CORPORATE GOVERNANCE -BOARDS OF PARTNERSHIPS AND STATE-OWNED ENTITIES IN MINERALS, OIL AND GAS INDUSTRIES “A PERSONAL PERSPECTIVE BY SHEILA KHAMA”

Chapter 5. Corporate Legal Structures and Governance

2021

5.1. Board Structures

There are different factors that influence decisions on the structure and composition of a board of directors. Two of the most important are the company's *legal structure* and *form of ownership*. The legal structure dictates the parameters for board composition, mandate, appointment of directors and board procedures. Ownership speaks to the vision, corporate values, and criteria for selecting directors. Both give rise to a unique boardroom environment and the unique map of relationships that exist between the company and its stakeholders. To be effective, the structure and composition of any board must align to its legal and business environments. It should not come as a surprise, therefore, that family-owned companies, partnerships, public companies and SOE boards function differently from each other.

Ownership (public or private) is an important source of power because it correlates directly with decision-making authority of the owner(s) relative to other corporate stakeholders. The owner(s) is custodian of corporate values which, in the case of privately owned companies, are invariably interchangeable with personal values. The authority of the owner(s) includes the power to appoint and/or remove directors from the board. The owner(s) assumes the responsibility to protect (or disregard) stakeholder interests, including the public and host governments. In the case of SOEs, this can also mean that the State consolidates all aspects of corporate governance under a single entity, being the sovereign entity. This means that, unless the State finds ways to be inclusive and has forward-looking agents, such a corporate environment goes against the principles of transparency, accountability and public participation as explained in Chapter 1.

Legal structures on the other hand, are governed by the laws of the State based on the constitution of the company. The different types of companies include, but are not limited to, privately owned companies, publicly listed entities, Limited Liability Companies (LLCs), wholly-owned subsidiaries, partnerships, joint-ventures (JV) and SOEs. Except for SOEs, which are typically created by specific statutes separate from mainstream company law, most of the other types of companies are regulated through a series of laws with some variations of the same compliance principles based on the type of industry. Typically, the more the type of company is deemed to potentially put the public at risk, the more onerous the compliance requirements. In my view, taken on face value, SOEs and specially those responsible for national wealth including natural resources wealth fit squarely into this category

Just as I described the external environment under which minerals, oil and gas sector boards operate in Chapter 2, in the following paragraphs, I look inward, and I share a perspective on how the legal structure and ownership of the entities influences corporate governance. I also offer a view on how boards can navigate some aspects of the business environment of SEOs and partnerships effectively. Legal structures that are most relevant, given the scope of this publication, are partnerships between States and private entities and SOEs. For simplicity's sake, I will discuss partnerships under a single umbrella, though cognizant of the fact that such entities can themselves legally be constituted differently as Limited Liability Companies (LLCs) among other options. Here are some of the challenges starting with partnerships and ending with a look at the SOEs environment.

5.2. Partnerships Boards

Partnership entities are *defacto* corporate marriages of convenience but not always first preference for a strategic direction. For most investors, the preferred plan is to go it alone. "Plan B" is to partner with others whenever necessary. This might be because of limited finance, the need to access minerals, oil and gas resources discovered by others, the need to access markets and a desire to leverage technology through partnership arrangements with competitors and other third parties. As stated before, in the minerals, oil and gas sectors, a frequent reason for the creation of partnerships between the State and investors are national laws in host countries in which the companies operate. The result is that the investor and the host government enter a "statutory" partnership arrangement to develop the resource and market the product. Whereas most partnerships are intended to take advantage of the shareholder's collective resourcefulness, the legally prescriptive nature of partnerships between sovereign States and private companies in the minerals, oil and gas sectors is a form of *cost of business* to investors. While I have no objection to the arrangements, in my experience, it is potentially the start of a challenging boardroom environment that can spill over into the day-to-day management of the operations of the entity. To appreciate the dynamic, let us look at the practical implications relating to the rights and obligations of each partner.

