be constructed after the IPO was originally planned to be given to Saudi Aramco, but were consequently transferred to Ma'aden. This is an extension of earlier, historical support provided to Ma'aden by the Saudi government which provided critical infrastructure to the company, including by constructing a railway connecting phosphate mines as well as fuel provided by Saudi Aramco.

Today, 6 years after the IPO, the CEO of the company does not believe that Ma'aden benefits from any preferential treatment either in terms of the mining licenses or in terms of land allocations and suggests that in the future a key condition for Ma'aden's ability to maintain its competitive advantage will be the long term investments it made earlier. Indeed, a variety of licenses were awarded to Ma'aden's competitors thus far. As of the end 2012, the Ministry of Petroleum and Mining issued a total of 1643 mining licenses, including 32 for prospecting, 266 for exploration, 75 for small mines, 19 for mineral concessions and 32 for quarrying. At the same time, it would be difficult to argue that today Ma'aden does not have a competitive advantage in a highly regulated sector with high barriers to entry (due to capital investment required) and where the investment horizon is long. For a new project, about 15 years of exploration work is required and 10 years from exploration to production.

The company now operates five gold mines across the country and has established subsidiaries and joint ventures to develop activities in aluminium, phosphate and industrial minerals. In July 2014, Canadian gold mining company Barrick Gold announced plans to form a joint venture with Ma'aden to run the Jabal Sayid copper mine, scheduled to begin operations in 2015. The company also announced in May a 1.5 billion USD rights issue to help finance its Waad al-Shamal phosphates city project, which is valued at USD 7.5 billion and is scheduled to begin operations in 2016 (Reuters, 2014). The decision to raise additional capital via a rights issue reflects a motivation to maintain the current shareholding structure and avoid diluting the state's share in the company.

The new regulatory framework

While the IPO process was a key motivating factor for a change in the governance structures of Ma'aden, as indeed was the case of other privatised SOEs, it was not the only factor. The reshaping of the mining industry in the Kingdom was also a contributing factor. In particular, the change in the ownership structure was an important contributor, ensuring that Ma'aden's decision making process remain relatively de-politicised. While the mining activity in the Kingdom is not regulated by an independent sectoral regulator such as for example in the telecoms sector, important progress has been realised to give the company's management operational autonomy which would enable it to operate on a commercial basis as prescribed by its Articles of Association.

To achieve this objective, the company has taken steps to ensure that the Ministry of Petroleum and Mineral Resources does not burden Ma'aden with any objectives that would conflict with its commercial mandate. Prior to the IPO the Minister of Petroleum acted as the chair of Ma'aden's board and another board member was an Advisor to the same Ministry. Following the listing, the PIF began to officially represent the state as shareholder on Ma'aden's board, nominating 4 government representatives to serve on Ma'aden's 9 member board. While the Ministry continues to maintain an active dialogue with Ma'aden, evidence suggests that the company's board does not feel compelled to undertake projects considered commercially unviable.

Further separation of ownership from regulatory functions, could be beneficial to establishing a clear regulatory framework for Ma'aden's future operations. However, the independence and clear mandate of the regulator would be an important precondition to this, considering that in some Gulf economies, the mandate

[18] According to the IPO Prospectus, "Ma'aden understands that the railway will be constructed by the Public Investment Fund".

[19] The site was originally named Ras Az Zawr in the IPO prospectus but was changed to Ras Al-Khair in 2011.

of many regulatory bodies in fact also extends to sectoral development. For instance, the UAE's Roads and Transports Authority, the sectoral regulator, also acts an owner of a number of transport companies, notably the Dubai Taxi.

Board composition and effectiveness

As alluded to above, Ma'aden has implemented a number of measures to promote board professionalism and independence, many of which were introduced following its listing and as a result of the CMA's Corporate Governance Regulations. Effectively, the PIF remains a controlling shareholder of Ma'aden and can influence all matters requiring shareholder approval by virtue of being able to pass ordinary resolutions without requiring the support of other shareholders, as noted in Ma'aden's prospectus.

With the diversification of ownership of the company came a diversification in the board composition. Prior to listing, the board was composed of 9 board members, chaired by the Minister of Petroleum. The other board members included an advisor to the same Minister, a Deputy Governor of the Saudi Arabian Monetary fund (and former Chairman of Saudi Telecom), a Chairman of another SOE (Industrialization and Energy Services Company) and a number of other private sector representatives, including academics, lawyers and industry specialists.

At a shareholder meeting held in June 2008, and in order to comply with the CMA recommendations, a new board was nominated and approved by the Minister of Petroleum in coordination with the Minister of Finance (who also acts as the Chairman of the Board of Directors of the PIF), taking into account recommendation of the Nomination and Remuneration Committee. The new members of the Board include the Secretary General of the PIF, the Governor of GOSI and other technical experts. In addition, the post of a Chief General Council and Board Secretary was created, which represents an improvement on earlier practices but also a shortcoming to the extent that best international practices would recommend that the board secretary function be well resourced and not have other executive functions.

According to Ma'aden's Articles of Association, as long as the government holds 50% of company's share capital, four members of its board are nominated to represent the government (as represented by the Public Investment Fund). The company does not explicitly report which board members are nominated to represent the government. The following board members currently also have positions within the Saudi government[20]: Governor of the General Organisation for Social Insurance (shareholder at 9.6%); Governor of the Pensions Agency Fund (shareholder at 7.3%); Secretary General of the Public Investment Fund (shareholder at 50%)[21] and the Undersecretary for Mineral Resources of the Ministry of Petroleum and Mineral Resources (*de facto* mining sector regulator). Refer to Annex III for more details on the composition of Ma'aden's board.

