Public-owned Corporations and Companies sector in Morocco:

Strategic focus and governance

Summary

Contents

General framework

1. The sector of public-owned Corporations and Companies (PCC) plays a key role in the economic and social development of our country due to its weight in the Moroccan economy and the place it occupies in the preparation and implementation process of public policies.
2. PCC nowadays constitute a key lever in the momentum of economic and social transformation of the country. The fresh boost and dynamism of some sectors could not be conducted without PCC actions. Moreover, some sector-based strategies would not have seen the light without their intervention.
3. Aware of the important role of PCC in the momentum of development of the country, the public authorities have granted them special attention for several years. This interest has led to various actions: reform of the legal and institutional framework of some entities, conclusion of program-contracts with the strategically important PCC, reform of State financial control, privatization programs, legal framework of delegated management and private-public partnership, steering and implementation of public policies, modernization of governance, etc.…
4. Thanks to the improvement of PCC governance, most components of the sector have shown an upward trend, especially during the decade 2000. In 2015, investment amounted to 76.5 billion MAD. At the end of 2014, the revenues reached 198 billion MAD, the added-value stood at 72.7 billion MAD, cash flow amounted to 42.2 billion MAD and the balance sheet reached 1.001 billion MAD[1].
5. With regard to the capital market, privatization operations via the listing on stock exchange of some PCC had a crucial impact on the dynamism of the Casablanca Stock Market. Such listing gained in confidence on behalf of the savers and investors and encouraged many private companies to open their capital to the public. In 2015, the stock market capitalization of this listing exceeded 460 billion MAD as against 207 billion MAD in 2004. The peak was recorded in 2010 bordering 580 billion MAD.
6. However, in spite of this performance, the PCC sector did not evolve according to a coherent and clearly defined strategic vision on the resources and a long term dimension. The major changes that it witnessed were driven by particular historical circumstances, the caliber of decision makers or the need to meet specific requirements.

[1] Ministry of Economy and Finance - Reports on PCC accompanying finance bills

7. Since the beginning of the decade 2010, the sector started to show signs of stress as testified by the decline of investments carried out, the hike of debt and the increase of the transfers of State resources to PCC.
8. Though the sector has been the subject of several reforms and has recorded significant success, the problems related to its dimensioning, its strategic steering, its relations with the State and its governance all remain relevant.
9. The role of the State as a shareholder is not visible enough, the Ministry of Economy and Finance, which is supposed to play this role, does not yet have a monitoring and steering entity targeted at supporting PCC in implementing their strategies, improving their performance and upgrading it to a standard of organization and internal control that would allow them to migrate towards a management based on results and performance.
10. The role of the Government as a strategist remains insufficiently defined. Strategic steering by the ministries with sector-based competence is not conducted within a legal framework. The relevant practices continue to vary across departments, according to the culture of the Ministry, the know-how of the officers in charge and the interest which they attach to one PCC or another.
11. Several aspects should be the object of careful consideration towards the rationalization of the PCC sector, in relation to a comprehensive and coherent strategic vision:
    - the priority sectors that should be the object of PCC intervention and the missions assigned to them;
    - the role and positioning of the State as a shareholder and as a strategist;
    - the strategic steering of major groups holding most of the public portfolio and its main economic and social aggregates;
    - financial relations between the Government and PCC;
    - PCC governance and the readability of their accounts and performance.
12. The objective of this mission is to assess the overall PCC sector, to evaluate its performance and to make reform proposals to ensure a better efficiency.
13. The analyses conducted and recommendations made within the framework of this Report are based on the rules enacted by “the Moroccan Code of Good Governance Practices for Public-owned Corporations and Companies”, OECD principles and a benchmark of the best international experiences in this regard.
14. In order to grasp the problems related to this issue, the mission organized working sessions with members of the Government and managers of major PCC.

15. The content of this Report was double-checked with the Ministry of Economy and Finance. The final version of the Report accommodates the comments made by the Directorate of the State-owned Companies and Privatization (DSOCP).

I. Key features of the sector

16. The major characteristics of the PCC sector can be summarized along the following lines:

1. Important economic weight

17. According to the Finance Bill 2016 appended Report on PCC, the public portfolio is composed of:

- 212 public-owned corporations;
- 44 State-owned companies with direct contribution of the Treasury;
- 442 subsidiary companies and public contributions[2].

18. The PCC sector is characterized by a great diversity of its bodies. Such diversity can be seen at various levels:

- legal status[3];
- level of the public contribution to the capital[4];
- activity sectors;
- areas of public service or purely commercial activities;
- intervention in a competition or monopoly position;
- degree of dependence on State subsidies;
- organizations' size;
- management system and style etc.… .

19. The weight of the PCC sector can be grasped through the following indicators (year 2014[5]):

- investment:	: 71.6 billion MAD, or 24.6% of GFCF
- added-value	: 72.7 billion MAD, or 7.9% of GDP
- revenues	: 198 billion MAD

[2] Including 236 direct and indirect public contributions higher than or equal to 50% and 206 direct and indirect public contributions lower than 50%.
[3] Public corporations owned by the State or Local Authorities, companies with direct or indirect contribution of the Treasury, and local development companies.
[4] Total, majority or minority
[5] The data at the end of 2015 are not consolidated yet by the Ministry of Economy and Finance – DSOCP.

- cashflow : 42.2 billion MAD
- workforce : 129.545
- staff costs : 30.9 billion MAD
- balance sheet : 1.001 billion MAD

20. For the year 2004, the major aggregates of PCC recorded an improvement as follows:

- investment : + 155%
- added-value : + 117%
- revenues : + 107%
- cashflow : +235%
- balance sheet : +152%

2. The sector, object of successive reforms

21. In view of their weight and importance in the Moroccan economy, and the key role which they play in the economic and social development process of the country, PCC have always been one of the core concerns of public authorities.

22. This concern was materialized by reforms relating to both the environment hosting the sector and some PCC in particular which underwent reorganization operations.

23. The initiatives taken in this regard led to a series of reforms involving the sector, chief of which are:

- development of the policy of contractualization of the relations between the State and PCC, with the signature of the first program-contracts in 1987;
- implementation of restructuring plans of several public-owned corporations (POCs): sugar refineries, subsidiaries of ODI[6], SODEA[7], SOGETA[8], companies operating in the agricultural and mining sectors;
- demonopolization and the opening to competition of the major public services, such as telecommunications, postal services and transport;
- encouragement of the public-private partnership policy;
- progressive withdrawal of the State from the competing activities which can be ensured by the private sector and the implementation of the privatization program;

[6] Office for Industrial Development
[7] Agricultural Development Company
[8] Farming Land Management Company

- revitalizing PCC boards of directors and improving their operation through the respect of regularity in holding their meetings and the implementation of their resolutions;
- rationalization of State budgetary transfers through the suppression of the operating subsidies for the commercial public corporations and their reorientation towards the priority sectors, driving PCC to reinforce their cashflow so as to be able to finance their operations and, partly, the relevant investments;
- setting up of audit committees and the development of internal and external audit practices and the certification of accounts by independent auditors.

24. Tough most reforms have been implemented, the execution of some public actions encountered constraints relating to the environment of PCC and other difficulties internal to these companies.

3. First public investor and key instrument for the implementation of public policies

25. PCC play a crucial role in the implementation of public policies. In several sectors of the economic activity, their development plans were set up in the form of sectoral strategies. This situation results primarily from the sizable resources available to major PCC, the know-how that they developed and their opening up towards the outside world.

26. Since 2000, PCC have been operating in most sectors of the economic activity and become the initiating agents of several structuring projects. The sector-based strategies initiated by the Government and strongly assumed by PCC cover practically all the key sectors of the economy: energy, infrastructure, agriculture, maritime fishing, tourism, industry, promotion of exports, logistics, professional training…

27. The sector-based strategies initiated by the Government and strongly assumed by PCC are the following:

    - Energy (2020): ONEE, MASEN, ADEREE, SIE;
    - Green Morocco Plan (2015): ADA, ORMVA, ONCA, ONSSA, ONICL, SONACOS etc.;
    - Halieutis Plan (2020): ONP, INRH, ANDA;
    - Tourism (2020): ONMT, SMIT, CDG;
    - Industry (2015 and 2020): AMDI, ANPME, OMPIC, OFPPT, ANAPEC;
    - Promotion of exports (2018): CMPE, EACCE;
    - Port strategy (2030): ANP, SODEP, TMSA;
    - Logistics strategy: ONCF, SNTL, AMDL;
    - Professional training (2021): OFPPT;
    - Social housing: Al Omrane Group, CDG subsidiary companies.

28. This growing presence of PCC has led to a momentum which consolidated their share in the creation of wealth. PCC have become the first public investor way ahead of the State and local authorities.

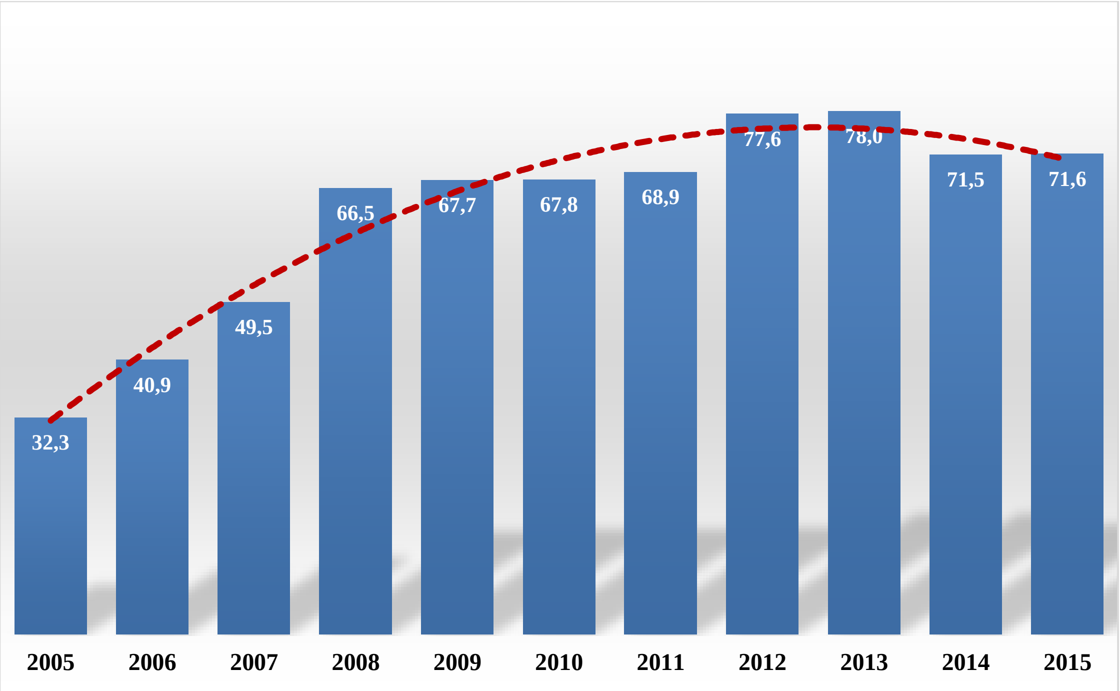
29. The investments carried out by PCC made it possible to equip the country with good quality infrastructures, which constituted a key driver of economic growth and a determining factor in the start-up of a great number of activity sectors.