Common Partnership Challenges

Contribution and Role of Each Partner*:* Important aspects of the governance structure of a partnership in this sense includes (but are not limited to) the contribution of each party to the entity, the structure of the shareholding, ways of controlling and managing the partnership (including, but not limited to, board representation) and the appointment of senior management. Under the circumstances in which the State's shareholding is a legal condition for acquiring a concession, the State's material contribution to the resources necessary to run the company is less than the private investor. But the private investor mobilizes finance, recruits the executive team, acquires (and sometimes invents) technology, and possesses expertise necessary to market the commodity. This imbalance, including a relatively smaller equity stake for the State usually typifies such partnerships.

By the same token, given the level of technical and commercial expertise that the private investor brings, in most cases an important part of the partnership structure is that (at least in the early stages), the former will likely manage the day-to-day affairs of the partnership. Such management contracts often means that the selection of top executives is drawn from the private investor's pool of human talent. Even if selected from the open market, such executives see themselves as accountable to the private investor and see the private partner as their principal and not the board of partnership as such. Loyalty therefore accrues to the former. Though not always the case, for purposes of this book, I have assumed both shareholders are entitled to nominate representatives to the board of directors to lead and oversee implementation of the strategy. That said, because of the position of the private investor relative to the State, there is potential power imbalance on the board. This imbalance is what, in my experience, leads to a difficult boardroom environment that requires deliberate effort to arrest (see Case 2 below).

Organizational Goals*:* Given the inherently divergent goals, organizational cultures of private investors and governments, industry knowledge asymmetry and the complex map of relations with stakeholders, the external environments in which boards of such entities operate can also be some of the most difficult to navigate. These can be particularly challenging and difficult conditions for the Chairperson, whose task it is to provide direction and preside over board deliberations.

Knowledge Asymmetry: The asymmetric nature of skills levels between the two as relates to the industry, adds to the complexity of the boardroom environment. Some of the most significant effects of this phenomenon tend to manifest in lack trust between the representatives of the two shareholders during board meetings. In some cases, the price is that the partnership board makes decisions based on the need for compromise and not (as corporate governance requires) to optimize value because neither party is willing to take their counterpart's word on face value.

Politics versus Commerce: Misalignment between political and corporate objectives is another challenge facing boards. Representatives of private investors are driven by the profit motive and their careers depend upon their ability to deliver financial results. By contrast, representatives of public shareholders derive their mandate from political masters who are more concerned with electoral outcomes. Each rely on the company to achieve their respective objectives by leaving up to stakeholder expectations. This presents a conflict with respect to long-term strategy and priorities for daily deployment of corporate resources.

Conflicting Interests*:* The work of a board is based on the directors' individual and collective fiduciary responsibilities. The notion of fiduciary responsibility refers to the obligation that a director has to the stakeholders of the company. It is based on the trust placed by the stakeholders on the directors. Among others, this concept assumes that the directors' actions will only be guided by the interests of the stakeholders and will not consider interests of others with whom they may have ongoing relationships. This should not be difficult to abide by, or flag, if a case arises. However, in the case of partnerships between private companies and governments, this a major challenge because the representatives of both are conflicted on an ongoing basis. Representatives of governments are often also regulators, which means they wear the two hats of fiduciary duty and legal oversight. My experience is that on occasion officials serving as directors expediently use the law of the land to force decisions in favour of the State. While this may be tactically opportune, it exemplifies this very conflict and goes against corporate governance principles.

Representatives of the private investors also often speak for their employer's interest and not the entity on whose board they serve. This is especially true in cases where the private sector partner assumes the role of project operator (an arrangement that is common in minerals, oil, and gas projects). Under these circumstances, the private investor performs a valuable role in leveraging parent company technical, commercial, and financial resources. To a large measure, this benefits the partnership entity and host country. But this also places the private investor at an advantage relative to the State. For one, operating, engineering, financial, marketing systems and supply chain management processes rely on parent company strategies and existing commercial relationships. Executive directors and other senior management of the partnership are often seconded from the private investor's global talent pool including those from subsidiaries conducting business with the partnership. This makes strategic and business sense given the rationale for having a technically competent partner in the first instance and any other approach would defy the logic of leveraging the corporate strength and comparative advantage the private investor brings to the partnership.