Independence of the board, a key governance challenge for Gulf SOEs, has been improving in recent years. International best practices suggest that SOE boards be composed of a sufficient number of non-executive members, and that the chair of the board be separate from the CEO. Furthermore, it is increasingly considered good practice to ensure that any government representatives on the board be nominated based on their qualifications and that no representatives of the executive powers, including ministers, sit on SOE boards, to prevent capture by political interests. The Saudi Corporate Governance regulations also recommend that the majority of the board be comprised of non-executive members and that the board must comprise at least two members who are independent or make up one-third of the board, whichever is greater.

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[20] In the minutes of its 2011 general assembly, Ma'aden did provide information on whether individual board members were nominated as (i) natural/legal persons; (ii) representatives of the governmental sector; (iii) private sector representatives; or (iv) independent board members. According to this report, the Governor General of GOSI was elected by the general assembly to represent GOSI as a private investor, and not to represent the governmental sector.

[21] He remains on the board although he has retired from his role as Secretary General of the Public Investment Fund.

In recent years, Ma'aden has put in place a number of measures to promote board independence. The company notably includes in its annual reports a classification of all board members by "independent", "non-executive" and "executive", a practice put in place at the time of the company's listing to ensure compliance with the Corporate Governance Regulations. The company's 9 person board comprises 5 members classified as non-executive and 3 classified as independent (the latter a minimum requirement of the Corporate Governance Regulations). Also in line with good practice, the chairman of the board is separate from the company's CEO.

Board independence was significantly increased post-IPO when the Minister of Petroleum and Mineral Resources was replaced as the chair of Ma'aden's board. The current Chair of the board is not executive and was selected for his relevant sectoral and private sector expertise. This being said, while the Minister of Petroleum and Natural Resources no longer chairs the board, the Undersecretary of the same Ministry does. While the membership of high level government officials on Ma'aden's board does not necessarily jeopardise the board's ability to act in the best interest of the company and its shareholders, further clarity on how the commercial and non-commercial objectives of these state bodies are reconciled would be useful.[22]

In addition, following its listing, Ma'aden moved to established specialised board committees, notably an Audit Committee and a Nomination and Remuneration Committee, both required by the Corporate Governance Regulations for listed companies. The Company also set up an Executive Committee and a Management Committee, not specifically required by the CMA. This is in line with the recommendations of the *OECD SOE Guidelines* which call for SOE boards to "set up specialised committees to support the full board in performing its functions, particularly in respect to audit, risk management and remuneration".

Committee charters outlining their respective roles and responsibilities have been developed and approved by the General Assembly and are available publicly online. The company also includes in its annual report an overview of all board committee meetings and attendance by members, a practice which remains relatively rare in the MENA region, even in listed companies. However, some members of the board who serve on the specialised Committees are not effectively members of the overall board and hence they are not mentioned in the annual report of the company and are not part of the board evaluation process.

According to Ma'aden's staff interviewed for this case study, the establishment of these committees represented an important step in further professionalising Ma'aden's board practices. A member of the Audit Committee[23], a recognised expert on corporate governance in Saudi Arabia, Abdullah Abdulgader, believes that governance practices of the company exceed CMA requirements. According to Mr. Abdulgader, important progress has been realised in recent years in terms of risk management practices where a comprehensive framework addresses risks "from the plant level to the corporate level", as well as in Ma'aden's partners and subsidiaries in order to address any reputational risks to the company.

The proportion of non-executive board members differs across committees. The 5 person Audit committee notably comprises 2 non-executive board members and 3 independent board members. The 4 person Nomination and Remuneration Committee, includes 1 non-executive and 2 independent board members (it includes one executive member). It is chaired by the chairman of Ma'aden's board (an independent board member). It also includes the participation of Ma'aden's CEO, though the Committee charter also explicitly states that he shall not attend any committee meetings where his performance and remuneration are discussed. The charter also mandates that the Committee produce an annual report on

[22] While a number of MENA SOEs, including in the Gulf have been under pressure from governments and even the broader public to deliver goods and services at lower than market prices or to engage in activities seen as socially beneficial but without a clear rate of return, this issue is only now emerging on the agenda of boardrooms in the region.

[23] Mr. Abdulgader is the member of the Audit Committee, but is not a member of the overall Ma'aden board. The fact that some members of the committees are not represented on the overall board is an unorthodox governance practice and reflects the specificities of the Saudi governance framework.

executive remuneration for inclusion in the Annual Report, a progressive practice in the Gulf where compensation arrangements are often not reported.[24]

Although Ma'aden has put in place a number of measures to promote board professionalism and independence, it should be recalled that Ma'aden operates the majority of its activities via unlisted wholly-owned subsidiaries and joint ventures, for which there is a much smaller degree of transparency regarding board practices. For wholly-owned subsidiaries, board members are appointed directly by Ma'aden's board, while for joint ventures board appointment procedures are outlined in shareholder agreements that are not publicly disclosed.