30. The sectors which benefited the most from PCC investment effort are:

- energy, mining, water and environment : 32.9%
- infrastructure and transport : 25.2%
- housing and land development : 17.2%
- finance : 11.3%

31. From 2005 to 2015, the investment carried out by PCC evolved as follows:

Graph #1: Trend of the investment carried out by PCC from 2005 to 2015 (in billions MAD)

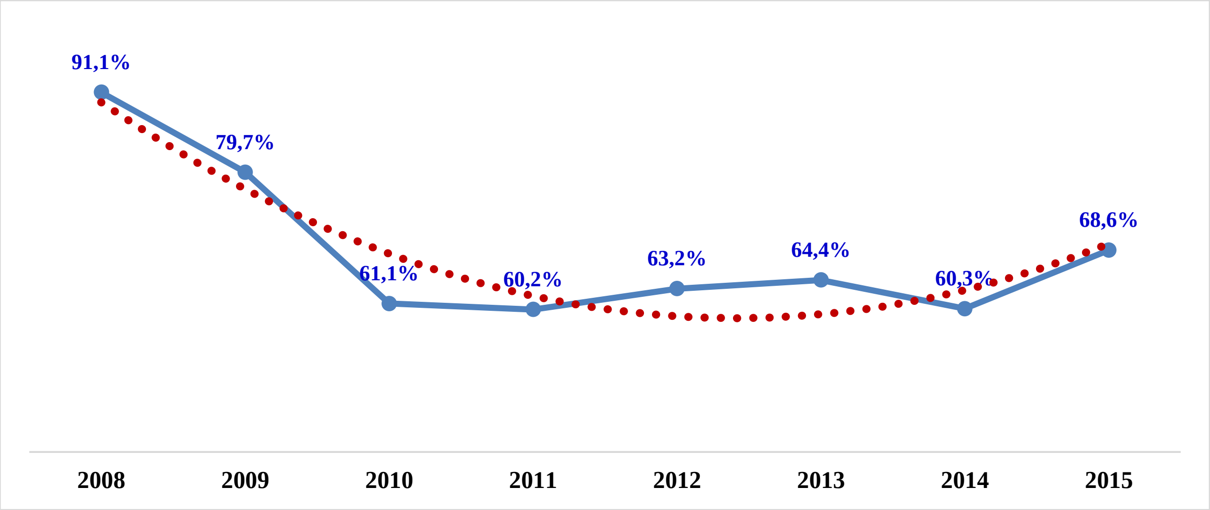


32. Over the period 2008 - 2015, the investment carried out by PCC accounted on average for 55% of the total public investment[9].

33. The investment effort is committed mainly by OCP Group, CDG Group, ONEE, Al Omrane Group, ONCF, ADM, ONDA, ORMVAs and water and power authorities.

34. However, it is noticed that the average implementation rate of investment budgets has posted a downward trend since 2008. During the period 2010 - 2015, it oscillates around 62%, which would constitute an argument for the improvement of the planning and handling of projects.

Graph #2: Trend of investment execution rate of PEC from 2005 to 2015 (in %)



4. Key tool of regional development and land planning

35. The PCC operating at regional and local levels amount to 172. Their action is often crucial in their scope of intervention contributing to the supply of proximity basic services, the harmonious development of local spaces or the sharing of major regional projects.

36. PCC hence contribute to the emergence of true regional development poles and to the fitting out of industrial parks.

37. Having placed the region in the center of the institutional construction of the country, the new territorial architecture should consolidate the place of PCC operating at the regional level.

[9] Public investment: general budget, PCC, special Treasury accounts, local government agencies and SEGMA (autonomously managed State services)

5. Sector still relying on State subsidies

38. The financial relations between the State and PCC are materialized by reciprocal transfers. The State transfers to PCC the subsidies of infrastructure and/or operation, allocations for equity participation or specific reorganization transactions requiring recapitalization. The public funds transferred to PCC take several forms:

- direct transfers from the State general budget;
- transfers from Treasury special accounts;
- fiscal or parafiscal levies revenues collected by the State or other public agencies and transferred to some PCC.

39. As for PCC transfers to the State, they include the revenues coming from financial bodies, monopoly revenues, the shares of benefit and contributions of public corporations, the dividends coming from the companies with public contribution, the royalties for occupation of the public property and other revenues.

40. The following table outlines the transfers between the State and PCC during the period 2010 - 2014:

Table #1: Financial transfers carried out between the State and PCC from 2010 to 2014 (million MAD)

Year	State to PEC	PEC to State	Balance
2010	29 947	8 883	-21 064
2011	29 391	10 483	-18 908
2012	34 799	11 493	-23 306
2013	31 626	13 322	-18 304
2014	34 119	9 778	-24 341
Totals	**159 882**	**53 959**	**-105 923**

Source: Ministry of Economy and Finance – reprocessing of the Audit Court

41. During the period 2010-2014, the comparison of reciprocal transfers between the State and PCC, shows a structurally unfavorable balance for the State amounting to an annual average of 21.2 billion MAD.

42. Between 2010 and 2014, the total transfers of public funds to PCC amounted to 159.8 billion MAD including 104.5 billion MAD from the State general budget (65.3%), 34.5

billion MAD of special Treasury accounts (21.6%) and 20.6 billion MAD in the form of fiscal or parafiscal levies and compulsory deduction (12.8%).

43. The distribution of the PCC benefiting from these resources, by industry sector, is as follows:

- education, higher education and training: 23.6%
- energy, mining and environment: 21.6%
- infrastructure and transport: 15.1%
- agriculture and maritime fishing: 12.2%
- housing, town planning and land development: 9.9%
- health and social sectors: 7.4%
- tourism, craft industry and promotion: 6.0%
- audio-visual industry, communication and culture: 4.4%

44. The transfers partly cover the payments for the social measures entrusted to PCC, such as the actions of slum clearance, the subsidy of electricity tariffs, PAGER[10] Program ….

45. Moreover, the increase in budgetary transfers to PCC allowed the completion of structuring projects and ambitious programs, the deployment of sectoral strategies and the improvement of the service supply ensured by these public agencies.

46. Concerning the transfers of PCC to the Treasury, they come from a small set of entities. The dividends and shares of provided profits come essentially from OCP Group, CDG Group and IAM. The transfers made by non-commercial PCC are paid almost entirely by ANCFCC[11] whose collected revenues takes the form of parafiscal levies.

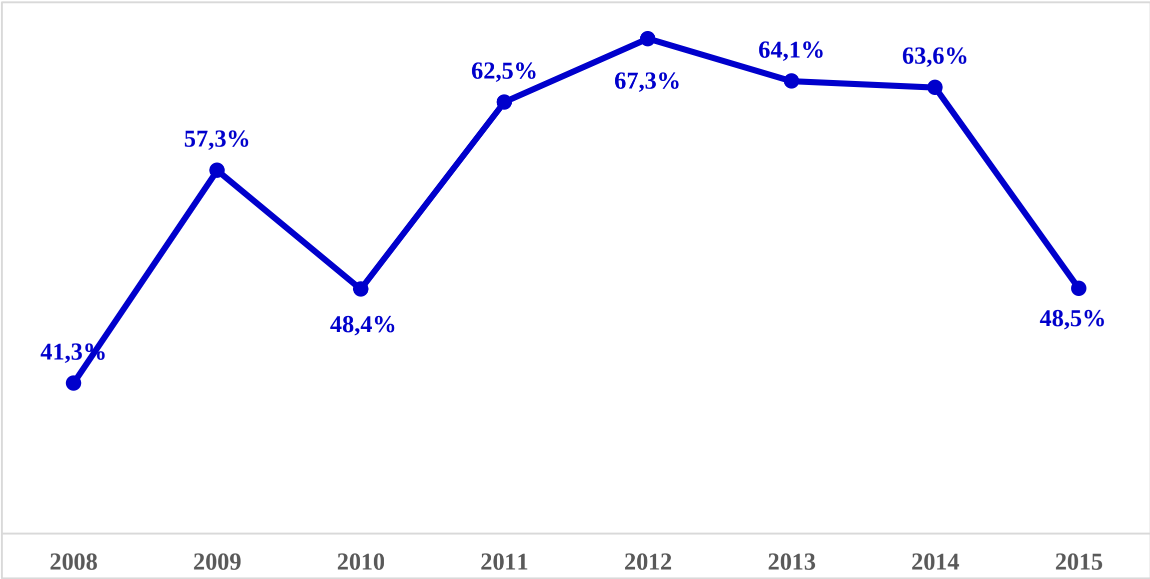
6. PCC Transfers to the State are limited to a small set of entities

47. Over the period 2008 - 2015, the dividends and shares of profit provided to the Treasury by OCP Group, CDG Group and IAM, have contributed in average to a total value of 48.9% of the overall transfers of the PCC sector to the State general budget. Moreover, in relation to the total dividends and profit shares, they accounted for 84.8%.

48. The following graph illustrates the evolution of the total transfers of PCC to the State, the dividends and profit shares provided as well as their weight.

[10] Rural Community Drinking Water Supply Program
[11] National Agency of Land Registry, Cadastre and Cartography

Graph # 3. Trend of dividends and profit shares
in the total transfers of PCC to the State (2008 - 2015)



49. The State revenues as a shareholder, evaluated by the increase of the dividends and profit shares, should nevertheless be improved.

50. The poor financial profitability of the public portfolio is explained by the following factors:

- the business models, tariff policies and institutional set-up of some PCC serving as investors lead to structurally weak or even negative results;
- several PCC are being reorganized (ONEE, RAM) or conducting massive investments (ADM, ONCF, ONDA, ANP);
- although it is a major public corporation, CDG holds several structurally unprofitable subsidiary companies and contributions some of which carry projects within the framework of the implementation of sectoral policies initiated by the Government;
- the remaining public limited companies with direct and majority contribution by the Treasury showed usually insignificant profits;
- the minority contributions hardly lead to dividends, except for IAM in which the Treasury holds 30% of the capital.

7. Sector requiring active monitoring

- **A few PCC carry out the main part of the performance of the sector**

51. The economic and financial performance of the PCC sector is limited to a reduced number of organizations.

52. Between 2010 and 2014, the major PCC having strongly contributed to the investment effort [12], the revenues and the added-value achieved by the sector, are as follows:

Table #2: Contribution of the major PCC to the performance of the sector from 2010 to 2014 (in %)

PEC	Contribution to investment	Contribution to revenues	Contribution to added-value
Group OCP	17,8	26,9	32,3
ONEE	11,5	14,3	10,6
CDG Group	11,4	3,0	8,2
Al Omrane Group	8,8	2,6	1,7
ONCF	6,5	1,9	3,5
ADM	5,8	2,0	3,0
RAM	1,6	7,1	7,3
Total	**63,4**	**57,8**	**66,6**

53. Between 2010 and 2014, these PCC contributed, on average, a total value of 63.4% of the investment[13], 57.8% of the revenues and 66.6% of the added-value.

54. OCP Group is the major contributor in all aggregates. It achieved 17.8% of the investment effort, 26.9% of the revenues and 32.3% of the added-value.

55. ONEE is also a strategic entity. It contributed a total value of 11.5% of the investment, 14.3% of the revenues and 10.6% of the added-value made.

56. Concerning the contribution to the dividends and profit shares provided to the Treasury from 2010 to 2015, OCP Group contributed to it a total value of 42%, followed by IAM at 35.2%.

57. With regard to non-commercial public corporations, given the nature of their missions, most of them do not generate own resources, for lack of remuneration of their services.

[12] Including the year 2015

[13] The relative data of the investment carried out are consolidated at the end of 2015.

They remain, in general, structurally subsidized by the State. In 2015, the operation subsidies allocated to this category of organizations reached 12.268 million MAD, or 47% of the total transfers granted by the State general budget to PCC.

58. In 2004, these subsidies amounted to 4 billion MAD and accounted for only 25.6% of the total transfers. This decline is due, since 2000, to the fact that a good number of public-owned corporations had been established and which are, in fact, quasi public administrations extending the missions of the ministries to which they are affiliated. Over the period of 2004 - 2015, 44 public corporations were set up.