Unfortunately, this might also mean that depending on the corporate structure and scope of other investments in the private investors' portfolio, the partnership entity with the State might well be a competitor. An obvious case is if the private investor has other subsidiaries in the same business whose position in the market (relative to the partnership) the private investor would naturally want to protect. In some cases, the private investor might have other subsidiaries that are clients of the partnership entity and purchasing production from it. Such interests give rise to potentially conflicting interests and make convergence of interests and views between the two shareholders difficult to achieve. A heightened sense of awareness on the part of the directors helps but does not eliminate the risk entirely.

In a boardroom setting in which all decisions must be guided by the need to promote company interests, these factors have unintended consequences with potentially undesirable outcomes. This is especially true in cases where the private investor has a management contract or technical agreement with the partnership entity. This is because in such cases the executive directors engaged by the private investor as part of these arrangements have a vested interest in nurturing the business relations emanating from the parent company's other investments that may nevertheless have no bearing on the business of the partnership in question. This can increase mistrust and misalignment in the boardroom. Most importantly, in the cases described the 'conflict of interests" paragraph, both sides fail the test of fiduciary responsibility by not acting independently of interests outside those of the company on whose boards they serve.

Executive Management Dilemma*:* Under these conditions, the position of the CEO is particularly untenable as the partners compete for first place in respect to the incumbent's operational priorities. The CEO struggles to reconcile the divergent views and expectations of board. Ultimately, the board of directors of the partnership is at risk of being consumed by the tension that ensues at the expense of providing strategic direction to the CEO and his/her team. As shown in Case 2 below, apparently, this misalignment is one of the root causes of the collapse of partnerships, but there are also tried and tested ways of reducing this risk of derailment.

Case 2: Strengthening a Partnership Through a Shareholder Forum

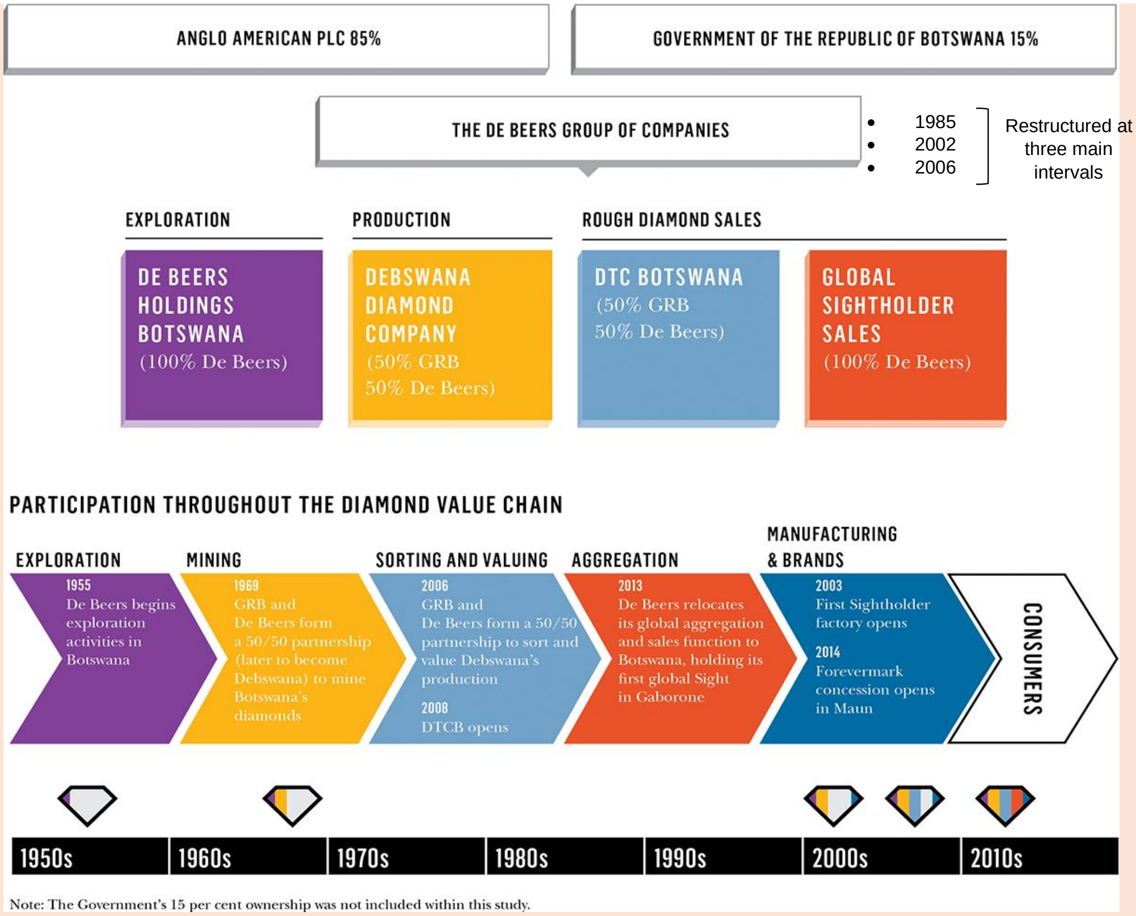
According to the Harvard Review and Water Street Partners firm of consultants, an average of up to 30% of all partnerships fail in the first 10 years of their creation. Some of the root causes of this are strategic misalignment between the partners and inadequate attention paid to the need to progressively address strategic differences and assess the state of the relationship in a systematic way.

