In late 1943, American geologist Everette Lee DeGoyler, who had spent a considerable amount of time prospecting for oil in Saudi Arabia, recognised that he was investigating something for which no precedent existed in history. Indeed the following year, one of the members of DeGoyler’s exploratory mission was to inform the U.S. State Department, “The oil in this region is the single greatest prize in all history”.1

Saudi Arabia has long since become one of the world’s primary oil exporting nations and is currently the biggest producer of petrochemical by-products. Throughout the mid-1970s and early 1980s, the Saudi economy benefited enormously from the influx of petrol dollars, which reached a high point in 1981 with earnings from oil alone estimated at US$119 billion,2 attracting vast foreign interest as the Saudi government embarked on ambitious infrastructure projects. However, with the discovery of oil reserves elsewhere and increased production by other oil-producing countries, combined most recently with the U.S. led war on Iraq and uncertainty about the future stability of the region, the price of crude oil has fluctuated unpredictably and Saudi Arabia has seen its average earnings from the sale of crude oil plummet over the past two decades. Government spending has been curtailed and lucrative government contracts are a thing of the past.

As a result of diminished government expenditure, recently the focus of investment opportunity has shifted to the private sector to meet the needs of

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3 In fact, the Saudi population is growing at a rate of 2-3 per cent per annum, with 60 per cent of Saudis under the age of 20. Unemployment among Saudi males is conservatively estimated at 14 per cent and every year 100,000 graduates flood the job market, prompting the Saudi government to implement tougher rules requiring local and foreign employers rapidly to reach target figures of at least 75 per cent Saudi employees in all sectors.
Saudi Arabia’s steadily rising population and increased consumer demand.\textsuperscript{3} In turn, these factors have led to a surge in the demand for electricity, water, communications, transport, health care, education, training and consumer goods.

The response of the Saudi government has been to drive through reforms aimed at liberalising those sectors of the Saudi economy previously controlled by the state and reserved to Saudi nationals. Pursuant to the new Foreign Capital Investment Law which came into effect in April 2000, foreign companies can now establish wholly foreign-owned subsidiaries or branch offices in Saudi Arabia, thus benefiting from all the privileges hitherto enjoyed only by Saudi companies, including the right to transfer funds and profits, to own and dispose of real estate and to sponsor foreign employees. In February 2003, the Supreme Economic Council approved the revision of the so-called “negative list”, thus signalling the Saudi government’s intention to open up to foreign investors certain sectors of the Saudi economy previously excluded from foreign investment, including parts of the telecommunications sector, insurance, educational services, publishing and distribution services (including wholesale and retail trade).\textsuperscript{4}

Perhaps one of the most ambitious projects to date involves the expansion of the nation’s gas sector to ensure that there is sufficient gas for the next generation of power, desalination and petrochemical projects. The Saudi “gas initiative” as it has been dubbed, is estimated to be worth at least US$ 25 billion and is the Middle East’s biggest project of the decade.\textsuperscript{5} Other major initiatives and infrastructure projects include the consolidation, in April 2000, of the country’s ten regional power companies into a single joint-stock company, now known as Saudi Electricity Company (“SEC”), followed by the recent creation of the Saudi Electricity Regulatory Authority which will act as the regulatory body in connection with the restructuring and reorganisation of the Saudi electricity sector, the joint initiative by the Saudi Water Conversion Corporation and SEC to commission up to four independent water and power projects\textsuperscript{6} (including the construction of four desalination plants) throughout the country by January 2008\textsuperscript{7} and the proposed expansion by the Saudi Railway Organisation of its existing railway network.\textsuperscript{8}

Given the significant capital expenditure involved in such projects, coupled with concerns over the future stability of the Saudi market, not to mention the region as a whole, one of the primary concerns of foreign companies seeking to invest in these expanding sectors of the Saudi economy will be the degree of protection such investors are likely to be afforded under Saudi law.

\textsuperscript{4} Reported in an article entitled, “Kingdom opens up new sectors to foreign investors”, Saudi Gazette, 3 February 2003.
\textsuperscript{5} Angus McDowall, “Seizing the initiative”, MEED, 15 February 2002, p. 4.
\textsuperscript{6} It is intended that the Saudi government will have a 32 per cent stake in each project, with SWCC and SEC holding 60 per cent and 8 per cent, respectively.
\textsuperscript{7} At the time of writing, both the railway initiatives were still at the tender stage.
\textsuperscript{8} This project includes the construction of over 1,600 kilometres of new railway lines throughout the country including from Riyadh to Jeddah (about 950 km) and from Dammam to Jubail (about 115 km), as well as a rail link connecting Jeddah to Makkah and beyond to Madinah and Yanbu (about 570 km).