59. The creation of PCC poses the problem of establishing entities deprived of own resources. Consequently, it should be noted that there is a need for a formalized framework, standardizing the conditions and procedures of establishing public entities, particularly as regards the preliminary evaluation of the opportunity and the sustainability of the economic and financial model underlying such creation.

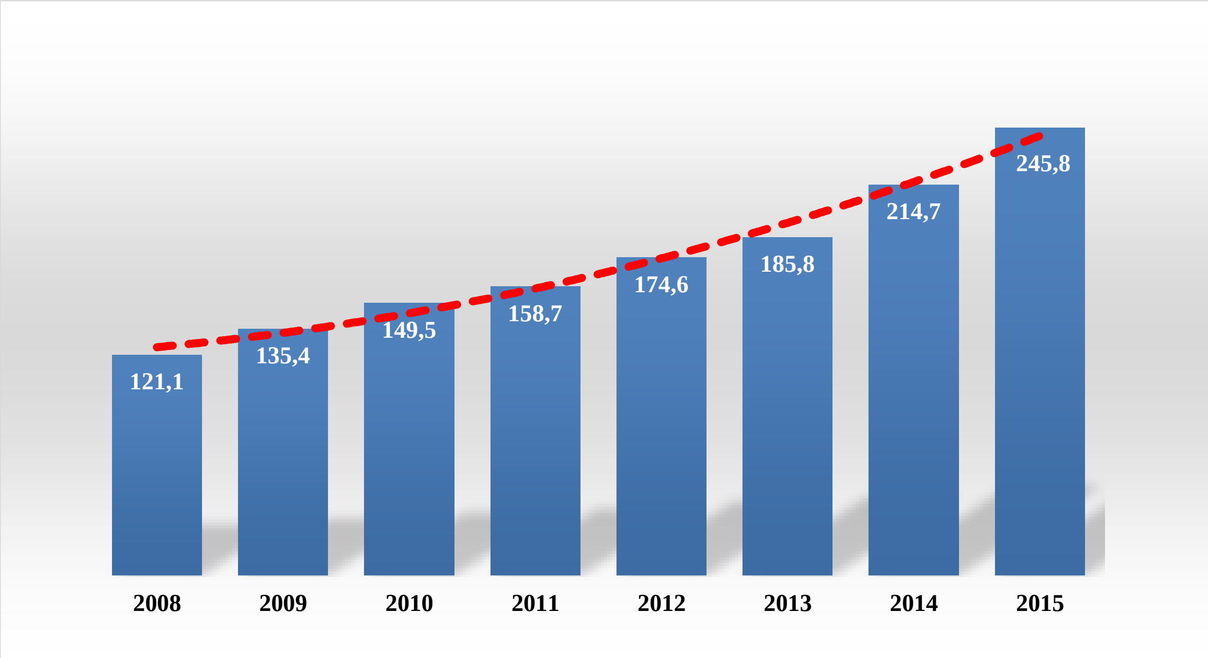
60. It should be noted, however, that although the added-value of some public corporations is not significant, they play a major role in the development and regulation of some activity sectors with significant economic consequences. These include the hydraulic basins agencies, urban agencies, ANRT, hospital centers etc.….

- **Constantly rising debt**

61. Since the beginning of the decade 2010, PCC have showed continuously increasing funding debt. At the end of 2015, the outstanding financing debt of PCC reached 245.8 billion MAD, accounting for approximately 25% of GDP. Compared to 2004, the debt of this sector recorded an increase of 321.1%. This could constitute a source of weakness for the sector.

62. Over the period 2008 - 2015, the debt of PCC evolved in the following manner:

Graph # 4: Trend of the financing debt of the PEC sector from 2008 to 2015 (Millions MAD)

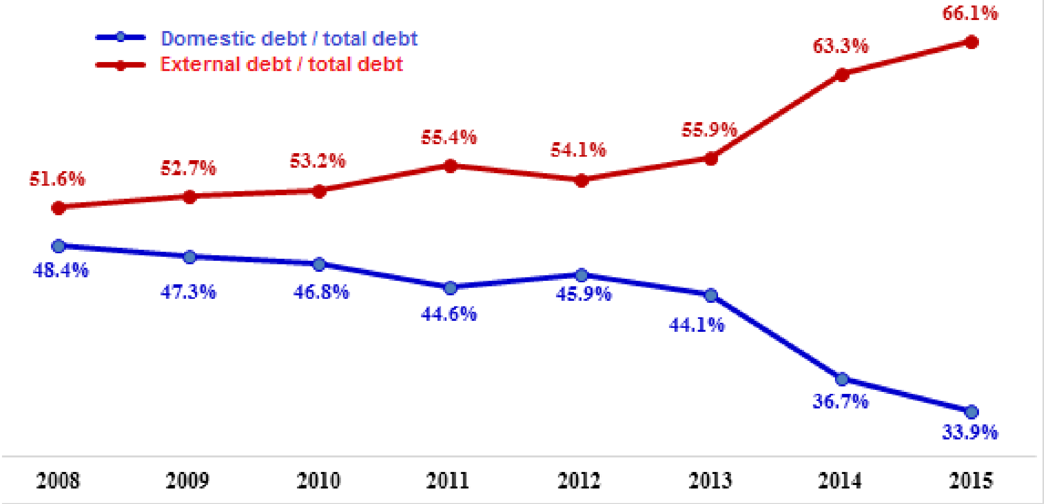


63. At the end of 2015, the most highly-indebted PCC are as follows (in Million MAD):

PEC	Financing debt	Debt in foreign currency
ONEE	56 825	**39 815**
OCP Group	54 738	41 216
ADM	39 930	23 598
CDG Group	24 757	**5 594**
ONCF	23 995	**13 001**
TMSA	10 733	**4 824**
MASEN	9 382	9 382
CFR	6 695	6 695
RAM	5 452	5 452

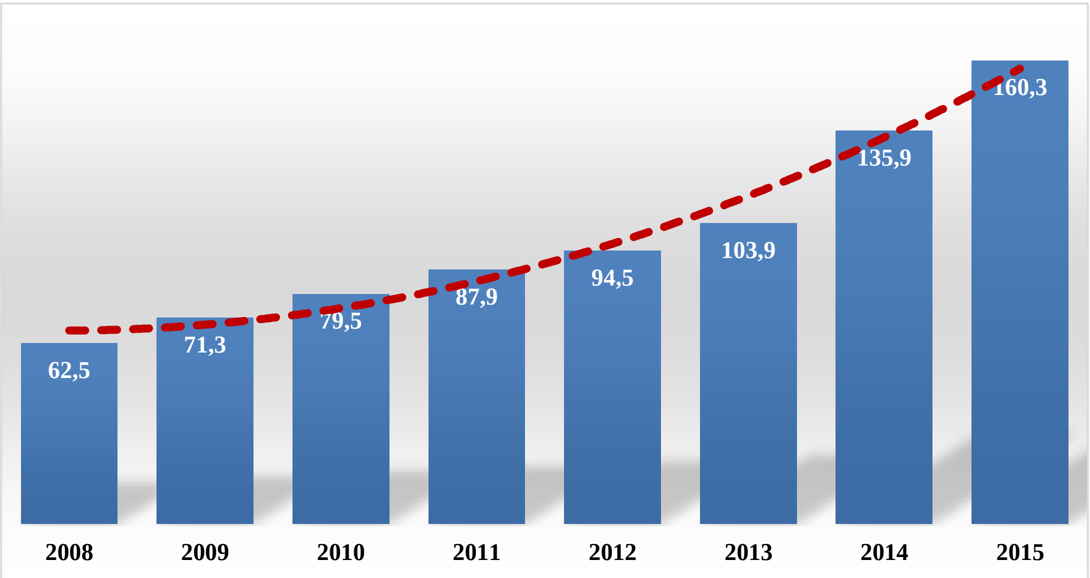
64. Concerning the structure of the financing debt of PCC, it should be underscored that the share of external debt has been rising since 2008. At the end of 2015, it amounted to 160.3 billion MAD, or 65.2% of the total debt of the sector, and accounts for 17% of GDP. Out of this stock, 106 billion MAD is guaranteed by the Government.

Graph # 5: Trend of the structure of PCC debt from 2008 to 2015 (in %)



65. The growing increase of the foreign currency debt, since 2011, involves risks for public finance, because any failure of indebted entities to pay their guaranteed debts will be borne by the State general budget. The trend of foreign debt over the period 2008 - 2015 was as follows:

Graph # 6: **Trend of the structure of PEC debt in foreign currency from 2008 to 2015 (in %)**



66. However, it should be noted that the debt incurred by OCP, which represents a major part in the foreign debt of the sector, is not guaranteed by the Government. It was taken to support its development strategy and to finance its investment plans.

67. It is also important to recall that the increase in PCC debt made it possible to support the financing of structuring programs such as:

- reinforcement of water production capacities and the development of electric power supply in order to support the development of the country needs;
- implementation of a strong-willed policy for the development of renewable energies;
- increase in production capacities and development of phosphates in order to meet the demand of the market, the safeguard of cost competitiveness via an important industrial program and a business strategy ensuring the development of new products and varieties of manure by concluding strategic partnerships;
- construction of modern transport infrastructures in terms of highways, railways, ports and airports;
- development of the maritime links of Morocco particularly through the operation of Tangier Med Port.

- **PCC major investors posting a structural value added tax (VAT) credit**

68. At the end of 2015, the total amount of VAT credit of PCC exceeds 25.181 million MAD, which accounts for 47.8% of VAT income reverted to the State general budget during this financial year.

69. In addition to the risk of suppressing the model of PCC as investors, this situation affects the performance of the PCC concerned because of the cash shortage and the additional financial expenses they generate.

70. In order to forge a solution to the problems of VAT credit in investing companies, the Government undertook measures to put an end to the accumulation of VAT credit stocks.

71. Indeed, the Finance Law of 2014 provided for the refunding of the credit cumulated until 31 December 2013. But this measure applies only to the taxpayers whose credit amount does not exceed 500 million MAD. However, most POCs are not eligible for the benefit of this measure, because of a VAT credit quite higher than such threshold.

72. Subsequently, the Finance Law of 2016 set up a device for refunding VAT on equipment assets but expressly excluded PCC from this measure. It, however, stipulated exemption measures for the transactions relating to the acquisition of aircraft and imported railway transport materials, which will benefit RAM and ONCF.

73. Other actions were committed for the settlement of VAT credit such as the increase of VAT rate to 20% for the highway toll (FL 2015) and railway transport (FL 2016). Moreover, the generalization of the refunding of the VAT imposed on goods, initially conducting the refund of the VAT on investment goods acquired as of 1 January 2016, will contribute to mitigating VAT credit.