Referring to the government's role as a key investor and decision maker, the CEO of the company notes that "the government is in the backyard, frontyard and on the roof". At the same time, in his view the balancing of commercial and non-commercial objectives of the company occurs naturally through the performance management system which is equipped with quarterly KPIs agreed between the management and shareholders. This is an important finding considering that half of the board members in the Gulf recently surveyed noted that company KPIs are not clearly defined or tracked (GCC BDI, 2013). The balancing of objectives also occurs in the discussions in the board, whereby one of the Ma'aden board meetings per year is dedicated strictly to performance assessment along a number of financial and non-financial targets. The latter include for example employment creation and rural development of remote areas, notably the northern part of the country.

The annual strategy review as well as the board off-site retreat also allow the CEO to feel more comfortable with his role, clarifying objectives before him and the potential trade-offs that need to be made in achieving them. The CEO does not believe that significant trade-offs need to be made as he considers making significant investments in remote areas of the Kingdom as key to giving them a competitive advantage in the long term. Suliman Al Gwaiz, the Chairman of GOSI and a member of Ma'aden's board also comments that there is a certain level of coherence in objectives of the company's government and private shareholders. As a representative of one of the largest institutional shareholders in the Kingdom, Mr. Al Gwaiz believes that the market regulator can leverage government funds to further put pressure on the listed companies to improve governance practices.

Other members of Ma'aden's board expressed the view that the external board evaluation carried out by the company earlier this year has been extremely beneficial in assessing board performance both individually and as a collective. Indeed, with the exception of banks regulated by the SAMA, the Saudi Central Bank, board assessments in the country are extremely rare. Evaluation of SOE boards in the wider region, especially externally facilitated assessments, are a novelty in the region. According to a recent survey of boards in GCC, 84% of boards do not carry out such an evaluation (GCC BDI, 2013).

While the results of Ma'aden's board evaluation are not publicly disclosed, the fact that a board evaluation has taken place signals a positive evolution towards improving board effectiveness. Another positive development is that Ma'aden's board members have participated in dedicated board training programmes, for example workshops conducted by the GCC Board of Directors Institute and annual training workshops facilitated by outside experts. Going forward, board evaluations can help incentivise better performance, identify whether the board has the requisite competencies to fulfil its duties, and inform future board nominations.

Moving towards greater transparency

Ma'aden's transparency and disclosure practices have improved considerably since its listing. Ma'aden's 2008 prospectus includes a wealth of information on the company and its governance structures,

[24] According to the Saudi Companies Law, board remuneration must not exceed 10% of net profits. This is a rather generous provision and hence Ma'aden's Nomination and Remuneration Committee Charter specifies that remuneration of an individual board member shall not exceed 200 000 Saudi riyals (equivalent to 53 000 USD) annually as per the Ministerial Resolution No 1071.

previously not available in the public domain since unlisted SOEs in Saudi Arabia are not required to report on their performance to the public. Ma'aden reporting is now prepared in accordance with the International Financial Reporting Standards (IFRS), which are not the required financial reporting standard for listed companies in the Kingdom.[25] It also counts among the top five percent of companies listed on the Tadawul to maintain early announcement of their audited financial results, allowing the company to hold its General Assembly at the end of the first quarter each year.

In order to facilitate discussions with investors, Ma'aden has introduced an investor relations programme which is aimed to communicate material information about to the company to its actual and potential investors but also to advise the senior management of the company on investor perceptions. Indeed, the investor relations function has been developing quite rapidly in large Gulf companies and some regulators such as the UAE's Emirates Securities and Commodities Authority have moved to mandate it for listed companies. In Saudi, the presence of an investor relations function is not required, and yet can provide an important complementary source of information to that already available through the Tadawulaty platform which disseminates continuous, quarterly and annual filings to the public. Importantly, the company makes available its earnings distribution policy which is enshrined in its Articles of Association.

A key step in improving Ma'aden's financial reporting and risk management practices involved the establishment of an internal audit department which reports to the board audit committee. The internal audit department comprises 13 full time employees and is headed by a Chief Audit Executive. It prepares a yearly internal audit plan which is presented to the board's audit committee for approval. This is consistent with international best practice which suggest that the internal audit function should report directly to the board's audit committee in order to maintain the function's independence and authority.

Ma'aden has established an internal risk management process, overseen by an Enterprise Risk Management (ERM) department. In addition to addressing strategic and operational risks, the ERM also addresses environmental, social, health and safety risks. The company reports to have had no major incidents in recent years. The risk management process is aligned with the ISO 31000 international standard on risk management. A risk-based internal audit plan is developed each year which is presented to the Audit Committee for approval. Ma'aden reports regularly on key risks identified and mechanisms put in place to address them. In addition, the company's compliance function assists senior management in identifying and monitoring compliance risks related to adherence with applicable laws and internal regulations through annual assessments and assessments of irregular practices.

Compared with other Gulf SOEs or even listed companies, Ma'aden's financial and non-financial disclosure is comprehensive. At the level of joint ventures and subsidiary companies more generally, less information appears to be available. Not unlike other SOEs in the Kingdom, it also has some ongoing discussions with the regulator and the stock exchange regarding its disclosure practices. Notably, in September 2013, the CMA imposed a penalty of SAR 50 000 on Ma'aden for breaching specific clauses of Tadawul's disclosure regulations.[26] Ma'aden has submitted its objection to this administrative decision, and the case is under consideration.

