

# lex arabiae

## Legal News of the Gulf

Vol.XV – 1<sup>st</sup> Issue

January 2011

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**United Arab Emirates****New Rules and Changes on the UAE-Labour Market****Guiding Principle**

*Starting from January 1st, 2011 several changes took place by the Ministry of Labour issuing new rules for labour and resident permits and the opportunity to switch employers more easily. The following Article will show the recent amendments to the UAE-Labour Law which became effect with the new year 2011.*

**I. Validity of Residence and Work Permit Decreased to Two Years**

A cabinet decision at the end of 2010 reduced the validity of the residence visa and therewith the validity of the work permits for all employees in the private sector from formerly three years to two years. This new rule was implemented in January 2011.

The new regulation shall aim to unify the validities of work permits in all work categories. Before the amendment, there were distinctions between the different work categories. Some categories, e.g. drivers or housemaids, obtained a work permit and residence visa for only two years, while other categories obtained the permit and visa for three years. The aim and decision to decrease the validity of residence and work permit was to regulate the labour market and encourage the flexibility of employees and employers. Subsequently it shall be easier now to change the workplace

without a major loss for both employer and employee. A survey of the Ministry of Labour showed that more than 70% of all visa and work permits were cancelled before its expiration date. According to information and statements of the Ministry of Labour this change will also save expenses for visa applications. The fees for the new labour card will be linked to the company classification and will amount between AED 300 and AED 5,000 depending on its classification. Companies employing an Emirati national will be exempt from paying labour card fees.

This new decision is in effect starting from January 1st, 2011 and applies only for visa which will be applied from January 2011 onwards. Visa's already issued before January 2011 (including family visa and husband/wife sponsored visa) are still valid for three years. Only when it comes to the renewal of the residence and work permit, the renewed visa will have a validity of only 2 years.

**II. Non-Objection Certificate Requirement Removed**

As part of the ongoing reforms in the labour market, the Ministry of Labour introduce starting from January 1st, 2011 a new regulation that foreign workers wishing to change their jobs do not require a Non-Objection Certificate (NOC) and approval anymore from their former employer. With Ministerial Decision No. 1186 of 2010 employee will have the right to change jobs without facing a six-month ban and without the need of a Non-Objection Certificate in the following cases:

- The employment contract ends or is terminated mutually and the employee worked for at least 2 years;
- The Employer fails to comply with his legal or contractual obligations;
- Expiry of a work relationship where the termination is due to economic or legal issue.

In case one of the above mentioned cases applies, a new work permit will be granted without considering and facing the six-month ban.

An exception to this new rule are employees employed under a limited employment contract where the agreed contract period is more than 2 years. Where an employment contract is entered on a fixed term, it cannot be terminated or breached by the employee on the grounds that they have completed two years of service. If those employees are called to cancel their labour permit they will be subject to a one-year ban according to the terms of the contract. In case the employment contract is entered for an unlimited period and the employee completed two years with the same employer, these employees will be free to change their jobs without objection.

***Hanka Jahn,  
Meyer-Reumann & Partners - Dubai***

## ***United Arab Emirates***

### **Trademark Protection at Dubai Customs**

#### **Guiding Principle**

*Taking action against trademark infringements through Dubai Customs is an additional option for trademark owners to fight violations of their intellectual property rights. The additional registration procedure at Dubai Customs should be taken into consideration as it is evident that most of the infringing goods are not produced within the UAE, but are imported. Dubai Customs may stop infringing products before entering the country.*

#### **A. Intellectual Property Rights at Dubai Customs**

It is significant that shipments are checked at ports, airports and free zones in order to prevent counterfeited goods from entering the UAE. Therefore and since 2006 Dubai Customs is operating a special section for intellectual property rights.

There are two main scenarios in which a complaint to Dubai Customs regarding suspected infringing goods may arise:

1. Dubai Customs discovers suspected infringing products in the course of its regular inspections.
2. The trademark owner discovers a suspect shipment or suspect goods and notifies Dubai Customs.

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## **I. Registering a Trademark at Dubai Customs**

With reference to the first scenario the Intellectual Property Right Department at Dubai Customs recently invited trademark owners in the UAE publically to register their trademarks at Dubai Customs. The registration procedure aims to facilitate trademark protection in Dubai. However, it does not replace an initial trademark registration at an official trademark department. By additionally registering a trademark at Dubai Customs the trademark owner enables the customs authorities to detect counterfeited trademarks more quickly, as all trademark-related data is filed and archived. Accordingly, Dubai Customs can intervene at the first entry of goods heading to Dubai, making the intellectual property right protection more efficient. The trademark registration system is linked to all customs centers. This enables that the Customs Inspection Section can identify the owner of the trademark immediately, eliminating the need to refer to him.