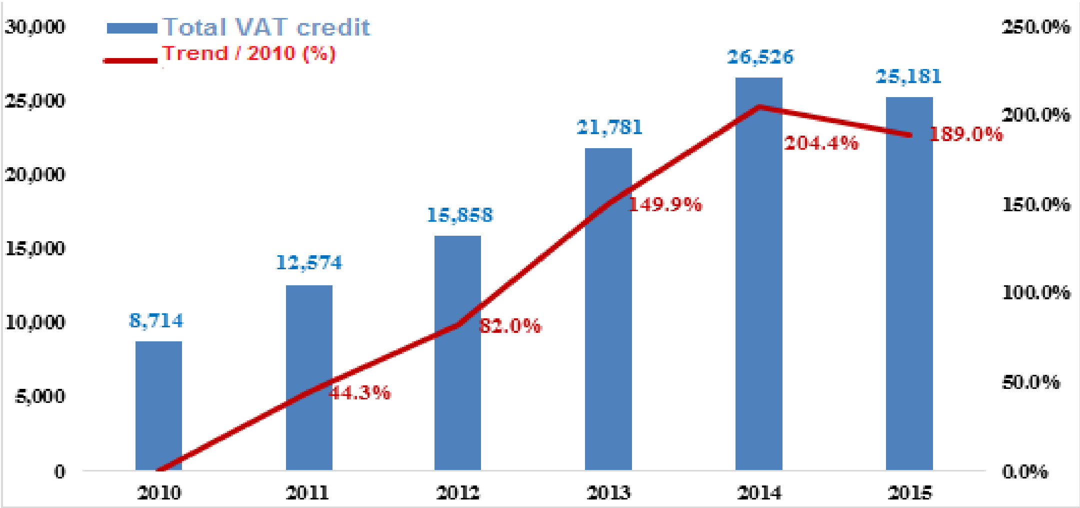
74. Moreover, the Ministry of Economy and Finance signed draft agreements with ONEE and ONCF whereby the Government (DGI[14]) recognizes the VAT credit cumulated at the end of 2013 as debt to these two organizations. These public-owned corporations can negotiate loans on the financial market, corresponding to the VAT credit recognized by the Government, up to 1.94 billion MAD for ONEE and 1.78 billion MAD for ONCF, to settle the situation of their supplier debts and the improvement of the terms of payment. The repayment of the principal and interests of these loans will be borne by the Government.

75. While these measures will have a positive impact on the cashflow of the PCC involved, they remain insufficient. The other investing PCC (OCP and ADM in particular) will have to continue to run up against the "buffer rule" and post in their accounts, for several years, credits whose short-term collection is dubious, giving rise to recurring reservations of statutory and external auditors on the fair presentation of their accounts. Moreover, the rejection of repayment by the taxation department can sometimes relate to significant amounts (RAM: 457 million MAD).

76. The size of investments carried out by POCs has resulted in a significant accumulation of this credit.

[14] Directorate-General for Taxation

Graph # 7: Trend of VAT credit from 2010 to 2015 (in million MAD)



77. To this VAT credit, which represents a State debt to PCC, it would be necessary to add the subsidies granted by the Government to regional academies of education and training and not yet paid, whose consolidated total at the end of 2015 reached 8.9 billion MAD.

78. The PCC which accumulated a significant VAT credit resort to bank loans to finance their cashflow needs, which made them incur considerable financial expenses.

79. In 2015, the financial costs related to VAT credit were estimated at 1 billion MAD.

- **Steadily rising staff costs**

80. The policy of privatization and withdrawal of the State from some competitive sectors, the delegated management of public services, the recourse to PPP and the liquidation of more than 70 public companies, were accompanied by a huge number of early retirement cases with incentives for the benefit of the personnel concerned.

81. Despite all these efforts, the number of PCC employees remains relatively stable. It recorded a decline between 2005 and 2009 but it resumed its upward trend as of 2010 up to 2013. At the end of 2014, the PCC sector workforce amounted to 129.545 officers and agents.

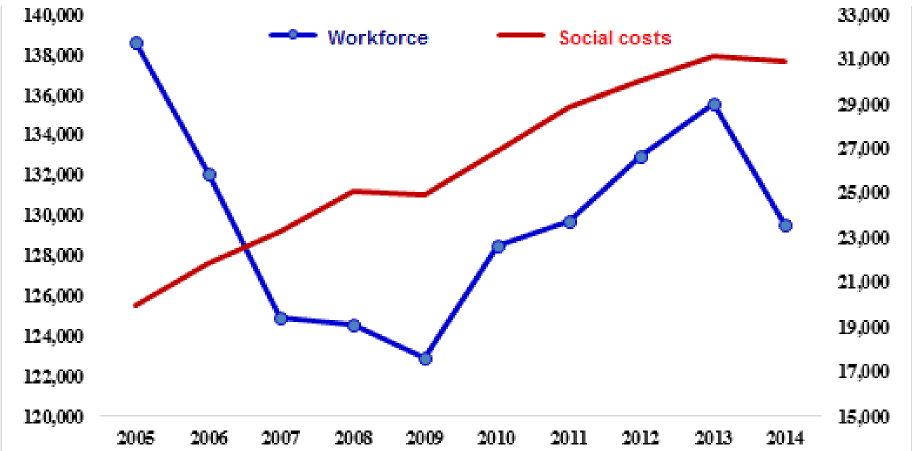
Table #3: Trend of PEC workforce from 2005 to 2013

Year	Workforce	Trend in %
2005	138 632	-
2006	132 115	-4,7
2007	124 958	-5,4
2008	124 610	-0,3
2009	122 942	-1,3
2010	128 500	4,5
2011	129 753	1,0
2012	132 926	2,4
2013	135 588	2,0
2014	129 545	-4,5

82. Staff costs account for more than 45% of the added-value generated by this sector, which means that a good part of the wealth created by PCC benefits their employees.

83. It should be noted that these data concern only PCC own personnel, knowing that some of them operate with civil servants affiliated to the State general budget (regional academies of education and training, universities, hospitals).

Graph # 8: Trend of workforce and staff costs of PCC from 2005 to 2014



- **Risks specific to some strategic PCC**

84. Some PCC involve risks due to their activity or particular circumstances. This is the case of ONEE, ONCF, ADM, RAM, and HAO[15].

85. ONEE witnessed for several years an unbalanced financial position that became structural in nature. At the end of 2015, it recorded a net loss of 2.344 million MAD and its financing debts stood at 56.825 million MAD, along with 20 billion MAD as liabilities of its internal retirement fund. Its financial expenses reached 2.775 million MAD and its cashflow posted a negative trend of 4.895 million MAD. The financing debts account for 330% of its own equity and quasi-equity.

86. ONEE was the subject of a program-contract concluded with the Government in May 2014 stipulating the progressive recovery of the financial position of this company for the implementation of its investment plan.

87. In spite of the efforts made by the management of the entity within the framework of the program-contract relating ONEE to the Government, its financial position remains weak.

88. ONCF witnesses a weak financial position as well, as its net results shows a structural deficit. Over the period 2010 - 2015, it recorded a cumulative net loss of 252 million MAD. Its debt reached approximately 24 billion MAD and its cashflow was negative by 2.5 billion MAD. Moreover, the financing debts account for 88% of its equities.

89. Owing to the fact that about half of its revenues comes from the railway transport of phosphates, and considering the start-up of the transport of phosphates by pipeline carried out by OCP and the impact of this change on the business activity of ONCF and its financial balance, an agreement was concluded in order to better guarantee the interests of the two entities.

90. Another aspect relates to the fact that the upcoming operation of the high-speed railway line Tangier-Casablanca, whose break-even point will only be reached in the long term, runs the risk of worsening the operating deficit of this strategic State-owned company.

91. As to ADM, it posts an inherently unbalanced financing structure because of the nature of the business plan of the projects, which it carries out, and the operation of less profitable new highway sections. Hence its results constantly show a deficit.

[15] Al Omrane Holding

92. At the end of 2015, the outstanding debt of this SOE amounted to approximately 40 billion MAD and its deficit reached 2.2 billion MAD. Its financing debts account for nearly 500% of its equities.

93. For more clarity, the business model of this important POC should be subjected to a thorough strategic and institutional audit.

94. RAM operates in an environment involving risks related to the sensitivity of air transport to tourism, in particular, and the evolution of the international situation in general.

    For some years, the company has witnessed a rather weak financial position, though it recorded some improvement since the conclusion of a program-contract with the Government in 2012.

    In 2015, its net income was positive amounting to 203,3 M MAD, but its financing debt remains significant standing at 5.452 million MAD for an equity amounting to 2.394 million MAD.

95. Al Omrane Holding (HAO) has witnessed, since 2010, stagnation in all its aggregates. Its capitalization is characterized by a raised level of stocks of finished products which reached, at the end of 2015, approximately 15 billion MAD. This amount represents the equivalent of its revenues for three years. This is the sign of a very slow rotation of assets which involves a risk as to the economic and financial sustainability of the Group.

96. The business model of this POC should be redefined with a view to executing projects steered by the Government as regards the elimination of substandard housing and urban reorganization.

97. The tram urban transport companies (STRS in Rabat-Salé and Casa Transport in Casablanca) record structural deficits which reached significant cumulative amounts. Considering the size of the investments made and planned, the financial position of these companies has shown a deficit since their start-up in 2010. Consequently, they should be the object of a follow-up and a reconciled financial steering.

98. Moreover, other POCs involve, to a lesser extent, risks related to their financial position that should be taken into account. This is the case of SONARGES, SMIT, SONADAC and ALEM.

II. Strategic focus

1. Legal and institutional framework

99. The supervision of the Government over PCC derives its legal bases from the Constitution, Organic Law n°13-065 on the Government running, Organic Law n°130-13 on Finance Law, the legislation establishing PCC and the decrees on the responsibilities and organization of various ministries.

100. Article 89 of the Constitution stipulates that “the Government exerts the executive power. Under the authority of the Head of the Government, the government implements its governmental program, ensures the execution of laws, is tasked with administration, supervises public establishments, and companies and ensures the supervision thereof”.

101. Article 6 of Organic Law n°13-065 on the Government running specifies that the chairmanship of the boards of directors of public-owned corporations shall be ensured by the Head of the Government or the body delegated by him for this purpose, unless expressly provided otherwise.

102. The texts establishing public-owned corporations explicitly provide for the supervision exerted by the Government over such organizations. They stipulate that they should be affiliated to the relevant ministry in charge.

103. The decrees organizing and assigning responsibilities to the various ministries confer on the latter the prerogatives of developing and implementing government policies in the areas relating to their scope of competence.

104. In view of this legal and institutional basis, the oversight of the Government consists of ensuring that PCC achieve their statutory missions in accordance with the legislation governing them, and in line with the sectoral policies specified by the Government.

105. In this respect, the design of public policies is under the control of the Government. Each government department should work out strategies for the development and promotion of the sectors within its scope of competence. For the relevant implementation, the Government intervenes through the public administration and POCs under its supervision.

106. The supervision of PCC by the Government derives its basis from the legal texts establishing the bodies enjoying the status of public-owned corporations, which expressly

provide for their affiliation to the ministries in charge. Such affiliation is not hierarchical in nature because these entities enjoy, by law, legal personality and financial autonomy. It rather concerns the aspects relating to their intervention strategies and their coherence with public policies decided by the Government.

107. On the other hand, it should be underscored that in practice the autonomy of some PCC, such as AREF[16] and universities, is relatively reduced insofar as they do not benefit from all the necessary attributes such as human resources, which continue to be funded by the budget of the ministries in charge.

2. Creation process to be reviewed

108. The decisions of establishing PCC are generally made, on a case-by-case basis, in the absence of an integrated approach arising from a comprehensive and coherent vision on the public sector as a whole.

109. Often, the creation of PCC is not subjected to a prior thorough reflection and feasibility studies as to its impact on the organizational structure of the State and the public sector as a whole.

110. This situation causes many duplications and overlapping competences between the State and PCC, leading to an inadequate allocation of public resources. Sometimes, identical missions are accomplished at the same time by ministries and PCC. Moreover, PCC operate in the same activity sector, or even the same territory.

111. With regard to the services provided for users, in comparison with those provided before by the public administration, several recently-created PCC have not achieved significant levels of added-value, performance or progress. Such PCC tended to adopt the behaviors of traditional public administrations in terms of both their internal functioning and the quality of their services.

112. In some cases, the creation of a PCC is decided without the relevant ministry in charge devolving the responsibilities assigned to recently-created entities, which leads, in terms of public finance, to increased budgetary costs.