Ma'aden includes in its annual report extensive information regarding its relations with stakeholders, notably concerning company policies and procedures to address environmental, health and safety risks. The annual report includes an overview of health and safety incidents that have occurred at its operating sites. It also includes information on procedures put in place to ensure the company respects international environmental standards. This is in line with the *OECD SOE Guidelines* which call for listed or large SOEs

[25] Saudi Arabia has not officially adopted IFRS and local companies are required to comply with the accounting standards issued by the Saudi Organization of Certified Public Accountants (SOCPA). In case no SOCPA accounting standard exists, International Financial Reporting Standards (IFRS) are to be used as a guide.

[26] The substance of the CMA's claim was that Ma'aden's announcement on April 29 2013 did not disclose the starting date and the duration of its di-ammonium phosphate (DAP) plant shutdown and the financial impact of the consequent halt in production.

to report on stakeholder relations, and to notably disclose information on their social and environmental policies and implementation.

In 2013, Ma'aden finalised its whistleblowing policy which was notably recognised by the National Anti-Corruption Commission (Nazaha) as the first such policy in Saudi Arabia. Whistleblowing policies are extremely rare in the wider MENA region. According to its annual report, Ma'aden's whistleblowing policy seeks to encourage staff to report any information to "help management detect, correct and report irregularities, unethical behaviour and actions that may be illegal and violate the company's policies, procedures and ethical standards."

The year before, the company had developed a detailed Conflict of Interest Policy, applicable to the employees of Ma'aden and any subsidiaries in which Ma'aden holds a controlling interest. Its development is in line with Article 10 of the Corporate Governance Regulations which call for boards of directors to develop a written policy to regulate and address any potential conflicts of interest by board members, executive management and shareholders, and to ensure that all potential conflicts of interest are notified to the board and the General Assembly. The policy specifies that any potential conflicts of interest should be notified to the board, which is turn is required to inform the General Assembly.

Ma'aden's annual report provides disclosure on related party transactions, also quite rare in the region where "related parties" are often not defined adequately. This disclosure is to some extent facilitated by the fact that its Articles of Association expressly forbid some transactions such as loans to board members and executives[27], which is in line with international best practices since such transactions are likely to present a high risk but generate no corporate value. In the Ma'aden context these provisions gain additional significance considering that its board members have direct equity stake in the company, a practice which is somewhat specific to the region's companies.

Ma'aden is currently in the process of developing a code of ethics, anticipated to be issued by end of 2014. It is expected that code will take into account leading industry standards, notably the leading practice guidelines of the International Council of Mining and Metals (ICMM). The code of ethics will also build on the company's existing business conduct guidelines and conflict of interest guidelines. Codes of ethics are also not particularly common among MENA SOEs although some large companies such as the Emirates National Oil Company and Oman Oil have also recently moved to introduce the same and face a similar challenge to cascading these expectations through their complex structure of subsidiaries. Box 5 below provides an overview of key measures taken in 2013 to improve corporate ethics at the company.

Box 5. Measures taken in 2013 to promote compliance and corporate ethics

In 2013, Ma'aden has taken a number of steps to promote compliance with existing laws and regulations and to encourage a culture of strong corporate ethics across the company. These have included:

- Compliance promotion by monitoring and managing legal and compliance risk;
- The conduct of awareness training about potential compliance issues, including, by way of example, a seminar in partnership with the National Anti-Corruption Commission (Nazaha) about integrity and ways of reporting corruption violations;
- The introduction of a whistleblowing policy on matters related to financial corruption or any policy violation;
- Institution of mechanisms such as a dedicated e-mail and the availability of a representative to confidentially answer questions and receive information and offer assistance to whistleblowers;
- The publication of legal and compliance related articles in the company's newsletter; and,
- Dissemination of relevant information to all Ma'aden's employees to update them on new regulations and rules.

[27] Articles 23 and 24 note that board members or officers of the company shall not have a direct or indirect personal interest in the company's contracts or projects and that the company shall not grant any cash loan or guarantee loans of a board members

Overall improvements in Ma'aden's corporate governance practices were notably recognised by World Finance Magazine with the 2014 award for Best Corporate Governance in Saudi Arabia.

Source: Ma'aden's Annual Report, 2013.

Maintaining a competitive edge

Ma'aden and many other Gulf-based SOEs face a challenge to remain competitive in the face of strong international competition in sectors they operate in, except for few companies which continue to operate in oligopolistic or monopolistic sectors. As highlighted in this case study, rising to new highs of competitiveness and profitability is challenging even for large SOEs such as Ma'aden if they remain focused on domestic markets only. For this reason, a number of Gulf SOEs have sought to expand internationally though international alliances, distribution networks and even through foreign listings (i.e. Dubai Ports listing on the London Stock Exchange). For some SOEs internationalisation has translated into entering near-by markets of the Gulf (such as in the telecom sector in Saudi Arabia), for other entities such as the sovereign investment vehicles this translated into ambitious acquisition strategies.

In order to sustain its competitive advantage, the company has developed a "Ma'aden 2020" strategy", underpinned by five drivers, including diversification, risk management, social responsibility, environment, health and safety, and employee development. Fundamentally, Ma'aden's international competitiveness is also contingent on the success of its international partnerships with Rio Tinto and other partners but also through its distribution networks where the company's clients in Switzerland, Morocco, India and China. By virtue of its international alliances and its diversified customer base, Ma'aden has quite rapidly grown to become a global company, despite its distinctly Saudi roots and current location of its mining operations.