As noted in previous chapters, in the mining, oil and gas industries, partnerships between investors and each other, as well as partnerships between investors and governments, are common. In the mining sector, one of the well-known and frequently written about partnerships is the one between De Beers Group and the Government of Botswana. After 50 years it is considered successful in terms of longevity, strategic alignment, and business performance. As CEO of De Beers in Botswana, I had the privilege to serve as a non-executive director of this company for nearly 5 years from 2005-2010. The Debswana partnership was first created as a mining entity but, as the partnership matured, it has evolved to encompass other operations in the diamond value chain, as is illustrated in the corporate structure below.[1] I was a director of all

[1] www.debeersgroup.com

Group companies that were in the Botswana portfolio at the time.

Diagram 5: Corporate Structure of the Partnership Between De Beers Group and the Botswana Government



Source: Debswana Diamond Company[2]

But, even with the longevity, breadth and depth of the partnership, there were many challenges that faced De Beers Group and the Botswana Government. To address these and leverage the opportunities that the partners encountered, required a clear sense of purpose and pragmatism, among other things. The partners were subject to many challenges I have alluded to including keeping pace with ever evolving public expectations. In recognition of this, the partners created a forum that was dedicated to addressing shareholder matters. The forum convened quarterly and considered long-term partnership and sector challenges unique to their joint market leadership position upstream and midstream of the gem diamond value chain. In so doing, the parties were able to create space away from the more transactional board deliberations to focus on long-term strategy and strengthen relations with each other. As such, the forum complemented normal duties of the board and vice versa. The forum also served as a platform for knowledge and information exchange in relation to the larger industry and business environment. In my view, while this forum did not fundamentally change the dynamic, but it eliminated issues that would otherwise get in the way of constructive environment in the

[2] www.debswana.com

boardroom. For instance, the continuous exchange of information reduced knowledge asymmetry. It also enabled the partners to effectively protect shareholder interests through increased convergence of views based on a common understanding of strategic imperatives. An important aspect of the forum was that it created an environment in which the representatives of the two shareholders could discuss strategic issues and get to know each other without the pressure of having to take any formal decisions.