113. During the period 2008-2015, 25 new public corporations were created.

[16] Regional academies of education and training

114. As for the subsidiary companies and financial contributions, the decrees authorizing the decisions relating to them are not systematically examined within the governance bodies of the PCC concerned, although they are strategic decisions impacting the relevant public groups.

115. The business plans and projections justifying the opportunity for the creation of subsidiary companies and equity stakes, and showing their economic and financial sustainability are not always sufficiently developed and documented. The situation of some companies created by major public groups shows, a posteriori, that the choices were not relevant and well-founded because of the inadequate prior studies underlying decision making process.

116. During the period 2008-2015, 184 decree-based authorizations were granted to the PCC concerned for the creation of subsidiary companies or equity stakes.

117. The Ministry of Economy and Finance , as an authority proposing the above-mentioned decrees with the approval of the Head of the Government and representing the State as a shareholder, should ensure a close monitoring of the subsidiary companies and check whether the achievements are in line with the business plans having supported the creation decision.

118. Concerning the missions devolved to PCC, the examination of this aspect has led to the following conclusions:

- lack of updating the legal texts governing some PCC;
- lack of revising the mandates of some public corporations, which have become outdated;
- involvement of several PCC in the same activities;
- breaking up of some public-owned corporations into subsidiary companies whose activities are not necessarily in line with the missions of the parent institutions;
- intervention of some public corporations in activities that could be conducted by the private sector.

3. Insufficient and inconsistent follow-up of the parent's ministries

119.The development of the sectoral strategies is part of the prerogatives of the government departments, each within its scope of competence. For the implementation of these strategies, the Government intervenes through the public administration and PCC under its supervision.

- **Insufficiently supervised strategic steering**

120. The role of Government supervision consists of ensuring that PCC achieve their statutory missions in line with the sectoral policies specified by it. However, even when the strategic supervision would be explicit in some legal texts, it should be noted that in practice it is not sufficiently defined and its mechanisms are not adequately specified.

121.For the control of PCC action and their strategic focus in public policies, no legal text specifies the methods thereof. Moreover, the Code of Good Corporate Governance Practices, published by the Ministry for General Affairs and Governance in March 2012, raises this aspect only in terms of the contractualization of the relationship between the Government and PCC.

122. However, in view of OECD principles and the international benchmark, various steering instruments should be used: annual strategic meetings of the sectors, performance contracts linking PCC managers and the ministries in charge, letters of assignment given to the managers at their appointment, fixing remuneration according to the performance achieved…

123.In practice, most sectoral ministries did not managed to establish the foundations of a "strategic dialog" with the PCC under their supervision. In several cases, the development of sectoral strategies is conducted by major public groups. The meeting of deliberative bodies becomes the only occasion, for the representatives of the State, to be aware of such strategies and discuss them.

124.The relatively loose links between the ministries and PCC leave the latter alone, sometimes leading them to make arbitrations that are in principle part of the competence of the Government. In these circumstances, the technical supervision appears to function in reaction rather than in anticipation. It only arises during the preparation of the boards of directors whose resolutions are generally taken in emergency situations.

125. Contrary to OECD guidelines on the governance of POCs and good practices in developed countries in this regard, the ministries in charge did not always manage to organize strategic meetings with POCs affiliated to their sector to ensure that the actions of these entities are in line with the relevant sectoral policies.

126. However, some initiatives were taken by some ministries to modernize the supervision practice by ensuring a strategic follow-up of the PCC that fall within their scope of competence.

- **Non-uniform instruments of strategic steering**

127. In practice, the strategic steering of PCC takes several forms. It is conducted according to different methods in line with the culture and traditions of each ministry and the specificities of PCC under its supervision. Thus, four specific cases can emerge:

- Some ministries adopt true sector-based strategies and have made of it a roadmap guiding the action of all actors (the State, PCC, private sector and partners). The PCC under their supervision adopt these strategies according to an overall coherent framework distributing the roles among the various levels of intervention. The ministries are tasked with setting the general orientations and exercising the prerogatives of regulation and control.
- Other ministries intervene in several activity sectors but do not adopt sector-based strategies covering all their fields of intervention. Consequently, the sectoral policies adopted by the ministry and the strategies followed by PCC remain in partial harmony.
- The third specific case relates to the ministries with no sectoral strategies for any component of their scope of competence. Hence, the plans adopted by PCC tend to be established as public policies. Consequently, the ministries do not have a real supervision over the relevant PCC and cannot position themselves as to the major issues. On this basis, they are unable to establish a true strategic dialog in the long run. They confine themselves to the validation of some management duties rather than meeting the requirements of administrative procedures.
- The fourth specific case is that of the ministries that have specified a sectoral strategy, but have not managed to ensure its coherence with the PCC operating in their sectors. This situation has resulted in the existence of PCC whose missions overlap, leading to the loss of energy and public resources as well as questionable effectiveness.

- **Governance bodies to be established in strategic dialog space**

128.Strategic steering still involves many weaknesses in most PCC. The aspects related to the operation of PCC deliberative bodies that require upgrading relate to the following:

- the still limited frequency of the meetings of deliberative bodies;
- the plethoric composition of the deliberative bodies of some PCC (62% of PCC deliberative bodies show compositions exceeding 18 members and reaching in some cases 50 members);
- the representation within the boards of directors which suffers from the absence of a specific framework in this regard, which leads in some cases to the appointment of administrators who have not the required professional qualifications;
- overloaded and sometimes less relevant agendas;
- the absence of a regulation framework that specifies the conditions of appointing State representatives within PCC legislative bodies;
- the lack of effectiveness of some deliberative bodies which suffer from institutional and organizational deficiencies;
- inadequate reporting of the works of the deliberative bodies of some PCC as well as the dissemination of information.

129.Nevertheless, it should be underscored that since the adoption of the Code of Good Corporate Governance Practices some progress has been made in the frequency of meetings. Hence, there is a better programming, a high rate of PCC board meetings, an increased dynamization of the committees of experts emanating from such boards and the integration of new dimensions (independent administrators, gender-sensitive composition of the boards…).

- **Contractualization, a strategic steering instrument to be reinforced**

130.Since its adoption in 1983, the contractualization of Government-PCC relationships made it possible to align the action of public-owned corporations with the national strategies and to set the obligations of the two parties, particularly in terms of:

- strategic vision matching the orientations of the public authorities;

- investment plans and action plans to be executed by PCC in conformity with government policy;
- re-establishment of PCC economic and financial sustainability;
- improvement of the supply and quality of the services provided;
- reinforcement of management quality, the improvement of internal control, the rationalization of expenses and the improvement of performance;
- revenues and dividends to be provided to the Treasury;
- improvement of the governance framework and practices.

131. The contractualization of the relationship between the Government and PCC has proved to be an effective tool setting reciprocal obligations of the two parties within a negotiated coherent framework, while allowing PCC to enjoy a maximum of management autonomy.

132. Materializing the benefit of this tool for PCC and targeting the consolidation of the past experience gained, the Circular of the Head of the Government of May 2013 invited government departments to prepare a contractualization framework with the PCC under their supervision. It invited them to formalize, with the support of the Ministry of Economy and Finance, multiannual sectoral action plans which would be used as a basis for the preparation of program-contracts.

133. This Circular recalled that the mutual obligations of the contracting parties must be aligned with the choices of the Government general policy.

134. Moreover, a methodological guide for the contractualization of the relations between the Government and PCC were prepared by the Ministry of Economy and Finance in 2013 to set the contractual approach for its progressive generalization.

135. In practice, it seems that contractualization is limited to relationship between the PCC concerned and the Ministry of Economy and Finance (DPEP[17]). The ministries ensuring technical supervision appear less involved in the negotiation process, though the latter must, in theory, be at the forefront in this regard, owing to the fact that they are responsible for designing the sectoral strategies and the follow-up of their implementation.

136. The major PCC managers are the applicants for program-contracts with the Government. This framework grants them visibility as to the sectoral strategies adopted by the

[17] Directorate of Public Enterprises and Privatization

Government and readability as to their projects and objectives. The program-contracts also constitute a basis for the evaluation of the contracting companies.

137. However, it should be noted that the negotiation time of some program-contracts is rather long, sometimes lasting several months, or even several years, without reaching an agreement in the end.

138. Sometimes, the Government does not honor its obligations due to budgetary constraints or social considerations, particularly with regard to the tariff increases of basic public services such as water, electricity and transport.

139. Because of its slow negotiation and finalization process and the expertise invested in its preparation, the program-contract is still underused. It is rather intended for the major public groups involved in substantial investment programs or for PCC undergoing difficulties or reorganization processes. Between 2013 and 2015 only four program-contracts were concluded (ONEE, AAVBR, Barid Al-Maghrib and RADEEMA).

4. Invisibility of the role of the State as a shareholder

140. The financial supervision conducted by the Ministry of Economy and Finance over PCC derives its legal bases from the organic law on Finance Law, Law n°69-00 on the State financial control over POCs, the decree on the responsibilities and organization of the Ministry of Economy and Finance as well as from other specific legal texts.

141. The financial supervision concerns, in theory, the entire set of PCC. It is conducted by several entities of the Ministry of Economy and Finance and is multi-faceted.

142. The competencies combination of this Ministry various entities intervening in PCC deliberative bodies is characterized by the participation of administrators affiliated to its various directorates and requires prior better coordination to avoid acting in line with different approaches guided by the position of their administration of affiliation rather than by the interests of the State-owned companies in which they are serving as administrators.

- **The State as a shareholder, a not-yet-visible role that should be established**

143. Although the function of the State as a shareholder, affiliated to the Ministry of Economy and Finance, is theoretically embodied by EDPP, it remains hardly visible, or

even ineffective. This directorate, which is supposed to be the entity leading this role, does not yet have the attributes of this function in terms of the legal mechanisms making it possible to implement it, particularly with regard to the decisions affecting portfolio transactions and governance. It does not have consolidated financial statements in line with international standards valid to convey a faithful image of PCC assets, financial position and income.

144. In practice, this ministry performs multiple functions that do not usually address the same issues, though they sometimes tend to merge with each other. This relates to the following attributions: participation in governance bodies, examination of investment plans, authorization of foreign debt, approval of budgets, flow charts, contracts and staff regulations, exercise of the function of public accountant, examination of the projects for extending the public portfolio, reorganization of PCC, negotiation of program-contracts, steering privatization operations, approval of draft decrees authorizing the creation of POCs or stake-holding in private companies ;etc.

145. Because of their diversity, such attributions should be individualized in different core businesses requiring specialized professional qualifications.

146. Facing this situation, the function of the State as a shareholder suffers from such confusion and becomes a concern for the Government only while fixing the revenues to be provided to the Treasury, or in the event of difficulties or major constraints.

147. For the function of the State as a shareholder to be adequately ensured and sufficiently visible, it should be individualized so as to isolate it from other attributions of financial supervision and financial control, by placing it in an entity especially devoted to it.

148. The Ministry of Economy and Finance should adopt a shareholding strategy monitoring the assets invested in POCs. It should also establish a policy of dividends and return on investment and set itself within the approach of portfolio management that takes account of the profitability of State assets.

149. With regard to governance, EDPP does not enjoy the power of choosing PCC managers and administrators whereas this is an essential prerogative of the State as a shareholder.

- **Insufficiently controlled extension of the public portfolio and subsidiarization**

150. The phenomenon of extending the PCC sector and subsidiarization policy, unless they are sufficiently controlled, can lead to the break-up of the public portfolio and State assets.

151. The inconsistency which has sometimes marked this phenomenon and its uncontrolled character led to the constitution of a vast public sector widely involved in several activity sectors that do not necessarily fall within the scope of public action.