At the same time, as mentioned above, Ma'aden, much like other Saudi SOEs, benefits from explicit and implicit government support. Achieving a level playing field between SOEs and private companies has been a challenge in the MENA region. The repercussions of historically high protectionism around SOEs in the region are only started to be considered in the MENA region. A number of measures can be put in place to create a level playing field between SOEs and private sector companies when they compete in commercially-oriented sectors. SOEs should in principle not benefit from state support that would confer an undue competitive advantage, nor should they be required to implement public policy objectives without transparent and appropriately calibrated compensation.

This principle is arguably less immediately relevant when SOEs are active in sectors with no private sector competition to begin with. In such cases, many governments view state support for SOEs, for example through the provision of cheap infrastructure and financing, as a means of developing industry to prepare it for private sector competition in the future. Ma'aden now operates in an economic context where it faces a limited degree of competition from smaller players such as Al Masane Al Kobra or the United Arabian Mining Company. The Ministry of Petroleum and Mineral Resources is reported to have identified 1 270 sources of precious stones and 1 170 sources of other minerals, and has issued an increasing number of mining and exploration concessions. Competition in the sector is, in principle, poised to grow.

A key challenge for the Saudi government as the controlling shareholder of Ma'aden will be to balance its objectives for Ma'aden, as a major state-owned incumbent to become the leader in the industry, with broader objectives relating to the development of the mining sector in the Kingdom where private sector competition would be welcome. Saudi Arabia's legal and institutional framework for competition is relatively nascent. While a Competition Council exists, it has not been very active. Although a Competition Law was adopted in 2004, it is not applicable to wholly state-owned companies or public establishments which may not be fully conducive to private sector development objectives.

Given that Ma'aden is no longer wholly state-owned, it is required to abide by the terms of the Competition Law. In the absence of a sectoral regulator and an empowered Competition Council, able to enforce penalties against SOEs and perhaps more importantly, able to advise the government on measures of support to SOEs which may be detrimental to private sector competition, it is difficult to entertain the impact of a large state-owned company such as Ma'aden on the emergence of a healthy competition in the mining sector in the Kingdom. In discussions on this point, the company's CEO highlighted that though Ma'aden has an advantage having invested in projects and operations in remote areas of the country where it does not face competition, this is not a static situation.

In principle, the Mining Law provides equal access to other competitors and they can also access the same remote area financial schemes that Ma'aden currently benefits from.[28] This argument is credible in a sense that the government stands to benefit from greater private competition which could drive down prices of metals or minerals which are used as inputs to other SOEs' and private company operations in the Kingdom. Sceptics could however argue that the presence of a representative of the Deputy Ministry of Mining on Ma'aden's board may be conflicting with the independence of the Ministry in the process of license allocation.

A number of measures, such as the establishment of an independent sectoral regulator and a more precise accounting of the government subsidies to and investments in the company should aim to further enable the private sector to emerge as a driving force in the mining sector. While the subsidisation of SOE activities is starting to receive the attention of policymakers across the region as the overall weight of subsidies on government budgets have become unsustainable, only a few countries such as Morocco have moved to introduce a budgeting process where such subsidies are negotiated with each individual SOE and incorporated in the overall budget.

Moving forward

Ma'aden's development trajectory is enlightening and provides useful lessons for the competitiveness of Saudi Arabian enterprises but also for companies with government ownership operating across the Middle East and North Africa region. It notably seeks to highlight the great diversity of SOE development experiences in the region and demonstrates that – contrary to the general perception of the state not being an "enlightened" owner of companies – some SOEs have emerged as leaders in specific sectors such as mining, telecoms or banking. The growth of companies such as Ma'aden to become key pillars of the national economic development strategies reflects, at least initially, government willingness to support national champions and more recently, the positive impact of governance mechanisms introduced in recent years.

The public listing of Ma'aden's shares on Tadawul ushered a number of important changes not only in terms of the company disclosure practices but also in terms of its board composition and the ways it engaged with its now broader group of shareholders. In the long term, the listing was a catalyst of many arguably deeper governance changes brought about as the corporate culture of the company matured and grew more sophisticated. Measures such as a recent board evaluation of the company provide further testimony to the company's commitment to governance reform. Procedures to introduce an ethics policy across Ma'aden provide further testimony to management's conviction that better firm-wide governance will be performance enhancing in the long term.

Already, evolutions in the company's governance practices have contributed to strengthening the company's commercial orientation, increasing its operational autonomy from the government and improving transparency and accountability towards investors and the broader public. The company has taken steps to professionalise its board and increase board independence and no longer features Ministers on its board. The government's representation on the board is in line with its shareholding and the company's management does not report to be unduly influenced by non-commercial objectives that could negatively affect the company's performance.

[28] Discussions with company representatives revealed that indeed some of the company's applications for mining licenses were rejected by the Ministry of Petroleum and Mining.

These changes, and other highlighted by this case study, are especially commendable in the context of fragmented ownership of SOEs in Saudi Arabia, which had bred largely variable and, in some cases, somewhat unclear governance practices. Although it can be argued that there has been a gradual convergence in SOE governance practices in the Kingdom, owing to the corporatisation and listing of a number of large companies such as SABIC and Saudi Telecom, a number of Saudi SOEs remain wholly state-owned and hence subject to widely different governance practices and accountability frameworks, essentially contained in their articles of association since they are not subject to the Companies Law or the requirements of the Saudi Corporate Governance Regulations.