The possibility of registering a trademark at Dubai Customs has been in place since 2006 and the number of registrations is increasing. Dubai Customs informed that so far 926 trademarks were registered at Dubai Customs by their owners or the authorized legal representative. American trademarks top the registered trademarks list by 28%, followed by the French trademarks by 12%, then Swiss trademarks by 11%, whereas Emirati trademarks do not exceed 3% of the total registered trademarks at Dubai Customs.

In order to register a trademark at Dubai Customs a copy of the valid trademark registration certificate must be provided and administrative fees must be paid. Registrations can be performed by trademark owners or authorized legal representatives in the UAE. Any representative must first register with the Ministry of Economy and submit a duly authenticated and translated power of attorney.

## **II. Trademark Owner May Take Initiative**

The second scenario shows that trademark owners or their representatives may also file report infringements of a trademark to Dubai Customs. In order to file a complaint it is not necessary to have the trademark registered at Dubai Customs. Nevertheless, a registration will facilitate the filing procedure.

### **B. Dubai Customs' Procedure**

In both cases a formal written complaint of the trademark owner (or his representative) is required before Dubai Customs may become active. Typically, the procedure following the filing of a complaint is that Dubai Customs takes a sample of the suspect goods from the shipping consignment or from the free zone location where it has been discovered and submits the sample to an official laboratory for testing and determination whether the product is genuine. In case the laboratory confirms that the item is not authentic, Dubai Customs will confiscate the suspect goods. After confiscation the goods will be destroyed.

### C. Effects

This procedure was established in order to protect both the consumers as well as the trademark owners by safeguarding that standard specifications are met and by maintaining the legitimate trade movement through protecting trademark owners' rights.

Dubai Customs informed that lately a large amount of confiscated fake and restricted goods were destroyed. The destroyed goods included fake products with duplicated trademark such as ties, glasses, glasses boxes, perfumes, mobile phones accessories, pens, balls, cars spare parts and electronics, auto electrical chargers, screwdrivers, printers requisites. In addition, a large number of CDs - especially software - and some medicine were destroyed.

*Lena Brand,  
Meyer-Reumann & Partners - Dubai*

### Egypt

## Investment Progress in Egypt

### Guiding Principle

*This article is shading some light on the progress of investment in Egypt and the legal form of companies in Egypt.*

### A. General Remarks

The Ministry of Investment published on the weekly report that within 5 days, between November 28 and December 02, 2010, 120 companies were established with capitals that had reached 223 million Egyptian pounds between foreign and domestic. In addition, the week before 135 companies were established with also a variety of legal forms with capitals that had reached 272 million Egyptian pounds. Those significant numbers clearly show that many companies tend to start business in Egypt nowadays.

### B. Legal Forms

With regard to the legal forms of the companies being established in the 1st week according to this report, the Limited Liability Companies L.T.D.<sup>1</sup> was the most popular legal form chosen by companies. In total 44 limited liability companies have been established. The Joint Stock Companies S.A.E.<sup>2</sup> came on 2nd place with 32 registered joint stock companies in Egypt after the limited liability companies with no significant gap

<sup>1</sup> Art. 4 EG Companies Law no. 159/1981

<sup>2</sup> Art. 2 EG Companies Law no. 159/1981

between them. On the 3rd place came the legal form of Individual Enterprises. 30 companies were formed as Individual Enterprises. Finally, 11 companies were formed as limited companies.

The Egyptian government had given to the investors in Egypt incentives which would explain generally this significant attraction in the past year. In the past the main problems that were facing investment in Egypt were 1-financing and provision of credit which the central bank of Egypt is working on solving this problem, 2-long litigation periods and dispute settlement that the establishment of the commercial courts have helped a lot with that, 3-bureacracy and corruption which were significantly limited by formation of GAFI (Governmental Agency for Investment), 4- the required lands for investment. One of the most effective incentive that were given to investors in the past year were supplying investors with land that would be in investment zones for rent or usage for a limited period of time that may reach 25 years which have solved the problem. This option has solved one of the biggest problems that usually face both foreign and domestic investments.

In addition to that, there is a project for a Consolidated Companies Law<sup>3</sup> that will join together both laws no.159/1981 and no. 8/1997. This Law includes the establishment of companies and its regulations in general and the investment incentives. It will also address the issue of bankruptcy and liquidation of

<sup>3</sup> <http://www.investment.gov.eg/ar/Documents/companylaw6-6-2009.pdf>

companies explicitly. Liquidation will be addressed in a separate chapter along with mergers and changing the legal formation of the company. This Consolidated Companies Law is not in action yet but will be discussed before the Egyptian parliament soon.