152. In some cases, the creation of subsidiary companies is conducted to escape the procedures imposed by the public-owned corporation statute or to avoid the control of the board of directors and the prior financial control considered by the managers to be paralyzing and sometimes to benefit from a more attractive staff remuneration system.

153. The Government should systematically conduct a strategic study on the justification of the recourse to the creation of new entities to implement the public policies which it decides.

154. Under the terms of Article 8 of Law n°39-89 authorizing the transfer of POCs to the private sector, no creation of State-owned company, subsidiary company or second-tier subsidiary company of POCs, and no stake-holding by a POC in a private company can be conducted without authorization granted by decree preceded by an exposition of the relevant motivations.

155. The decision should be taken following a broad debate involving all the actors concerned. However, it is noted that the decrees authorizing the creation of POCs or equity stakes are signed by the Head of the Government after the approval of the Minister for Finance. The supervising ministers are not always sufficiently involved therein, while they are tasked with specifying the sectoral policies in which these companies would be required to operate.

156. Not all studies on the opportunity of creating subsidiary companies aim at meeting preset and shared criteria; and such companies are not subjected to post evaluation in order to make sure that they achieve the performance levels justifying their creation. These strategic studies should meet preset and shared criteria and specify the objectives to be reached so as to justify such creations.

157. The projects of creation or financial contributions, before they are submitted to the approval of the Ministry of Economy and Finance, should be examined by the governance bodies of the PCC concerned in which the ministries in charge are

represented, or even chaired by the ministers concerned. Moreover, the creation applications should necessarily be established by the chairpersons of the boards of directors.

158. By way of illustration, during the period 2008 - 2015, the number of subsidiary companies created and the financial contributions made by PCC reached 184.

- **A priori financial control to be alleviated**

159. One of the main contributions of the reform of State financial control over PCC, provided under Law n°69-00, was the introduction of a typology of controls in line with criteria related to the quality of governance and management information systems in order to make most POCs shift from prior control focusing on regularity towards a posteriori control centered on results and performance.

160. However, in practice, the number of PCC subjected to the various types of control did not make significant progress. With few exceptions, PCC remained in the types of control in which they were categorized in 2003, when Law n°69-00 was implemented. The prior control, centered on checking the regularity of the common management operations, is almost systematically conducted on public corporations, including those performing industrial and commercial activities.

161. At the end of 2015, the distribution of PCC by control type is as follows:

- prior control : 197
- support control : 23
- conventional control : 33
- specific control : 18

162. The Ministry of Economy and Finance considers that the insufficient level of evolution is due mainly to the inadequate aspects of Law n°69-00 which does not make the deliberative bodies accountable to improve the governance of the relevant entities and does not create clear and distinct demarcation lines among the various control categories with a view to enhancing the efforts of internal progress at the organizations.

163.In addition, State financial control, in its current configuration, no longer seems to be adapted to the local public corporations affiliated to the local authorities, or the companies in which these authorities have an equity stake. These entities need a proximity control in line with the principles of decentralization and devolution stipulated in the Constitution of 2011.

164.Law n°45-08 of 5 March 2009, on the organization of finance of local government agencies and their clusters, in its Article 57, stipulates that local public corporations and the companies created by local government agencies or their clusters or in which they have an equity stake, are subjected to a specific financial control whose methods are set by regulations. Until now, the decree in question has not been adopted yet.

- **Statement of accounts to be improved**

165.The major instrument of reporting on the sector is PcC annual report accompanying the finance bills. This document should be improved in order to serve as a real information and communication medium of the State in its roles of shareholder, strategist and controller.

166.The aggregates contained in the report (revenues, added-value, gross operating surplus,…) do not always reflect the reality of the performance of the PCC sector owing to the fact that they are calculated mainly on the basis of quantitative information provided by PCC whose accounting systems are hardly homogeneous.

167.They result from the addition of the figures of the summary statements of commercial and noncommercial public corporations, State companies, financial institutions and the agencies of pension management.

168.The accounting data of noncommercial public-owned corporations, particularly the revenues, added-value, gross operating surplus and net income, do not have economic significance compared to those of the PCC operating in commercial sectors.

169.Moreover, the report considers the employees' and employers' contributions of pension schemes (CMR[18] and CNSS[19]) as "revenues " whereas they are statutory contributions to pension schemes, and cannot be considered as operating income of the relevant managing entities.

[18] Moroccan Pension Fund
[19] National Social Security Fund

III. Governance

170. At the international level, the principles of governance of POCs stress the autonomy of the company, the optimal functioning of its deliberative bodies and the empowerment of management.

171. In Morocco, the reference system in this regard is the Moroccan Code of Good Governance Practices for Public-owned Corporations and Companies published in March 2012.

172. Since 2000, significant progress and awareness were recorded overall in the meetings of PCC governance bodies, the quality of their management instruments and its style. However, much remains to be achieved.

173. The governance within PCC could be evaluated mainly through the functioning of their management bodies.

1. Operation of deliberative bodies to be improved

174. The legal texts on PCC determine the composition of their governance bodies. This composition does not meet specific criteria in terms of the public administrations to represent and the number of administrators.

175. This situation is the cause of inadequacies in the operation of the governance bodies of some PCC, particularly due to the profile of the appointed administrators or their high number.

176. It should be noted that in the public limited companies, the frequency of the meetings is overall respected because of the rigorous obligations imposed by the law on this type of companies. However, in public-owned corporations, in spite of the efforts recorded as regards the operation of governance bodies, inadequacies still persist in this field.

- **At the level of public-owned corporations**

177. Public-owned corporations are governed by the legal texts establishing them which set the composition of their governance bodies, their responsibilities and the frequency of their meetings.

178. Organic Law n°065-13 on the organization and action of the government as well as the statute of its members, published on 2 April 2015, stipulates in its Article 6 that "the Head of the Government chairs the boards of directors of public corporations unless a legislative text provides otherwise". It also stipulates, in its Article 7, that "In accordance with the provisions of the first subparagraph of Article 90 of the Constitution, the Head of the Government may, by decree, delegate some of its powers to the ministers".

179. Taking into account the high number of public-owned corporations and their diversity, the Head of the Government performs such chairmanship only in a limited number of them. In practice, he delegates the chairmanship to the supervising ministers.

180. In spite of such delegation, in view of the high number of the public-owned corporations affiliated to some ministries and the related number of board meetings (at least twice a year per organization), some constraints continue to prevent the optimal operation of the governance bodies of public-owned corporations.

181. It follows that the frequency of the meetings of deliberative bodies is still low, especially in the organizations operating in strategic sectors whose boards of directors consist of a significant number of ministers. The average of the meetings of the governance bodies from 2010 to 2015 could not reach two sessions a year.

182. The recorded inadequacies are the following:

- even though, according to the relevant texts, the boards of directors of public-owned corporations enjoy quite significant powers as regards the adoption of strategies and setting the major guidelines, in several cases, these are adopted in committees internal to the establishment, as the boards of directors merely approve the choices of management;
- the plethoric nature of the board members of some PCC is not conducive to a high-quality debate;
- in several PCC, the ministries concerned are represented by members of the Government, acting ex-officio without having the resources to perform the governance function;

- ministry representatives often act as spokespersons of their respective administrations, relegating to a secondary position their role to defend and preserve the social interests of the POCs;
- the administrators appointed to take part in the boards of directors of some highly technical PCC do not always have the required skills, or the professional qualifications to take on the responsibilities of "director";
- the participation of the representatives of the Ministry of Economy and Finance does not always result in a coherent position with regard to their role embodying the "State as a shareholder", but tends to materialize their responsibility as a control agent or budgetary authority.

183. Consequently, in some public-owned corporations, holding the meetings of governance bodies is reduced to a mere formality. The board of directors is hence relieved of the responsibility of its prerogatives relating to the strategic questions to be taken on by either the management or approval authority embodied by the Ministry of Economy and Finance.

- **At the level of public limited companies**

184. In the PCC set up as public limited companies, the frequency of meetings is generally respected because of the rigorous obligations set by the law on this type of companies and the sanctions that apply to the directors and managers in the event of failure. The average of sessions per year, during the period 2010 - 2015, stood at 3.7.

185. The governance bodies of public limited companies are governed by the provisions of Law n°17-95 and their statutes. Those of POCs operate according to various formulas:

    - chairmanship exercised by a member of the Government (ADM, CAM, SODEP,…) ;
    - chairmanship of the governance body combined with the directorate-general (OCP, RAM, CIH);
    - chairmanship exercised by a manager of the public corporation (MASEN - Board of trustees is chaired by the Director-General of ONEE);
    - chairmanship exercised by an officer remunerated by the company (TMSA);

- chairmanship of the governance bodies of PCC subsidiary companies and second-tier subsidiary companies ensured by the managers of the parent company or by collaborators (RAM, ONCF, CDG,…).

186. In the event the governance body is chaired by a public authority, it can offer the opportunity of a strategic debate during the approval of budgets and investment plans. The supervising ministry in charge has the opportunity of making of it a platform in order to guide the strategic choices of the relevant PCC and ensure the coherence of their actions with the public policy specified for the sector.

187. In the case the chairmanship of the governance body is combined with the executive management function or if the board of trustees is chaired by a manager other than a public authority, the ministry in charge should establish links between the sector-based policy and the strategies of the PCC concerned.

188. With regard to subsidiary companies and second-tier subsidiary companies, governance bodies are generally chaired by the managers of the parent companies. The representation of the Government is, in general, poor or even non-existent. It follows that the ministries in charge no longer have any influence on the running of these subsidiary companies though their missions target the national interest. Hence, the strategic aspects and investment plans could be addressed beyond the scope of the Government guidelines. It is, in general, the public holding managers who outline the strategy of subsidiary companies with the risk that this is not conducted in line with the public policy decided for the sector.

189. In addition, several POCs adopted the public limited company model with an executive board and a supervisory board. This mode does not seem to be mature yet in the public sector because the supervisory board, due to its composition, appears, in practice, unable to perform a permanent control over the activities of the supervisory board. In practice, the supervisory board chairman is entrusted with broad managerial powers with the consequences that this could generate in the process of decision making.

2. Choice of directors to be revised

190. The choice of administrators is a particularly complex issue in public-owned corporations especially as the constraints imposed by the legal texts are not encouraging to the constitution of governance bodies meeting international standards.

191. The Moroccan Code of Good Governance Practices for Public-owned Corporations and Companies set the conditions of selecting directors as follows:

- the representative of the State must be selected on an intuitu personae basis drawing on the criteria of professional competence, particularly in the technical, economic and financial areas as well as the expertise related to the activity of the relevant entity;
- each State representative may not serve on more than seven deliberative bodies concurrently, except for committees;
- the duration of State representatives' term of office is limited to four years, renewable only once for each entity.

192. Concerning POCs operating as public limited companies, it is the statutes that determine the office term, which may not exceed six years when the appointment is made by the general assembly, or three years when it is made in accordance with the statutes. In practice, these criteria are not always respected.

193. As for the independent administrators provided under the same Code, the current framework does not clearly specify their statute. It stipulates, however, that the chairmen of the board of directors may call upon qualified individuals with expertise in some specialties in order to enlighten the boards while conducting their activities.

194. However, these principles in several cases run counter to the legal texts governing the public-owned corporations and were not translated into clear procedures for the appointment of administrators, let alone independent administrators. Indeed, the examination of administrators' statutes and roles made it possible to make the following remarks:

- lack of rules governing the appointment and roles of independent administrators, which leads to the multiplicity and heterogeneity of their statutes;
- failure to define the quality of the administrators in most PCC, as the legal texts establishing them merely appoint administrators within the governance bodies without any requirement of the expertise which they should have.