In order to improve the performance of these companies and enable the government to better exercise its ownership rights, co-ordination of the ownership in SOEs could be undertaken by, for instance, endowing the Ministry of Finance which already has ownership responsibilities through the Public Investment Fund, with additional responsibilities to ensure the effectiveness of government investments in government enterprises. Alternatively, another government entity with oversight responsibilities of SOEs might be charged with similar objectives for the entire SOE sector. This would act to effectively simplify future reform or even privatisation of SOEs in the Kingdom, should the government wish to dispose of further stakes in SOEs.[29] It would also allow the government to have a better overall vision of firms under its ownership, allowing to compare their performance, direct investments in more profitable sectors, and seek synergies between SOEs (as between Ma'aden and SABIC).

It would also allow the government to introduce specific regulations for SOEs in the Kingdom which could help in further professionalising SOE boards for non-listed SOEs to which the Corporate Governance Regulations do not apply. This would be in line with practices introduced by a number of leading jurisdictions which have for instance, introduced criteria for nomination of SOE board members. Other minimum disclosure obligations could be imposed on unlisted SOEs, beyond the current requirements of the General Auditing Bureau. The example of the Moroccan's recent audit of all local SOEs might be an interesting example in this regard. The establishment, in 2011 of Nazaha as a dedicated anti-corruption commission, already testifies to the growing importance accorded to improving the accountability of the management of public resources in the Kingdom. Likewise, the creation of the Capital Market Authority and the application of its governance requirements on listed SOEs has had a non-negligible positive effect on the governance of these firms.

While better coordination in the exercise of ownership by the government might be welcome, and is indeed being put in place through various structures and mechanisms in the region, an analysis of successful Saudi SOEs such as Ma'aden but also Saudi Aramco and SABIC highlights that a degree of autonomy from the public administration is necessary to support the commercialisation and competitiveness of individual SOEs. The fact that the management of these companies has been liberated from constraints that apply to other government or even private companies has had an important effect of improving their competitiveness, though possibly at the expense of private sector development if private competitors are subject to constraints that public companies are exempt from.

According to Ma'aden's CEO, while the government has introduced a set of KPIs and has been an involved owner in terms of charting the social and economic objectives set before the company, the executive is given the scope to implement suitable strategies to achieve the said objectives. Autonomous management of SOEs does not however imply that the government should not remain an engaged owner, by carefully selecting board members nominated to represent its interests and by establishing adequate oversight structures for SOEs. Encouraging sovereign institutional investors which in the foreseeable future are expected remain dominant institutional actors in the local market, to play a more active role in governance of its investee companies would contribute to further improving the competitiveness of Saudi SOEs.

While the nature of measures to stimulate institutional engagement in the Saudi capital market require further research and discussion, investor engagement would be important to complement the efforts of the

[29] Some MENA countries such as for example Jordan and Turkey, have introduced dedicated privatisation entities (i.e. the Turkish Privatisation Administation and the Jordanian Executive Privatisation Agency).

Saudi Capital Market Authority as it aims to raise standards of governance of listed companies. Soliman Al Gwaiz, Chairman of the General Organisation of Social Insurance, an investor in Ma'aden and a member of its board, notes that through GOSI's investments in approximately 60 listed companies in Saudi, it has the power to influence the market by communicating its concerns to its investee companies or, if necessary, distancing it from a particular investment. The stewardship orientation of GOSI, the PIF and other state controlled investors in the capital market is important to send a signal to the listed companies and provide positive incentives to introduce governance improvements (Amico, 2014b).

In Ma'aden's case, all of its key investors, the Ministry of Petroleum and Minerals and even other SOEs with which it has established joint ventures have been proactively involved in the company's evolution. So far, the return on investment has been positive and the company is well positioned to continue to fulfil its stated objective of becoming the third pillar of the Saudi industrialisation strategy. Going forward, a challenge for the authorities will be to balance prerogatives related to fostering competition in the mining sector while ensuring Ma'aden's ongoing growth. As the company continues to develop and expand, benefitting from publicly raised funds through the IPO and 2014 rights issue, there is a risk that barriers to entry for private sector actors will be excessively formidable for the development of healthy competition.

Further adaptation of strategy, and consequently, of governance structures will undoubtedly be required as Ma'aden continues to raise its profile not only in Saudi Arabia, but also internationally. As highlighted in this case study, the IPO process and company internationalisation have acted as key motivators of change in the past decade, and were driven by the need to attract additional private capital and partners to facilitate the company's expansion. Ma'aden has now entered into a number of joint ventures with leading private counterparts, and has successfully diversified its operations from its original base of gold mining to include aluminium, phosphate and industrial metals.

Apart from the success of initial upfront investments and explorations, Ma'aden's future performance will be based on the one hand, on the evolution of the regulatory framework in the mining sector in the Kingdom and for SOEs more generally, and on the other, on the company's ability to maintain or continue its expansion strategy through organic growth or strategic alliances. The governance of its joint ventures with local and international partners would be an important point to explore going forward considering that the sophisticated governance structures at the level of the parent company are not yet reflected at the level of its subsidiaries on which less information is available. Balancing of Ma'aden's objectives, which may be as mentioned conditioned by certain social considerations important to its key government shareholders, with those of other private shareholders, as well as joint venture partners, will likely be a challenge.