*Mansour Elaraby,  
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Alexandria*

## *Iran*

### **The Impact of International Boycott Rules against Iran on the Iranian Business of the Foreign Establishment in the Islamic Republic of Iran**

#### **Guiding Principle**

*Iran is under several international sanctions over its refusal to suspend uranium enrichment. These sanctions have considerable influence on the Iranian business of those foreign establishments which are registered in Iran and/or conduct financial transaction with the Iranian market. Many foreign establishments have suspended their transaction with Iran and some of them proceed to close down their legal companies, branch or rep. offices in Iran.*

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## **A. International Sanctions against Iran**

Iran is under several international sanctions over its refusal to suspend uranium enrichment. The United States, Europe and Israel fear that Iran wants to use nuclear technology to build a bomb but Tehran insists that its program is a peaceful drive to produce civilian energy. Sanctions against Iran notably bar nuclear, missile and many military exports to Iran and target investments in oil, gas and petrochemicals, exports of refined petroleum products, as well as the Iranian Republican Guard Corps, banks, insurance, financial transactions and shipping.

The influence of the international sanctions on the Iranian business of foreign establishments which are registered in Iran and/or conduct financial transaction with the Iranian market is studied in this article.

Sanctions against Iran have been imposed by the following bodies:

- UN sanctions against Iran
- Multinational sanctions against Iran
- National sanctions against Iran

### **I. UN Sanctions against Iran**

United Nations Security Council passed the following resolutions against Iran for failing to stop its uranium enrichment program:

- United Nations Security Council Resolution 1737 - passed on 23 December 2006.
- United Nations Security Council Resolution 1747 - passed on 24 March 2007.

- United Nations Security Council Resolution 1803 - passed on 3 March 2008.
- United Nations Security Council Resolution 1929 - passed on 9 June 2010.

The main provisions of the last resolution (i.e. Resolution 1929) are as follow:

- Iran could not participate in any activities related to ballistic missiles.
- A ban on all countries providing military vehicles, aircraft or warships and missiles or missile systems and related materiel to Iran;
- A ban on training, financing or assistance related to such arms and materiel and restraint over the sale of other arms and material to Iran;
- A travel ban on individuals listed in the annexes of the resolution, with exceptions decided by the Committee established in Resolution 1737; and
- The freezing of funds and assets of the Army of the Guardians of the Islamic Revolution and Islamic Republic of Iran Shipping Lines.

UN sanctions include those activities related to the military fields and Iranian uranium enrichment programs. In case the above-mentioned banned activities are not in the scope of the activity of a foreign establishment registered in Iran and/or conduct transaction with Iranian market, no UN resolutions would be infringed.

### **II. Multinational Sanctions against Iran**

European Union sanctions are the most



important multinational sanctions against Iran.<sup>4</sup> The European Union has imposed sanctions against Iran over Iranian nuclear program. These sanctions which have been described as the toughest EU sanctions imposed against any other country by European officials were last strengthened on 27 October 2010 within by the EU Council under Council Regulation (EU) No 961/2010. This replaces and updates the previous Council Regulation 423/2007 that was published on 27 July 2010. The new sanctions put restrictions on foreign trade, financial services, energy sectors and technologies and include a ban on the provision of insurance and reinsurance by EU insurers to the State of Iran and Iranian owned companies.

Council Regulation (EU) No 961/2010 ('the Regulation') implements additional restrictive measures against Iran, the main of which are as follow:

- Freezing of funds and economic resources of specific Iranian persons and entities;
- Restrictions on transfers of funds to and from an Iranian person, entity or body;
- Vigilance over activities with Iranian banks;

<sup>4</sup> The other multinational sanction against Iran is "Scientific Sanctions against Iranians" which include all actions taken to directly or indirectly suppress Iranian scientific community. United States and several other western countries, their scientific communities and companies have been actively involved in suppression of Iranian scientific community and the development of science and technology in Iran.

- Dealing with the Iranian banking sector;
- Restrictions on Iran's access to the EU's bonds markets;
- Restrictions on Iran's access to the EU's insurance and reinsurance markets; and
- Restrictions on financing certain Iranian enterprises.

A copy of the Regulation can be found at: [http://www.hm-treasury.gov.uk/d/council\\_regulation\\_eu\\_961\\_251010.pdf](http://www.hm-treasury.gov.uk/d/council_regulation_eu_961_251010.pdf)

The Regulation imposes no ban on a foreign establishment, the activity of which does not involve the above mentioned restrictions. Nevertheless the Regulation places some restriction on financial and banking affairs of such foreign establishment. Article 21 of the Regulation sets out restrictions on the transfers of funds to and from an Iranian person, entity or body, and how transfers shall be processed.