3. Managers' choice and remuneration to be standardized

195. The appointment of the managers of PCC entities is governed by Law n°02-12 on the appointment to senior executive positions, pursuant to the provisions of Articles 49 and 92 of the Constitution.

196. According to Article 2 of such Law, PCC fall into two categories. The first is composed of the PCC deemed strategic whose managers are appointed by royal decree (*Dahir*), after deliberation in the Council of Ministers. The second category is composed of the remainder of public-owned corporations and public limited companies where the State has an equity stake in a direct manner. The appointment of the managers of public-owned corporations under this category is made in a Government council.

197. With regard to the choice of the managers of PCC of the second category, the principles and rules of appointment are the same as those of the individuals invited to take executive positions in the public administration. However, these two positions are distinct with different requirements in terms of skills and professional qualifications. Consequently, the choice of the managers of PCC, even nonstrategic ones, requires a suitable procedure in line with the criteria of modern corporate management.

198. Moreover, setting the remuneration of public managers is not governed by a standard applicable to all PCC, determining the minimum and maximum thresholds according to the nature of the activity and the size of the company.

199. In international practice, particularly in OECD countries, the remuneration of the managers of POCs includes a fixed and a variable part that can be reviewed upwards or downwards according to the degree of achievement of the objectives set by the commitment letters drawn up at their appointment by governance bodies.

IV. Recommendations

200. In the light of the diagnosis results and conclusions, the Audit Court has issued recommendations and proposed reform tracks along the following lines:

- strategic orientations for the PCC sector;
- financial relations between the Government and PCC;
- PCC governance;
- steering and monitoring of the public portfolio.

1. Strategic orientations for the PEC sector

- **Adopting a strategic vision to streamline the PCC sector as a whole**

201. In order to enable PCC to have the required visibility, the Audit Court recommends that the Government should specify a strong-willed policy with clear and explicit objectives that would allow the sector to fully play the role assigned to it in the economic and social development of the country.

202. This policy should be in line, on the one hand, with the macro-economic framework of the country and, on the other hand, with the sector-based strategies adopted by the various government departments.

203. This policy should identify the priority sectors on which the Government intends to concentrate its interventions and position PCC role in the implementation of public actions.

204. Key issues should be addressed and clarified in such policy, particularly the dimensioning of the PCC sector and its place in the national economy, its governance and control modes, the output of the public portfolio as well as the transfers of the State to PCC.

205. It is with reference to this strategic vision that the steering and monitoring of the public portfolio could be conducted, permanently ensuring that the actions undertaken by PCC are in line with the overall policy specified by the Government for this sector.

- **Redefining the dimension of the portfolio in line with the strategic vision**

206. The sector of commercial PCC should be resized according to a constant strategic orientation observing the following guidelines:

- Withdrawal of the State from the activities likely to be assigned to the private sector whenever possible;
- supporting competition mechanisms, putting an end, as much as possible, to the monopolies and dominant status of some SOEs in commercial activities;
- developing sector-based strategies according to an approach based on a differentiated and specific treatment according to the stakes and characteristics of each sector.

207. Within such strategy, PCC would be classified, according to a dynamic approach, in three categories:

- The PCC that should be preserved under State control;
- The PCC which can be better developed in partnership with the private sector;
- The unsustainable PCC that should be dissolved or liquidated.

208. This classification does not aim at freezing PCC in a given category. It is a matter of conducting the periodic evaluation of PCC with reference to public policies to ensure their focus, and deciding on their evolution opportunities.

209. The scope of the public sector should only include the POCs that observe the objectives specified by the Government in its dual role of strategist and shareholder.

210. To avoid the dissipation of effort on a multitude of uncoordinated entities, it would be necessary to carry out an analysis of the organizational chart for the Government action to concentrate on an optimal number of public groups. For the resizing of the public portfolio, studies should be conducted to identify the optimization methods to be adopted: merger, clustering, withdrawal, transfer, liquidation;etc.

211. The optimization of the public portfolio could be conducted according to the following methods:

- Gradual withdrawal from the direct minority interests of the State by assigning them in a first phase to an already existing public group, as long as these contributions are not all strategic in nature and do not provide dividends to the Treasury;

- conducting, in a second phase, the transfer of these minority interests to the private sector as needed;
- conducting inter-PCC transfer operations in order to put an end to the existence of several POCs operating in the same activity and sometimes even in the same territory;
- activating the dissolution of the POCs that are no longer operating by adopting a legal framework allowing the immediate subrogation of the State, local government or public shareholder concerned, in the credits, debts and obligations of the company under liquidation.

212. The State should, in this configuration, withdraw from the traditional activities of the tertiary sector such as marketing, trade, hotel management, property development in which there are still several companies with direct and/or indirect public contribution.

- **Reviewing the mechanisms of public portfolio extension**

213. Any creation of PCC should be preceded by prior studies showing that the recourse to the public operator is crucial because the private sector is not efficient enough to deal with the relevant activities or that the public management proves more effective and convenient.

214. A business plan should accompany any project for the creation of a POC emphasizing the generated added-value, particularly in terms of return on the human capital, optimal allocation of public resources, improvement of the public portfolio output as well as the economic and financial profitability of the project and its social impacts.

215. The subsidiarization of PCC activities should be exceptional in nature and have to take place only in cases duly justified such as the creation of legal instruments dedicated to strategic alliances or the backing of private or public partners.

216. The draft decree establishing the POCs or stake-holding in private companies should be the subject of a prior opinion of the ministry in charge of technical supervision, ensuring that these operations are in line with the sectoral policy of the department concerned.

217. Moreover, for a better governance of public groups, the decisions of creating subsidiary companies or stake-holding should be examined by the deliberative body of the parent company, before submitting them to the Ministry of Economy and Finance. The

governance body should make sure that the operation is consistent with its intervention strategy and the objective of optimizing its own portfolio.

- **Reviewing the mechanisms of transferring SOEs to the private sector**

218. The legal provisions of privatization and transactions affecting State portfolio should be re-examined with a view to make them more flexible and adapted to the national and international environment.

219. In this respect, the Court recommends reviewing the mechanisms of establishing the list of companies to be made private. The proposals of PCC to be privatized could be made during the preparation of finance bills. This yearly recurrence would make it possible to establish a flexible and dynamic management of the public portfolio adapted to the constraints of the environment.

220. Concerning State indirect contributions and in order to ensure greater vitality and reactivity of the public shareholder, more power should be granted to the deliberative bodies of the stake-holding PCC in decision making, in line with the principles of corporate governance.

221. In addition, in order to enhance the privatization process, it would be convenient to review the provisions stipulated by Law n° 39.89 for further involvement of the transfer commission and evaluation body which would serve as a source of proposals to follow up and guide this process permanently.

- **To preserve the autonomy of the POCs**

222. Through its deliberative bodies, the POCs should remain autonomous to adopt its strategy provided that it is consistent with the social and economic policy outlined by the Government and with the strategic orientations for the PCC sector.

223. The autonomy of the POCs should be constantly preserved. The government should not make any significant decision concerning a POC without prior examination within its own governance bodies.

224. Technical supervision should refrain from the approval or ex-ante visa of any act which falls within the framework of the legal and statutory prerogatives of the board of directors or directorate-general.

- **Refocusing the public-owned corporations activities on their core missions**

225. Every company should have its mission clearly defined so that it does not deviate from the scope set by the legal texts establishing them and with reference to the policy of the Government and the sectoral strategy in line of which they are required to operate.

226. The refocusing on the core activity should be governed by the basic principles that PCC deliberative bodies should uphold. It is with reference to this mission that the strategy of the company and the quality of its management could be evaluated according to the criteria of economy, effectiveness and efficiency.

227. The refocusing should be materialized, as much as possible, by outsourcing auxiliary or secondary activities, recourse to subcontracting, withdrawal from the non core business and the transfer of assets and contributions unnecessary to the performance of the primary mission.

- **Adapting the legal form of the POCs to its mission**

228. If the public-owned corporation, as a legal body governed by public law, constitutes the suitable legal form for non-commercial organizations or those related to public administration, it seems unsuited for the companies acting in the commercial sectors required to conduct their activities in an increasingly competitive and open environment and, consequently, having to adopt a governance based on international standards and practices.

229. In this respect, the Audit Court recommends the acceleration of the process of transformation of the commercial public corporations into limited companies, according to the principle of continuity of the legal person, in order to prepare them for their environment change, and the adoption of new management styles such as the capital opening up, delegated management or PPP[20].

[20] Public-Private Partnership

230. In addition, while waiting for the transformation, a general legislative measure could be considered so that the public-owned corporations conducting commercial or industrial activities can be registered at the Trade Register as Commercial Law stipulates, with a view to reinforcing the transparency of these companies by improving information to third parties on their governance and management as any other business corporation.

2. Financial relations with the Government

- **Improving the financial position of strategic PCC, preventing possible risks and fighting against the accumulation of outstanding liabilities or receivables**

231. Some PCC, showing significant financial risks likely to impact the sustainability of public finance, should be the subject of reorganization to be formalized in program-contracts. One of the major high-risk entities is ONEE[21] which manages an in-house pension fund.

232. ONEE should be encouraged to prepare and implement fast outsourcing of its internal pension fund of the electricity branch, drawing on the approach adopted by other public entities such as ONCF and OCP. This reform should help ONEE improve its financial position and initiate a strategic reflection towards focusing on its natural monopoly of the transport of electrical energy and developing its PPP contracts for electrical power production.

233. Other organizations show potential risks that should be taken into account as of now, namely ONCF, ADM, RAM and HAO.

234. Moreover, other PCC deserve to be closely supervised because of their weak financial position, namely HAO, SONADAC, ALEM, SONARGES, SMIT, STRS and Casa Transport, SNRT, as well as SOREAD-2M.

235. Moreover, it is recommended to settle the outstanding payments of PCC with respect to the private sector because they are likely to jeopardize the survival of the national economic fabric mainly composed of SME and VSE. A case in point is the regional academies of education and training, whose accounts show outstanding payments to their suppliers of approximately 7.6 billion MAD.

[21] National Office of Electricity and Drinking Water

236. The solvency and credibility of public-owned corporations and companies should constitute a major and constant concern in monitoring the public portfolio.

237. The Government should honor the obligations stipulated in the program-contracts or agreements signed with PCC, particularly with regard to releasing budgetary allocations, contributions to capital, subsidies or any other financial assistance.

238. As to the constraints and conditions imposed by the Government on POCs, they should be compensated or covered by the State general budget.

- **Permanently monitoring PCC debt**

239. In view of the strong increase of PCC debt in the last decade and its concentration in some PCC (OCP, ONEE, ADM, RAM, ONCF in particular), this aspect should constitute a major concern.

240. Compared to its weight in the Moroccan economy, the PCC sector is over-indebted externally requiring a dynamic follow-up and a monitoring framework. This framework, which should be steered by the Ministry of Economy and Finance, should allow the following:

- being informed in real-time on PCC debt and its behavior, which can take the form of a dashboard prepared according to a regular frequency;
- fixing prudential ratios and rules that PCC should respect as regards external financing;
- resorting to instruments to mitigate risks and reduce the cost of debt: guaranteed exchange rate risks, recourse to guarantors other than the State, anticipated payment of expensive debts, diversification of loan currencies, mixing domestic debt with foreign debt.

- **Addressing the issue of VAT credit accumulated by PCC as a priority**

241. Considering its size and the threat which it exerts on the solvency of some POCs, especially OCP, ADM, ONEE, ONCF and RAM, the Government should find a financial solution to the problem of VAT credit whose cumulative amount at the end of 2015 exceeded 25 billion MAD.