An additional complexity to consider is that Ma'aden's own shareholding structure might be subject to change in the coming years as the government allows foreign institutional investors to enter the Saudi capital market, unless restrictions on investment in "strategic" companies are introduced.[30] The CMA has earlier this year issued draft rules for Qualified Foreign Financial Institutions Investment in Listed Shares, which outline the envisioned process of qualifying foreign institutional investors to invest directly in companies listed in Tadawul, previously only accessible to non-GCC investors either through swaps or mutual funds.[31] At the time of the writing of this case study, one such investor was authorised to establish operations in the Kingdom.

[30] Such restrictions already exist in Qatar where privatisations are subject to restrictions and in the UAE where some government controlled companies are restricted to foreign investors.

[31] The proposed rules establish stringent qualification requirements for investors wishing to establish presence in Saudi Arabia or to invest directly in Tadawul listed companies The rules propose that applications must have no less than 18 750 000 000 SAR (approximately 5 billion USD) under management and must be engaged in relevant activities for a minimum of 5 years. The proposed regulations also establish limits on foreign investor ownership in listed companies, in the order of 5% of any issuer, and 49% for all foreign investors (resident or non-resident) in any given company (CMA, 2014).

Although the entry of foreign investors will not affect the company's major shareholders which are strategic investors, it may introduce new dynamics in shareholder meetings. Foreign private shareholders may be, for instance, less inclined to pursue non-commercial objectives that a number of Saudi SOEs perform.[32] Other targets such as levels of Saudisation of the employment force or the percentage of the procurement budget sourced domestically that are beneficial to the Saudi economy may also be of less priority to foreign shareholders. Although it is too early to prejudge how its evolving shareholder base will impact the company's strategic orientations, it appears that the company's governance structures will need to remain agile to anticipate such changes.

The ongoing corporate evolution of Ma'aden will depend on a number of factors, some linked to socio-economic objectives of the Saudi government, others to industry trends and international developments. The company's evolution to date, presented in this case study, seeks to depict a complex political economy transition of a key corporate actor in Saudi Arabia, noting key challenges that the management and the board faced and the achievements realised by Ma'aden to date. This experience is instructive for state-owned companies operating in the Kingdom, some of which are planned to be privatised in the coming years. Fundamentally, it highlights the complex trade-offs facing governments wishing to foster national champions, and the equally complex choices facing the company's shareholders and management in their journey to turn Ma'aden into a third pillar of the Saudi economy. These choices will have to be contemplated by Ma'aden's new board, appointed in October 2014.

[32] For instance, Saudi Aramco is in the process of building a number of sports stadiums across the Kingdom, at an overall cost of an estimated USD 4.4 billion (MEED, 2014).

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ANNEX I. KEY SOEs IN SAUDI ARABIA

Telecoms	Finance	Electricity	Oil and gas	Transport	Construction and real estate	Infrastructure	Other
Saudi Telecom	Al Khalij Commercial Bank Al Rajhi Bank Alinma Bank Banque Saudi Francis Riyadh Bank SABB Samba Financial Group Saudi Investment Bank The Company for Cooperative Insurance	Saudi Electricity Company	National Gas and Industrialisation Company National Petrochemical Company Rabigh Refining and Petrochemical Company Saudi Aramco Saudi International Petrochemical Company Saudi Kayan Petrochemical Company Yanbu National Petrochemical Company	Saudi Public Transport Company Saudi Railways Organization The National Shipping Company of Saudi Arabia	Saudi Real Estate Company	Saudi Post	Saudi Arabian Mining Company (Ma'aden) National Industrialisation Company SABIC Saudi Arabian Fertilizer Company Saudi Industrial Investment Group Southern Province Cement Company

Source: *State-Owned Enterprises in the MENA Region: Engines of Development and Competitiveness?* OECD, Paris.

ANNEX II: Mineral production in Saudi Arabia

Mineral ores extracted in Saudi Arabia (Thousand tons)

Types of exploited ores	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013*
Limestone	31000	30000	30500	33000	36000	37000	45750	46300	48615	51050
Mud	4000	4300	3800	3900	5000	5250	5800	6547	6875	7218
Salt	1430	1700	1752	1507	1600	1680	1800	1864	1611	1691
Silica sand	592	518	782	820	799	840	820	1303	1270	1905
Crushed materials (pebbles)	156000	190000	217000	234000	248000	260000	277000	272700	28635	300700
Sand	33000	28000	34000	26000	22000	23100	26000	25400	26670	28400
Iron sands	495	443	584	642	581	600	550	652	685	719
Gypsum	2553	2000	2200	2100	2300	2415	2100	2239	1700	1785
Marble for industrial purposes	680	642	810	832	1000	1050	1500	1352	1420	1491
Marble masses	83	85	85	85	85	90	48	24	25	26
Granite masses	716	850	962	954	110	116	1100	993	1043	1059
Limestone masses	409	462	308	308	242	254	256	770	484	849
Kaolin	214	1.5	4	44	~	~	62	70	74	78
Barite	15	15	23	30	~	~	30	30	32	34
Feldspar	42	42	42	73	55	58	42	160	168	176
Basalt	43	43	53	~	~	~	~	~	~	~
Boslan	277	372	400	784	810	850	915	1010	1061	1114
Dolomite	532	500	550	465	465	480	583	616	647	679
Shiest	663	582	722	608	608	640	603	738	775	814
Berofilit	~	~	40	40	40	40	24	8	8	10
Bauxite	~	~	~	~	~	246	284	634	666	699
Phosphate	~	~	~	~	~	~	~	~	1534	1611

Source: Ministry of Petroleum, SAMA Statistics.