<b>Transfer value</b>	<b>Requirements</b>
€10,000 or less	No requirements. These can be made as normal unless there are a series of transactions below €10,000 that appear to be linked. If this is the case, they should be notified to a competent authority.

More than €10,000 but less than €40,000	Must be notified in advance to a competent authority, whatever the transaction is for.
€40,000 or above	If they relate to foodstuffs, healthcare, medical equipment or humanitarian purposes, they must be notified in advance to a competent authority. They do not require prior authorisation from a competent authority.
	If they are for any other purpose, they must be submitted to a competent authority in advance for authorisation. They cannot be undertaken without prior authorisation.

‘Iranian person, entity or body’ is defined in Article 1 of the Regulation and means:

- the State of Iran or any public authority thereof;
- any natural person in, or resident in,

Iran;

- any legal person, entity or body having its registered office in Iran;
- any legal person, entity or body, inside or outside Iran, owned or controlled directly or indirectly by one or more of the above mentioned persons or bodies.

Any foreign establishment registered in Iran is considered as Iranian entity in Iran, so the provision of Article 21 should be observed in all financial transaction of the foreign establishment.

### III. National Sanctions against Iran

One of the most important national sanctions against Iran include an embargo on dealings with Iran by the United States and a ban on selling aircraft and repair parts to Iranian aviation companies. Since July 2010, Canada, Australia, South Korea and Japan have also set unilateral sanctions against Iran.

The Iran and Libya Sanctions Act of 1996 (ILSA) was a 1996 act of Congress that imposed economic sanctions on firms doing business with Iran and Libya. According to which all foreign companies that provide investments over \$20 million for the development of petroleum resources in Iran, two out of seven possible penalties will be imposed against them by the U.S. On September 30, 2006, the act was renamed to the Iran Sanctions Act (ISA), as it no longer applied to Libya, and extended until December 31, 2011. As of March 2008, ISA sanctions had not been enforced against any non-US company; the act allows the president to waive sanctions

on a case-by-case basis, though this waiver is subject to renewal every six months.

In June 2007, the U.S. state of Florida enacted a boycott on companies trading with Iran and Sudan, while New Jersey's state legislature was considering similar action.

On June 24, 2010, the United States Senate and House of Representatives passed the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA), which President Obama signed into a law on July 1, 2010.

Major provisions of CISADA as summarized by the Congressional Research Service are as follow:

- Amending the Iran Sanctions Act of 1996 to direct the President to impose two or more current sanctions under such Act if a person has, with actual knowledge, made an investment of \$20 million or more (or any combination of investments of at least \$5 million which in the aggregate equals or exceeds \$20 million in any 12-month period) that directly and significantly contributed to Iran's ability to develop its petroleum resources.
- Directs the President to impose: (1) sanctions established under this Act (in addition to any current sanctions imposed under the Iran Sanctions Act of 1996) if a person has, with actual knowledge, sold, leased, or provided to Iran any goods, services, technology, information, or support that would allow Iran to maintain or expand its domestic production of

refined petroleum resources, including any assistance in refinery construction, modernization, or repair; and (2) sanctions established under this Act if a person has, with actual knowledge, provided Iran with refined petroleum resources or engaged in any activity that could contribute to Iran's ability to import refined petroleum resources, including providing shipping, insurance, or financing services for such activity.

- Establishes additional sanctions prohibiting specified foreign exchange, banking, and property transactions.

U.S. sanctions mainly include those activities and services related to the petroleum resources. In case the scope of foreign establishments, registered in Iran and/or conduct transition with Iranian market, is not the above banned activities, the U.S. sanctions would not be infringed, although as it was referred some States like Florida and New Jersey enacted a boycott on companies trading with Iran in general.

## **B. Conclusion**

Based on the conclusion was drawn in the last part, in case the Iranian business of the foreign establishment, does not involve any field related to the Iranian military fields, uranium enrichment programs and petroleum resources and furthermore all financial transaction of the foreign establishment be conducted by observing all aforementioned sanctions regulations against Iran, the foreign establishment would not violate the international sanctions laws, have been passed against Iran so far unless

some U.S. States' embargo regulation.