Because the membership of the forum was made up of directors of the boards of several partnerships, CEOs of entities shown in the diagram above and other representatives of shareholders, the forum facilitated intercompany information flow at the senior level. The forum ensured that the strategies of the individual subsidiary companies were also aligned. This was essential for the shareholders to successfully optimize the value of the investments and assets. Admittedly, it would be too simplistic to suggest that this scenario would work in all cases. However, minimally I hope it validates the need for innovative ways for managing shareholder relations. Further that partnerships with sovereign States have certain complexities that conventional corporate structures are ill-equipped to address.

When I reflect on this experience, the effectiveness of the strategic alignment that was partly borne of ongoing dialogue was apparent to me during events that heightened corporate risk. The first was the potentially adverse effects of the release of the movie *Blood Diamond* in 2006 on the business of the company. The partners were fully supportive of the need for the world's attention to focus on the problem. Like most diamond producers, Botswana and De Beers wanted an end to atrocities committed in some diamond-producing regions in Africa and for illicit gem diamond trade to be stamped out. However, the partners were also keen to ensure that what was an estimated 4% of global production diamond that was being traded illicitly would not be misconstrued as representative of the entire industry. It is worth noting that, at the time, up to 60% of global production came from Botswana, Namibia, and South Africa. For its part, the Botswana subsidiary accounted for nearly 26% of global gem output by value. In this respect the shareholder forum served as a platform for developing strategies for engaging national and international stakeholders jointly and for working with leading industry associations to mitigate risk to the diamond jewellry market.

The second occasion was the role of the forum in leading efforts to contain the potentially adverse effects of the collapse of the financial and diamond jewellery consumer markets following the 2008 financial crisis. The partners used the forum to map and understand the potential risk on their operations in the global diamond jewellery consumer markets and its mining, sorting, and valuing operations in Botswana. The outcome was buy-in into a holistic strategy that was once again jointly agreed at shareholder level for implementation by subsidiaries. For instance, the shareholders resolved to provide De Beers Group (Botswana owns 15% in the company) with shareholder loans and avoid the risk of what would have been much higher cost of capital in the global financial market at the time. Though critics felt at a time when public revenue from the company would not be forth coming, this was no time for the State to contribute towards a shareholder loan, for the Botswana representatives who understood the value to the country of holding on to its equity, it was a non-brainer. Regarding the operations, the partners needed to cut operating costs and this led to an agreement to cease production, reduce the working week dramatically and offer some employees voluntary separation, among others. These concessions were largely possible because of consultations between the shareholders many of which were through the forum and Botswana's regulatory authorities. Though the country was only two months from national elections, negotiations with regulatory arms were made easy by the fact that representatives of government on the shareholder forum understood the strategic rationale fully, thanks to ongoing information sharing. Elsewhere in the SADC region, some governments were barring mining companies from reducing headcounts assuming erroneously that the mining companies had a say in the world's financial condition or that the companies could evade inevitable impacts of the crisis. At the time, I could not help thinking that knowledge asymmetry was a major part of those countries' problem.

I remain convinced that in the long run, these interactions on the forum enhanced the performance of the partnerships boards of these partnerships who are the subjects of this case. I must confess however, that this approach to relationship management is very time consuming, cannot be left to chance and is not a once off undertaking. On the other hand, the agenda and roles of respective shareholders evolve with the maturity of the partnership. As such, the partnership alignment efforts require periodic recalibration. In my experience, many partners do not fully appreciate this and do not adopt a systematic enough approach to the challenge of running partnerships. Companies operate under the false assumption that board meetings are adequate to achieve ongoing synergy. Well, I argue that this is not enough.