242. Some POCs may not, in the short run, manage to honor their repayments, which would oblige the Treasury to replace them because most of the foreign loans of POCs are guaranteed by the Government.

243. The first phase of the implementation initiative should consist in confirming by the Ministry of Economy and Finance the amount of VAT credits recorded by POCs in their balance sheet and about which the external auditors and chartered accountants have always issued reservations as to the possibility of collecting such credits.

244. Once the amounts are confirmed, settlement mechanisms should be adopted such as the securitization or rescheduling of the repayment of VAT credit over a period to be specified in an agreement between the Government and POCs or in the program-contracts.

245. Reflection is also needed on the opportunity of exempting PCC investments from VAT and respecting the principle of equality between POCs and private companies as regards taxation.

- **Rationalizing State financial transfers to PCC**

246. For a good readability, the information reported to the Parliament, within the framework of the examination of finance bills on State budgetary transfers to POCs, should be classified in three categories:

- budgetary allocations intended for the noncommercial public-owned corporations which ensure general-interest missions such as public administrations;
- capital subsidies and allocations granted to PCC for the recapitalization or consolidation of their own equities;
- operating subsidies granted to loss-making PCC conducting an industrial or commercial activity.

247. The first transfer category should be examined with reference to the budget policy specified by the Government within the framework of its general policy. Capital injections should be justified beforehand in line with the objectives specified by the Government as a shareholder and accompanied with obligations of the recipient

companies to be concluded in program-contracts. As for the last category of transfers, it should be eliminated.

248. For more clarity, the budgetary transfers provided by the State budget for the benefit of PCC should be indicated entirely in the appropriations allocated to each government department avoiding, as much as possible, the recourse to the section of common expenses.

249. Information should also emphasize the financial contributions benefiting some PCC via the Treasury separate accounts.

250. Moreover, the information reported to the Parliament should emphasize the indirect part of the transfers benefiting some state-owned corporations by means of parafiscal taxes collected by some PCC or collected on their behalf by the State or other public agencies.

- **Optimizing the public portfolio performance**

251. PCC budgetary transfers for the benefit of the State should observe some principles of the public portfolio good management:

- ensuring that the contributions are in line with the strategic objectives of the State as a shareholder;
- preventing these transfers from being fixed unilaterally by the Government without prior cooperation with the contributing PCC;
- putting an end to setting lump sums for the occupation of the public property to be paid by the PCC concerned, replacing them by profit deductions;
- refraining from setting the contribution amount driven only by the concern to reduce the State budget deficit;
- ensuring that the contribution is not limited to some PCC having shown good management;
- refrain from causing a drain on PCC resources by an unrestrained distribution of dividends, especially those financed on the international financial market whose ratings could be degraded;
- striking a good balance between the concern of preserving cashflow of the company to cover its future investments and the remuneration of the State as a shareholder.

252. Concerning this point, a policy of dividends, within each public group, should be formalized and adopted by its board of directors, in accordance with the objectives of the State as a shareholder.

3. Governance

- **Specifying the role of technical supervision**

253. The parent's ministries should specify their own sectoral policies in line with the Government policy and the other sectoral strategies. The place reserved for PCC in the implementation of such policies should be clearly stated.

254. They should ensure a permanent and active follow-up to ensure that the PCC under their supervision operate within the framework of the sector-based policy adopted by the Government.

255. Establishing relations through a formal contract between the Government and PCC should constitute, for technical supervision, the adequate instrument that, on the one hand, ensures coherence between the Government economic policy and PCC action plans and, on the other hand, preserves the autonomy of such entities.

256. The program-contract should not be used as an instrument intended only for the companies in difficulty or as a means of obtaining State budgetary allocations or to avoid State financial control.

257. The supervising department should ensure that PCC bodies of orientation and management operate in accordance with the law and governance standards enacted for POCs.

258. The supervising department should constantly ensure that PCC operate within the scope of their legal and statutory missions. Permanent monitoring should be granted to the continuous focusing of POCs on their core business.

259. The supervising department should play a leading role so that letters of assignment are addressed to the relevant managers at their appointment.

- **Applying the principles of the Moroccan Code of Good Governance Practices for Public-owned Corporations and Companies**

260. POCs, especially the major groups and those operating in the commercial sectors, should apply the Moroccan Code of Good Governance Practices for PCC. Their deliberative body should explicitly state the regulations of the Code to which PCC do not conform and the reasons that justify the deviations from the standard.

261. PCC should be encouraged to set up a committee of experts emanating from their board of directors, which would be tasked with assessing their governance system.

262. The board of directors should include in its agenda, at least once every two years, a point relating to the evaluation of the manager of PCC.

- **Adapting and reviewing the management styles of some POCs**

263. The dualistic form of management (executive board and a supervisory board) should be adopted only in the event the conditions of its good performance are met.

264. In the POCs operating in competitive sectors, it is recommended that the board of directors be chaired by a chief executive officer in order to optimize the autonomy of the company and the managerial responsibilities of its managers.

265. In the POCs providing public services or considered as strategic, the separation between the functions of the board of directors' chair and the managing director could be adopted. Only in this category of companies, the chairmanship of the board of directors could be exercised by a member of the Government if this proves to be necessary in view of the considerations of public service or the State's best interests.

266. Unless the governing legal texts provide otherwise, PCC should adopt a clear and transparent procedure as to the choice of their administrators.

- **Adopting and applying transparent standards for the appointment and remuneration of managers**

267. Subject to the legal texts on the appointment to senior executive positions, particularly the Organic Law n°02.12 and the Decree n°2.12.412, PEC should adopt a procedure for choosing their managers based on clear and transparent rules.

268. The manager of the POCs should receive, at his/her appointment, a letter of assignment, signed jointly by the supervising minister and the Minister of Economy and Finance, who would set the expectations of the State both as a strategist and a shareholder.

269. With reference to the principles of good governance, the office term of managing directors should be renewed on the basis of the evaluation of the performance achieved.

270. Moreover, it should be ensured that the appointment of the managers of subsidiary companies and indirect financial contributions of the State are examined by the appointment and remuneration committee of the holding or parent company of the public group concerned.

271. The remuneration system for PCC managers needs to be re-examined according to the following principles:

- establishing a typology of PCC according to the nature of their activity, size, competitive position, etc;
- standardizing the process of setting the remuneration of public managers by adopting principles that would be applicable to the entire PCC sector : seniority allowance, termination allowance, pension,etc ;
- including in the remuneration a variable item related to the level achieved as to the set objectives in a proportion likely to encourage good performance;
- making the remuneration of public managers transparent.

- **Encouraging PCC to adopt management instruments taking account of the specificities of their activity sectors**

272. The instruments of PCC management and control should not be guided only by those in force in the public administrations.

273. PCC, particularly those conducting industrial and commercial activities, should no longer be obliged to apply the same reference systems applicable to public administrations. They should adopt management instruments according to the standards and practices in force within their activity sector and taking into account the characteristics of their core business.

274. The concern of attracting and retaining highly-qualified executives should be materialized through the revision of Staff Regulations applied in some POCs, which continue to be strongly inspired by the rules in force in public service departments.

4. Steering and monitoring of the public portfolio

- **Identifying the role of the State as a shareholder and creating an entity especially dedicated to this function**

275. The State shareholding policy embodied by the Ministry of Finance should be performed according to clearly stated objectives and constantly recalled in the relevant annual report accompanying the Finance Bill.

276. The State as a shareholder should optimize its intervention in equities, in line with the set objectives, in such a way that the return on capital is as high as possible.

277. The State should show that its intervention in PCC, through capital injections or budgetary allocations, is necessary and sufficiently justified with reference to clear and explicit objectives. The size, and the socio-economic and financial performance of the PCC sector should be evaluated in terms of such objectives.

278. The objectives likely to be adopted within the framework of the strategic vision of the State as a shareholder consist of:

- creating value around the leading POCs;
- diversifying the funding sources to reinforce the effort of investment of POCs to promote development;
- optimizing public shareholding;
- striving to introduce good governance practices.

279. For a better steering of the public portfolio, it would be necessary to adopt an institutional legal system targeting a hard core of PCC. The targeted scope should include a relatively reduced number of public groups retained according to their strategic importance and their performance.

280. The shareholding policy of the State and its role as a shareholder embodied by the Ministry of Finance should be performed in line with the objectives laid down in a

formalized and public shareholding charter clarifying the orientations of the State as a shareholder as well as its obligations and requirements vis-à-vis PCC.

281. For the effective establishment of the State-as-a-shareholder function, the following tracks are proposed:

- setting up an active management of public portfolio directed at mature entities operating in commercial sectors;
- formalizing the public shareholding strategy guiding the function of the State as a shareholder in order to specify the guidelines of this function within the framework of a charter;
- establishing, within the Ministry of Economy and Finance , an entity especially dedicated to run the shareholding function of the State.

282. This entity should be tasked with establishing the shareholding strategy of the State and a strategic dialog with the public entities concerned as well as following up their performance and steering the transactions relating to the portfolio (creation, capital opening up, merger, reorganization, privatization, etc.).

- **Following up the public portfolio by homogeneous sets**

283. For a more effective management of the State portfolio, it would be necessary, after excluding the PCC affiliated to the local authorities, to break it up into four homogeneous sets each of which observes the management rules and accounting standards:

- noncommercial public corporations, achieving missions similar to those of the public administrations financed mainly by budgetary allocations or parafiscal revenues;
- commercial public corporations and companies operating in the commercial sectors;
- public financial institutions and their subsidiary companies operating in the financial sector;
- organizations managing pension schemes and social welfare.

284. It is recommended that the entity managing the State portfolio deal, in a different manner, with the aggregates and accounting and financial indicators of each of the four above-mentioned sets.

285. The assessment of the economic and financial performance of commercial PCC, which should constitute the crux of the active management of the portfolio, would require its reorganization around holdings or groups.

286. The entity in charge of the management of the public portfolio would then have as interlocutor only a limited number of groups identified as "first-tier" instead of having to address to several hundreds of public subsidiary companies as well as mixed companies.

287. The public entity managing the public portfolio should prepare consolidated financial statements that would faithfully reflect assets, financial position and results of the PCC operating in commercial sector according to international accounting standards.

288. To facilitate the establishment of such financial statements, public groups should, in conformity with the law, establish consolidated accounts according to the same international accounting standards.

- **Redefining the performance of State financial control over PCC**

289. The State financial control over PCC should be redefined with regard to its rules of implementation, introducing adjustments at the legislative and regulatory levels.

290. All POCs operating in commercial sectors should be subjected to a posteriori control based on the assessment of the performance and results as well as the evaluation of risks.

291. Equal treatment of POCs as regards financial control should be set up as a core principle. It does not seem acceptable that POCs conducting similar or even identical activities are subjected to completely different financial control systems.

292. Program-contracts should be concluded with public holdings, as parent companies, to by-pass the "under-control" situation which characterizes indirect contributions.

293. The steering of the public portfolio, according to an approach of contractualization with public groups, should become the key instrument of the Ministry of Economy and Finance, in its role of representative of the State as a shareholder.

- **Separate treatment for the PCC affiliated to local authorities**

294. The PCC affiliated to local authorities should be treated outside the scope of the State portfolio. These legal persons should be managed and monitored at the regional or local level.

295. The activity of local PCC should be treated in the accounts of the local government agencies holding them, on the same footing as the companies delegated for the management of local public services.

296. The public-owned corporations and companies affiliated to the local authorities should be subjected to a proximity financial control. The transitory situation which has prevailed since 2009 should be completed. The statutory text, setting the system of financial control applicable to local PCC, provided under Article 57 of Law n°45.08 on the organization of local finance has not yet seen the light of day.