**Zahra Tahsili, LL.M.**

**Meyer-Reumann & Partners - Dubai**

## Kuwait

### New Labour Law in Kuwait

#### Guiding Principle

*Kuwait's new Law No. 6 of 2010 promulgating the Law of Labour in the Private Sector (the "Labour Law"), enacted February 21st, 2010 following its publication in the Official Gazette, replaces the previous labour law in its entirety. In the following this Article will focus on the main interesting legal points and changes to the new Kuwaiti Labour Law, in particular the end of service indemnity and its calculation, the calculation of annual leave and the permissible working hours and overtime calculation.*

#### A. The End of Service Indemnity and its Calculation

Kuwait's Law No. 6 of 2010 promulgating the Law of Labour in the Private Sector (the "Labour Law") regulates all employer-employee relationships in Kuwait and applies to workers in the private sector. End-of-service indemnities for employees paid on a monthly basis are determined in Article 51 of the Labour Law by calculating 15 days' remuneration for each of the first five years of service and one (1) month's remuneration for each of the following years, provided that the

total amount of the indemnity does not exceed the remuneration of one year and a half. Employees who are paid on daily, weekly, hourly or piecework basis shall be entitled to a 10 days remuneration for each of the first five (5) years of service and fifteen (15) days remuneration for each subsequent year.

Under the new Labour Law, an employee will receive complete end-of-service indemnities

- at the end of his or her contract period (if the contract is not renewed),
- if the contract is terminated by the employer; or
- in accordance with the provisions of the Labour Law, or
- if a female employee resigns as a result of her marriage within one year from the date of her marriage.

Furthermore and in cases where the employee resigns an indefinite contract term and the period of service is not less than three (3) years and not more than five (5) years, the employee shall only be entitled to half of their end-of-service indemnities. two-thirds of their end-of-service indemnities for completing five years but not more than ten (10) years of service, and full end-of-service indemnities if their years of service exceeds more than ten (10) years.

Based on the aforementioned, the end-of-service indemnities would not likely include the period of service performed prior to the employees' arrival in Kuwait if he/she worked in another country also for the same company.

In addition, parties to an employment contract cannot contract out of the

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employer's obligation to pay end-of-service indemnities. The benefits granted under the Labour Law represent the minimum rights granted to the employees. Employers can grant employees greater rights and benefits, but not less. As such, any agreement to the contrary will be null and void without effect.

### **B. Annual Leave**

Moreover, one of the major sources of confusion for employers is the calculation of annual leave under the Labour Law. Article 70 of the official Arabic version of the Labour Law states that employees are entitled to a 30-day paid annual leave period, excluding "public vacation days" and sick leaves. The provision does not state whether the 30-day period refers to calendar days or business days. An employer-friendly interpretation of the provision is that the annual leave period refers to calendar days. Under this approach, the leave period would be calculated from the last working day of the employee and the employee loses the economic value of the weekend. A second and more employee-friendly interpretation of the provision is that the leave period applies to business days and thus the weekend shall not be counted as leave. As the Labour Law is interpreted in favour of the employee, we support the interpretation of annual leave to be counted as 30 business days.

Another source of confusion is the term "public vacation days" as stated in Article 70. Article 67 states that employees are entitled to a paid weekend which is equal to 24 continuous hours

after every six working days, thereby granting employees one weekend day per week. As such, one interpretation of the Labour Law is that the annual leave period is calculated as 26 business days by excluding 4 rest days. However, another interpretation is that Friday is a public holiday in Kuwait, and that therefore the weekend day should be in addition to Friday and calculates the annual leave period as 22 business days by excluding 8 days. However, the paid "public holidays" are listed in Article 68, and there is an argument that if the legislators intended for Fridays (as a public holiday) to be excluded from the calculation of the annual leave, they would have used the term "public holiday" instead of "public vacation day."

As there has been much controversy over the calculation of the annual leave period in Kuwait, the hope is that the Labour Law's implementing regulations, when released, will put more light on this issue.

### **C. The Permissible Working Hours and Calculation of Overtime.**

The Labour Law regulates in its Article 64 that employees may not work for more than 48 hours per week or 8 hours per day, except as otherwise specified in the Labour Law. The working hours for employees working in the financial, commercial, and investment sectors are equal to eight consecutive hours. Employees not working in these sectors may not be required to work more than five consecutive hours a day without a break of minimum one hour which is not considered to be included in the working

hours.

Notwithstanding the above, an employer may require their employees to work overtime in the following circumstances: (i) if the necessity arises for the purpose of preventing a dangerous accident; (ii) for repairing damages arising from a dangerous accident; or (iii) to avoid a loss or if the employer faces an unusual work load. However, such overtime may not exceed two hours per day, 180 hours per year, three days a week, or 90 days a year. Employees are entitled to overtime payments of a 25% increase over the original remuneration for the period of overtime.