5.3 SOE Boards

As stated in earlier chapters, in the minerals, oil and gas sectors, SOEs are some of the largest companies, not just in individual jurisdictions but in the world. One of the most iconic brands is Saudi Aramco of the Kingdom of Saudi Arabia, the world's second largest oil producer in 2019[3]. In Morocco, is Office Cherifien des Phosphates (OCP), a sovereign majority-owned entity and the world's second largest producer of phosphate in 2019. [4]

Countries create SOEs based on several factors, including ideology and State laws that favour the State's direct control of national resources through majority or full ownership. The assumption (rightly or wrongly) is that only the State can responsibly steward resources development and equitably distribute benefits to citizens. How successful countries are in achieving this varies from country to country. In some countries, SOEs are properly governed but are not in others. This book focuses on the leadership of the corporate entity through the board of directors. I have not made a distinction between private or publicly listed companies. I focus instead on the fact that the State has a controlling share and a final say in the composition of the board as well as in determining the company's long-term mandate. In these circumstances, the culture of the board, its potential effectiveness or lack thereof in inextricably link to the relationship it has with the State and sovereign leadership. The discussion also sheds some light onto the importance of thinking about the merits or demerits of the option of a SOE legal structure.

Common SOE Challenges

National Laws*:* As noted earlier, SOEs are often created by a specific national law. Unlike other corporate entities that are governed by company law and norms therein, legal and governance frame of reference of SEOs can therefore lack clearly defined systems for accountability. My observation is that the main reason for this lies in the way the State sees itself relative to other investors and its duty to the publics. It seems to me that wherein in case of publicly listed or privately owned companies, the State sees itself as watchdog in case of SOEs, it assumes its good intentions, value proposition and compliance with good

[3] https://www.oilandgasiq.com/strategy-management-and-information/articles/oil-and-gas-companies

[4] https://investingnews.com/daily/resource-investing/agriculture-investing/phosphate-investing/top-phosphate-countries-by-production/

governance is self-evident and as such holds SOEs to different (if lower) standards of oversight. As such the business environment of SOEs can also be shielded from scrutiny because, to all intents and purposes, the regulator tends to go easy on them. However, strictly speaking, in corporate governance terms they neither are nor ought to be viewed differently. Whether the business of the company extends beyond the jurisdiction or not, the SOEs is just as vulnerable to public scrutiny as other companies and can fall foul of stakeholder expectations, including financiers and customers. For instance, it is reasonable to expect that a publicly listed Saudi Aramco will have to be managed by a completely different set of governance guidelines to those that its predecessor has been so far. The changing nature of the business environment of the SOE boards warrants a mindset change on the part of the board and shareholders.

Long-term Vision*:* A clearly articulated long-term vision by the leaders of a country, which empowers the board to manage the affairs without interference, is the gap between effective and ineffective SOE boards. The clearer the State is about the board's responsibility to deliver financially, rather than simply complying with the law, or serving national political agenda, the greater the chances are of the board being effective. Unfortunately, in the case of less successful SOEs, this line can be blurred. This is particularly true in cases where the SOE has a captive national market and supplies other State entities in the value chain. The relationship between SOE managed coal mines and thermal and or gas producers and energy generation plants in many parts of the world is a case in point. In this case, the board is a lame duck and ultimately the company is shielded from open market realities. But as illustrated in Case 3 below, there are exception to the rule. Norway's Statoil, (now Equinor), makes for an interesting example of how to avoid political interference while empowering the board fully.[5]

Financial Independence*:* An important justification for While the State was the original sole shareholder until 2001, when the company was partially privatized, the State remains a significant majority shareholder at 67% of issued share capital. creating SOEs in minerals, oil and gas sectors is their contribution to the national fiscus by generating revenue for the shareholder, (being the State) and for citizens as ultimate beneficiaries. So, while reasonable for the State to raise some seed capital or grant shareholder loans periodically, perpetual funding of poorly run SOEs defies logic, but is nonetheless a common occurrence. The State-owned Zimbabwe Mining Development Company (*ZMDC*) is a case in point. From a corporate governance perspective, this speaks to two failures: The failure of the State to discharge its duties as custodian of natural assets and the failure to hold the board responsible. For its part, the board fails to live up to its duty to act independently and in the interest of the company by providing strategic guidance and holding the executive team responsible to perform financially. Once again, this emanates from the legal structure and the resulting relationships in the corporate hierarchy that are overlaid with political and not commercial motives.