Metal Production in Saudi Arabia

Year	Gold (kg)	Silver (kg)	Copper (tons)	Zinc (tons)	Lead (tons)
2003	8769.4	17402.13	627	1797	--
2004	8267.8	14494.34	652	--	--
2005	7459.4	13501.2	668	--	--
2006	5181.8	9103.5	730	983	--
2007	4440.3	9028	737	716	--
2008	4527	8232	1465	3663	--
2009	4857.5	7527	1719	5507	685
2010	4477.1	7670	1603	4218	543
2011	4612	5839	1954	4934	396
2012	4292	5212	17639	21213	--
2013	4158	4655	*20380	*26293	--

Source: Ministry of Petroleum, SAMA Statistics.

ANNEX III. COMPOSITION OF MAADEN BOARD OF DIRECTORS (AS OF SEPTEMBER 2014)

Name	Title	Background
Engineer Abdullah Bin Saif Al-Saif	Chairman Independent	Holds a Bachelor degree in Petroleum Engineering Held various senior management positions, served on several committees and held Board positions at Aramco between 1960 and 2007 Membership of other Boards: Dhahran Emaar Membership of committees: Chairman of the Executive Committee; Chairman of the Nomination and Remuneration Committee
H.E. Suliman bin Abdulrahman Al-Gwaiz	Non-executive	He has bachelor degree in Business Administration from Portland University-US in 1981. Saudi American Bank: Several of positions in operations, bank credit and most recently head of Local Corporate Accountants. Riyad Bank: Number of positions Chief Executive Assistant in charge of Individuals, Corporates, Treasury and Investment sectors. In 2013, appointed as Governor of General Organization for Social Insurance. He is Board member in Saudi Industrial Investment Group
H.E Mohammed Bin Abdullah Al-Kharashi	Non-executive	Holds a Masters degree in Accounting Held several positions at the Pensions Agency Fund. He was appointed in 2000 in his current position as Governor. Deputy Representative of Saudi Arabia in the OPEC Fund for International Development (1991-2006) Held various directorships at the Treasury Department Membership of other Boards: Saudi Basic Industries Corp (SABIC); STC; Saudi Research & Marketing Group Membership of committees: Chairman of the Audit Committee
Dr. Ziad Bin Abdulrahman Al-Sudairy	Independent	Holds a Doctorate in Law and a BA degree in Political Science Worked in the government and private sectors and was a legal adviser in the office of the Minister of Interior Currently the Director General of Ziad bin Abdulrahman Al-Sudairy Law Firm, established in 1988 Membership of other Boards: None Membership of committees: Nomination and Remuneration Committee
Mr. Mansour Bin Saleh Al-Maiman	Non-executive	Holds a MBA and BA degree in Accounting and Business Administration Held many positions in the Public Investment Fund since 1973 and before retiring he was the Secretary General of PIF. Membership of other Boards: Chairman of National Commercial Bank. Membership of committees: Nomination and Remuneration Committee
Mr. Sultan Bin Jamal Shawli	Non-executive	Holds a Masters degree in Petrological Studies and Sedimentary Environment of Phosphate Rocks in the Kingdom of Saudi Arabia Held several senior positions in the Ministry, including his current position as undersecretary of the Ministry of Petroleum and Mineral Resources for Mineral Resources Membership of other Boards: Arab Mining Company (Jordan); Industries Chimiques Du Fluor (Tunisia) Membership of committees: Executive Committee

Engr. Khalid Bin Hamad Al-Sanani	Non-executive	Holds a Masters degree in Construction Project Management and a Bachelors degree in Civil Engineering Held several senior project engineer positions at Aramco Project engineer with the National Guard Membership of other Boards: None Membership of committees: Audit Committee
Engr. Abdulaziz Bin Abdullah Al Sugair	Independent	Holds a Master's degree in Electrical Engineering and a Bachelor's degree in Electrical and Electronic Engineering Worked in the Royal Saudi Air Forces for 10 years. Held several senior positions in private companies including CEO of Advanced Electronics Company, CEO of Saudi Electricity Company and CEO of Tatweer Education Holding Company. Membership of other Boards: Chairman of Saudi Telecom Company (STC) Membership of committees: Executive Committee
Engr. Khalid Bin Saleh Al-Mudaifer	President & CEO Executive	Holds a MBA and a Bachelors degree in Civil Engineering. President and CEO of Saudi Arabian Mining Company (Ma'aden) since 2011. Vice President of Phosphate and New Business Development SBU at Ma'aden from 2006 to 2010. General Manager of Qassim Cement Company (1993-2006). Vice President and Director of Finance at Sharq Company (1986-1993). Membership of other Boards: None Membership of committees: Executive Committee; Nomination and Remuneration Committee.

Source: Company website (http://www.maaden.com.sa/en/investor/bod), as of September 2014.