Based on the above, an employer will be in violation of the Labour Law if he requires employees to work in twelve-hour shifts and will be required to make overtime payments to employees who work beyond the permissible working hours, provided that such services are described in one of the circumstances described above.

With respect to the employees on assignment in Kuwait, such employees must obtain a work permit in order to work legally in Kuwait. Kuwait's Ministry of Social Affairs and Labour ("MOSAL") requires that all applicants for work permits sign off on a short-form employment contract with their Kuwaiti sponsor (employer), which is subject to Kuwaiti law. As such, the Labour Law will apply to the employees with respect to their services performed in Kuwait.

**Roberta Di Siena,**  
**Meyer-Reumann & Partners - Dubai**

## Qatar

### **Changes in Qatari Foreign Investment Law**

#### **Guiding Principle**

*According to the new Law No. 1 of 2010<sup>5</sup>, Amending Some Provisions of Qatari Foreign Investment Law No. 13 of 2000, foreign investors will be allowed to up to 100% ownership in more sectors in Qatar.*

#### **A. Foreign Investment Law in Qatar**

In Qatar, generally foreign investment is limited to 49% of the share capital for most activities in the state and a local partner is required, holding minimum 51% of the shares.

However, foreign investors may exceed the limit of 49% and reach up to 100% of the share capital in selected sectors upon special approval, such as agriculture, industry, health, education, tourism, development of natural resources or energy and mining, on condition that the projects in question are in line with the country's development objectives.

Exemptions may be granted by the Ministry of Finance, Business and Trade in certain areas, if consistent with

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<sup>5</sup> Qatari Law No.1/2010 Amending Some of the Provisions of Law No.13/2000 Regulating the Investment of Non Qatari Capital in Economic Activities.

Qatar's development plans, its plan to diversify the local economy and attract foreign capital. During the last years the law was amended twice, first with Decree No. 31 in 2004 and furthermore with Decree No. 2 in 2005. The most recent change was in 2010 with the Law No. 1 of 2010 amending some provisions of Qatari Foreign Investment Law No.13 of 2000.

### **B. Changes in the Law and its Consequences**

With the new changes, investors, wishing to invest in Qatar are now allowed to hold 100 % ownership in more sectors in Qatar upon special approval by the Ministry of Finance, Economy and Trade. Banking, Insurance, Commercial Agencies and Real Estate still remain out of range for foreign investment.

### **C. Requirements for Obtaining a Special Approval to own 100% of a Company**

The special approval for holding 100% ownership of a Qatari Company can be reached, if certain conditions have been met:

- The investor has to apply for a special approval to own 100% of the shares in a company with the Investment Promotion Department at the Ministry of Finance, Economy and Trade, to present its business and provide a feasibility study. The Investment Promotion Department will report to the Minister of Finance, Economy and Trade, who is granting an exemption on a case by case basis.

- The planned business shall be new, innovative, creative or a special business idea and shall lead to an enhancement of business in Qatar or create new jobs in Qatar.

Moreover the business should fall into the following activities:

- Technical services, for example: architectural, engineering, landscaping services etc;
- IT, for example: implementation technology;
- distribution services, for example: retail, wholesale and commercial services, franchising etc.;
- Consultation services, for example: accounting, legal etc.;
- Agriculture; industry; health; education; tourism; development and exploitation of natural resources; energy; mining; and/or cultural, sports, entertainment and recreational services.

Depending on the individual case and the above mentioned requirements, the Minister of Economy and Trade will either grant a special approval or reject the application.

### **D. Summary and Outlook**

The classification of the activities which will be covered by this new Law is still under process; however, this is the (unofficial and not published) status quo.

It is expected that a classification/code of activities, which specifies the activities covered by the new Law, will be published. This will serve as a basis for the Minister's case by case decision.

In case that in the future many investors have been granted with exemptions, this would attract more investors to do business in Qatar.

*Rouaida Hamdan,  
Meyer-Reumann & Partners - Dubai*

### Saudi Arabia

## Economic Cities in Saudi Arabia

### Guiding Principle

*In 2006, Saudi Arabia announced the establishment of the so called "Economic Cities". With total cost of US\$ 60 billion, Economic Cities are cities designed to establish modern and civilized areas to suit both practical and recreational sides of life in intention to improve lifestyle in the Kingdom. Each city is established for different purpose with common target to attract more domestic and foreign investment to the Kingdom.*

### A. Introduction

In 2006, Saudi Arabia has published its decision to establish five new cities under the name of "Economic Cities". The aim of these Economic Cities is to serve as Free Zones and also as Industrial Zones in a unique way. The Economic Cities are designed to establish modern and civilized areas to suit both practical and recreational sides of life to improve the lifestyle in the Kingdom of Saudi Arabia.