[5] https://www.equinor.com/en/investors/the-equinor-share.html

Board and Executive Nominees: Appointments of political elites to the boards and executive teams of SOEs is common practice and often correlates to poor governance and poor financial performance. One of the State-controlled and recently financially challenged minerals resources companies is Mauritania's iron ore producer National Industrial and Mining Company (S.N.I.M). In 2019, the State owned more than 78% equity in S.N.I.M and the company has a poor financial performance record. In September 2019, the State made a political decision and appointed a former minister of finance, with no private sector or mining experience, as S.N.I.M.'s CEO. Though distinguished as a career public servant, the question of whether the appointment of the incumbent responds to the leadership requirements of a commercial entity does arise, but time will tell. But clearly the authorities are sticking to their political comfort zone and drawing from the human resources in which they have trust. The second question that arises is whether this action serves S.N.I. M's long term commercial interests and Mauritania's public interests.

Separation of Powers: I discussed this matter in the earlier chapters and in the context of conflicting interests. In this chapter, I highlight the matter to remind the reader of the need for a clear separation of powers between the State's regulatory arm and the investment arm. Failure to do this leads to poor performance and potential conflicting roles. Both arms of the State are vital but must be separated. Failure to do so increases adverse impacts of the political economy and to succeed SOEs must be free of such constraints.

A Single Voice*:* A board that speaks with one voice is indicative of teamwork and is also likely to be effective. However, in cases where the board is made up of only public officers, the circumstances falsify the true picture. Though there may be an appearance of synergy, the board lacks dynamism. The board is likely to see the company's internal and external environments through a single lens. Yet studies show that diverse boards perform better relative to those that lack diversity in part because the board does not benefit from friendly critics who provide an outsider's perspective of the company. Board deliberations can also be a mere formality because strategic decisions are based on the political agenda of those who nominated the board members. In terms of board effectiveness, therefore, it should not come as a surprise that such boards and their companies underperform and that in many parts of the world, SOEs are a drain on public resources. In its Corporate Governance Working Papers Series, the OECD argues that one of the key considerations for effectiveness of boards of SOEs is the need for transparency and accountability as discussed in the first chapter of this book[6]. Under such conditions these standards cannot met.

Case 3: Relationship Between the Government of Norway and the State-owned Petroleum Company Equinor (formerly Statoil)

Many case studies have been written on what is also sometimes referred to as the "Norwegian Model" for managing the relationship between the company and the State as both the main shareholder and regulator. The details of these arrangements are not as important as the principles upon which they are founded. In this respect, most critics agree that, when it comes to the three governance principles of transparency, accountability and public participation, the Norwegian Government's oversight of the affairs of Equinor is a model worth emulating.

A large part of the governance framework forms the basis for day-to-day rules of engagement between Equinor executives, the government and the public and much has been written about these arrangements. To this end, there is little value in me repeating the story of how this came to be and how it works. Instead, I extracted the details below from a case study written by students of C.T. Bauer College of Business at the University

[6] http://www.oecd.org/corporate/OECDCorporateGovernanceWorkingPaper6.pdf

of Houston in the United States. The case study covers this subject accurately and succinctly. The extract reads:

"The ownership interest of Norway's investment into Statoil is managed by the Norwegian Ministry of Petroleum and Energy – located and led within the confines of Norway with a large global presence, including a Gulf of Mexico controlling office in Houston, TX. This managing department reports directly to the legislature, the Storting [stortinget, supreme legislature of Norway] in the Norway government ultimately answering to the shareholding citizens of Norway.

The Minister of Petroleum and Energy of Norway (NPE) is responsible for the energy policy created and managed by this department. It also acts as government operator for a myriad of subordinate energy agencies, including the partial ownership of Statoil. Despite the nature of producing and marketing hydrocarbons, it is this department that is largely responsible for the continued hydroelectric usage found in Norway by both citizens and industry alike.