Building such cities with advanced infrastructure all over the Kingdom means to implement the policy of the Government to attract more Domestic and Foreign investments. Since Saudi Arabia is depending on Oil as the main source of income the new Economic Cities shall assist in the diversification of income sources to the Kingdom of Saudi Arabia and attract such investments. .

### B. Vision

With more than US\$ 60 billion costs, the final goal of such cities was to increase the Non-Oil economy in the Kingdom of Saudi Arabia. The government has identified the objectives of the Economic cities as follows<sup>6</sup>:

1. The establishment of new industries<sup>7</sup> based on the competitive advantages of Saudi Arabia.
2. The establishment of the economic cities as integrated cities where all the requirements for modern life are available.
3. Providing modern infrastructure for the cities with global standards to increase the competitiveness of the Kingdom's economy.
4. The full implementation of the cities shall be done by the private

<sup>6</sup> The objectives of the Economic Cities was mentioned in a paper work prepared by Mr. Fahd el- Rasheed, the Deputy Governor of SAGIA for the affairs of the Economic Cities

<sup>7</sup> The target industries are Aluminum, Iron & Steel, Fertilizers and Chemicals



sector<sup>8</sup>.

5. Adopt and implement a clear strategy for human resources.

## C. The Economic Cities

### I. King Abdullah Economic City (KAEC)<sup>9</sup>

KAEC is the largest and first Economic City in Saudi Arabia. The city is developed by a company established on 2006 especially for this purpose under the name of “Emaar the Economic City” as a Saudi Joint Stock company with a capital of SAR 8.5 billion (€ 1 = SAR 4.9) managed by Emaar Properties<sup>10</sup>. The city is located on the coast of the Red Sea near the city of Rabigh in Makkah Province.

The main function of the city is to focus on the diversion industries based on power and transport. The total cost for building the city is estimated with about US\$ 80 million.

KAEC comprises six main areas, namely the Port, the Industrial Zone, the Beach Facilities including a distinguished

<sup>8</sup> The government vision was that the success of the construction and operation of the Economic Cities requires giving the opportunity to the private sector in investing and implementing the projects within the cities, particularly those related to the infrastructure of the cities with total value between SAR 13 and 60 billion

<sup>9</sup> The city's website <http://www.kingabdullahcity.com/en/Home/index.html>

<sup>10</sup> Emaar Properties PJSC is one of the world's largest Property Developers, located in Dubai, United Arab Emirates

group of hotels, the Financial Island covering 500 thousand square meters of office space, three Residential Districts and the Educational City.

### II. Prince Abdul-Aziz bin Mosa'ad Economic City (PAMEC)

PAMEC is earmarked for the transport and logistics support sector. The city is located in the Ha'il Province. The implementation of the city started in 2007. At the time of being totally finished, PAMEC is funded with SAR 30 billion (about US\$ 8 billion).

### III. Knowledge Economic City (KEC)<sup>11</sup>

KEC is located in Al Madinah Al Munawwarah. The city is established to provide investment opportunities in the Knowledge Industries sector. Same like PAMEC, at the time of being totally finished, the Knowledge Economic City is funded with SAR 30 billion (about US\$ 8 billion).

### IV. Jazan Economic City (JEC)<sup>12</sup>

JEC is located in Jazan city and is focusing on four sectors: the Heavy Industries, Secondary Industries (processing), Human Resources in addition to Life Style.

### V. Ra's el-Zour Economic City (RZEC)

It is intended to establish the RZEC on

<sup>11</sup> The city's website <http://www.madinahkec.com/index.php?q=ar>

<sup>12</sup> The city's website <http://www.jazanecity.com/en/index.html>

the coast of the Arabian Gulf, 60 km north of Jubail Industrial City. The proximity of RZEC from Jubail Industrial city and the facilities for production and shipment of oil and gas in the eastern region of the Kingdom represent a strategic and logistical advantage for the city. The city is specialized in Mining Industries and shall be managed by the Royal Commission for Jubail and Yanbu.

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**Yemen**

## Using an Agent or Distributor in Yemen

### Guiding Principle

*Using an Agent or a Distributor could be one option in order to approach into the Yemeni market. Depending on the intended function of the Agent/Distributor, whether he shall be an active party in the later business structure or rather play a passive role, he might be very helpful by building up or extending the local business. However, the careful selection of an adequate and reliable Agent/Distributor as a long-term business partner, is a major pre-condition.*

### A. Legal Framework

In the Republic of Yemen, the main statutory provisions, regulating Commercial Agencies and Distributorship, are found in the Yemeni

Law on the Organization of Agencies and Branches of Foreign Companies and Houses (Law No. 23/1997, "CAL"). Additionally, the Yemeni Commercial Code (Law No. 32/1991, as amended, "CC") contains a certain number of provisions relating to the relationship of an Agent with a Principal and third parties.

### I. Definition and Core Principles

The Yemeni Law of Commercial Agency/Distributorship is characterized by its comprehensive definition insofar as it explicitly covers various categories of agencies, namely the Commission Agent, the Commercial Agent, the Distributor, the Insurance Agent, the Carriage Agent etc. (Art. 2 CAL).

The basic requirements to be an Agent are, according to Art. 3 CAL, that the Agent must be a Yemeni National being a permanent resident in Yemen and holding a Commercial Registration covering the subject matter of the agency or, alternatively, a company established in accordance with the laws of the Republic of Yemen and whose objective, as defined in the Articles of Association, corresponds with the activities to be undertaken under the Agency Agreement. Notably, in Yemen it is sufficient that, in such a case, at least 51% of the share capital of such company is held by Yemeni National(s). However, the majority of the partners and managers in General Partnership Companies and simple Limited Partnership must be of Yemeni nationality.

Strictly speaking, a duly notarized and

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legalized Agreement shall be submitted to the competent Authority in order to be registered in the Agency Register with the Commercial Agency Department within the Ministry of Supply and Trade. It is possible though, for non-registered Agents, to import goods into Yemen. Nevertheless, it is not permitted to import machinery transportation means, machinery of agriculture and roads, mechanical, electronical, electrical machinery and equipment as well as other commodities, which require either spare parts or maintenance unless there exists a registered Agency (Art. 17 CAL).

In principle, the Yemeni Agent enjoys exclusivity. Art. 19 CAL states that the Commercial Agency Department within the Ministry of Supply and Trade may not register another Agent, as long as a dispute between the foreign Principal and the Agent is pending and has not been settled either amicably or by a final judicial award. Exceptions are granted if it can be proved that the registered Agent unjustifiably refuses the import of products. In this case, the direct importation through third party may be granted.

## **II. Main Duties of the Principal and the Agent/Distributor**

### **1. Main Duties of the Principal**

The Principal's duties are mainly governed by the relevant Agency or Distributorship Agreement itself. Further obligations are reflections of the Agent's obligations, like an adequate supply of spare parts and the products themselves.

### **2. Main Duties of the Agent/Distributor**

The CAL provides primarily formal duties of the Agent like the obligation to own a stamp carrying his full name, the name of the foreign Principal, the number of the Agency registration and its registered activities in both Arabic and English (Art. 15 CAL). Furthermore, the Agent must print his papers, invoices and all other documents in these two languages, and the heading must contain the full name of the foreign Principal and other particulars, as mentioned before (Art. 16 CAL). Finally, an Agent importing means of transportation, machinery of agriculture and the like as per Art. 17 CAL has to provide maintenance services, the supply of spare parts, and the maintenance of required workshops (Art. 17 (b) CAL).

### **III. Commission**

The remuneration of the Agent/Distributor is entirely governed by the relevant Agreement. The Yemeni Law does not provide for a minimum commission.

### **IV. Termination of the Agreement**

The CAL contains no provisions regulating the termination of an Agency. Therefore, the provisions of the CC apply. The termination of an unlimited Agency is governed by Art. 285 CC, which does not state any notice period. For that reason, the terminating party has to give prior notice, as accords with custom, which should in practice not be less than three months.

## **V. Consequences of the Termination**

The party who initiates the dismissal or resignation is, according to the general rule in Art. 285 CC, under the obligation to compensate the other party for any damage incurred by him due to an untimely or unjustified dismissal or resignation. It has to be pointed out, however, that, in the case of termination of an Agency / Distributorship Agreement, the Agent has to prove the extent of the damage. The rule of thumb is in practice to award the Agent a one year commission based on the average commission of the last three years and multiplied by a factor of two or three. Non-competition clauses are not customary in the Yemeni Law and their enforceability is questionable, at least.

## **VI. Jurisdiction and Applicable Law**

According to Art. 20 CAL, Yemeni Courts have the sole jurisdiction to deal with disputes arising from Commercial Agency/Distributorship Agreements. Therefore, arbitration is no option. As foreign court decisions or arbitral awards regarding the termination of Agency/Distributorship Agreements are not recognized nor enforced in Yemen, the application of the Yemeni Law is mandatory.

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