The ability to manage the internal environmentally friendly policies and balance the exportation of hydrocarbon assets is imperative to the department's, and ultimately, Statoil's, success. For this reason, paired with the gradual privatization of Statoil to compete globally, the minister's direct control over the Statoil business process has decreased since the initial public offering in 1972.

The ability for Statoil to continue to succeed, turn a profit and invest their dividends directly into Norway's treasury keeps politics at bay for the most part. Through electric hydropower usage in plants and on rigs and continuing the trend of not burning Natural Gas within the country's borders, Statoil has been able to establish itself as a "guarantor for welfare in the country in the minds of the people". These State funds, based on oil proceeds, drive the health, education, and overall welfare of the citizens of Norway: the shareholders.

The main reason for success of this model, other than the longevity in which it is now entrenched with over 900 billion NOK, is the clear division of roles in the approach. While the State is the resource owner, legislator, licensor and regulator, there exists a balance between all parties and the partially privatized oil company. This distance is maintained, as the company and assets were never nationalized.

The Storting created ***10 Oil Commandments****, which are still followed, including that the oil and gas resources belong to the people and must benefit society, the oil and gas industry must be an era, not an episode and, lastly, when converting petroleum resources into financial assets, the aim must be to create a qualitatively better society. These building blocks are engrained in the corporate culture without being an absolute mandate in operations because of early failures from government intervention causing over budget productions at the Mongstad Oil Refinery location.* '

The guiding principles adopted by the Norwegian government are not a one size fits all but offer a useful point of departure. Other governments may choose a different approach and other principles and establish suitable parameters to govern relations between SOE and other State organs. In the end, what matters is that the approach is based on accepted governance norms and that the norms are respected and upheld by subsequent governments in a non-partisan fashion. It is also important that State organs and those who are responsible for their administration commit to the separation and respect the different roles that they each play. This is essential to ensuring responsible stewardship of a country's resources.

This distinguishes governance for public benefit from governance for personal gain. Countries that fail to create a responsible governance framework normally manage the resources for the benefit of the ruling elite. Decisions are taken on a discretionary basis with little consultation or transparency. Revenues and other economic spin-offs from the development of resources benefit political leaders with little regard for their custodial role. Representatives on the boards of such entities are chosen for their loyalty to the ruling elite. The outcome being national loss of economic opportunities made available by the development of finite resources.

Finally, the environment in which Equinor is managed ticks many of the boxes under the broad umbrella of 'Effective Boards' under chapter 3. These include a clear sense of purpose, fit for purpose structures, an empowered executive, and a board free from political interference, among others. The result being the people of Norway are better for it.

Source: *Statoil; GENB7A97 – Oil and Governance, December 12, 2015, Authors; Team GGG: JW DePriest, Zach Field, Jonathan Hayes, Bali Horvath, Dhaval Mistry, Chris Vance at www.bauer.uh.edu*

The Political Economy: A common challenge facing SOEs is that the political economy looms large and continuously undermines board effectiveness. SOE directors tend to be surrogates who serve short-term political objectives. Often the executive management and board appointments are made along party lines. For their part, the appointees reward their political masters with cronyism and a lack of professional integrity, characterized by an incapacity to speak truth to power. In South Africa, the thermal coal giant Eskom's dismal performance speaks in part to the company's relations with politicians and the impact of that on the company's relations with coal suppliers and the incapacitation of a board. Speaking directly to the legal structure of the SOE, that country's former minister, "At a strategic level, we must thus face the reality that a large, vertically integrated energy company is an outdated model in a changing industry, both domestically and internationally.[7]

It is worth remembering again that globally SOE governance is a mix of spectacular successes and spectacular failures. That said, national sentiment for countries to have a direct say in the day-to-day running of minerals, oil and gas projects remains strong. This suggests SOEs in these industries will continue to dominate. Hence the importance of them being well governed through stronger accountable corporate governance frameworks.

END

[7] ." Former – Finance Minister, Tito Mboweni, Budget Speech on 20 February 2019.