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## Egypt

## Highlights on Public Private Partnership in Egypt

### Guiding Principle

*The Public Private Partnership Law No. 67 of 2010 (hereinafter “PPP Law”) was promulgated on May 18, 2010 as part of the government's strategy to reform the countries economy and increase energy and infrastructure development by leveraging private sector know-how, experience and efficiency to facilitate the timely and cost effective procurement of public utility services.*

### A. Introduction<sup>1</sup>

Before the PPP Law was introduced, the government's procurement of previous projects was governed by the Tenders and Bids Law No. 89 of 1998 and its Executive Regulations issued by the Minister of Finance Decree no.1367 of 1998 .

Under Law No. 89 of 1998 the procurement of goods or services are carried out by virtue of a tender, competitive negotiation or, in special cases, through direct agreements.

Although Law No. 89 of 1998 may have been an adequate framework for procuring simple goods and services on a regular basis, the government realized this was not an adequate framework for

<sup>1</sup> According to <http://www.globalwaterintel.com/archive/11/5/general/structure-egypts-ppp-law.html>  
<http://www.iflr1000.com/LegislationGuide/653/The-new-PPP-Law.html>

large scale complex projects. As a result of its exorbitant nature provisions, Public Private Partnership transactions had the administrative nature in procedural and substantive rules. This lead to the new PPP Law which introduces important new features compared to Law No. 89 of 1998.

### B. PPP Law No. 67/2010

The Egyptian legislator promulgated the law in summer 2010 and its Executive Regulations were issued by a Prime Minister's Decree No.238 of 2011

Egypt's PPP Law provides a framework for the procurement of infrastructure projects as well as other utility projects and services under a public- private partnership model.

The first two, of the Law's four chapters, define the projects covered by the Law as those with a total contract value exceeding EGP 100 million (\$17.7 million) and involving a concession or off take agreement of five years or more in duration.

The second chapter also provides clarity on the roles of existing regulatory bodies and gives a legal grounding to other new bodies, including the Supreme Committee for Public Private Partnership Affairs.

The said Committee is chaired by the prime minister, and with membership of competent ministers involved with economic development, as well as the head of the Public Private Partnership Central Unit (hereinafter PPPCU), the council is competent for the followings<sup>2</sup> :

- setting of an integrated national policy

<sup>2</sup> According to Article 15 , Law no. 67/2010

for PPP and identifying its framework ,objectives, mechanisms, and targeted scope of the projects

- endorsing in the application of the PPP structure on the projects of Administrative Authorities
- monitoring the allocation of financial funds to ensure the fulfillment of financial obligations resulting from the implementation of PPP contracts.
- issuing the rules and general criteria for the PPP, and endorsing standard PPP contracts for use in different sectors
- endorsing the recommendation of the Competent Authority of the Administrative Authority related to the selection of the contracting party entering into the PPP contract and approving the conclusion thereof.
- Conducting studies and proposing means to provide and develop the market tools necessary for the provision of the appropriate financial structures for PPP projects

The Law also introduces the concept of a mandatory prequalification process for each project, as well as the introduction of a competitive dialogue process intended to improve the tender documents for specific projects. Bidders will be required to present an initial non-binding bid, which forms the basis of discussions with the client. The bidding documents can afterwards be refined as the client sees fit.

### C. Public Private Partnership Central Unit<sup>3</sup>

PPCU is the "center of expertise" it's authority empowered for providing and disseminating policy of partnership between the public and private sectors, the development of practices for the implementation of projects and plays a vital role in providing the first projects.

PPPCU was part of technical office of the Ministry of Finance and now became a legal independent entity affiliated with the Ministry of Finance by virtue of law.

PPPCU is competent for the following:

- Provide technical, financial and legal expertise to the Supreme Committee for PPP and to the PPP satellite within the Administrative Authority
- Lay out and monitor the procedures to tender and conclude PPP contracts and their execution
- Prepare and publish studies, information and statistics related to PPP projects both locally and internationally.
- Selection of advisors for the tender of PPP projects and contracting with them in accordance with the rules and procedures set forth in the Executive Regulations of this law

One of the main responsibilities of the Unit is to make sure that the proposals for partnership projects are based on a good analysis of the actual needs and the value of these projects. The Unit will make sure that those projects got their necessary approvals on the budget and that the choice of partners is based on fair competition.

<sup>3</sup> According to Egyptian Ministry of Finance Website

#### **D. The Egyptian Government and the PPP<sup>4</sup>**

In order to attract more investments in Egypt, “MENA Project Finance & PPP” conference was held in Egypt on 17<sup>th</sup> & 18<sup>th</sup> September 2012 under the patronage of his Excellency Hesham Kandil, Prime Minister of Egypt, with the participation of ministers from Jordan, Bahrain, Qatar and Tunisia, and excellencies from the World Bank, heavy industries company in Saudi Arabia and Japan Bank for International Cooperation, UAE in addition to Egyptian Ministers: Minister of Planning and International Cooperation, Minister of Investment and Minister of Finance.

In the course of his inaugural speech, the Egyptian Minister of Finance Dr. Momtaz El Saeid said, “that the economic development of Egypt will not be achieved without the participation of the private sector. The state target is to increase the volume of investments to about EGP 276 billion in this fiscal year in order to achieve a growth rate of the national economy of more than 4.5 %. The government strives to increase the growth rate during the next three years to 7.5 % of the GDP so that they can create about 750,000 jobs needed annually in the society. The minister pointed out that public investment are currently EGP 106 billion of which EGP 56 billion are government investments and EGP 50 billion are financed by economic bodies and public companies and public business sector.

Furthermore, Dr. Momtaz El Saeid said that Egypt’s target is that EGP 170

<sup>4</sup> According to Egyptian Ministry of Finance Website

billion, will be dumped by the private sector and the government has already been preparing a list of 15 projects in various economic sectors to set up the system of participation as tools for promoting the participation projects with the private sector, noting that such projects are offered on a lot of investment delegations that visited Egypt recently as well as during his recent visit to Turkey, where they received great interest from investors and businessmen.

Mr. Osama Saleh, Minister of Investment, pointed out that the Ministry of Investment is currently working on 3 axes: the first axis is the development of different governorates of Egypt as there are 128 projects on 27 governorates of Egypt ready to start work; the second axis are partnership projects with the private sector which is handled by the Ministry of Finance; and the third axis is the development of the Suez Canal, which 9% of the total world trade passes through it, in addition to the establishment of the largest industrial city in Suez being an area of 40 square kilometers.

The Minister of Investment added further that the second sector is the focus of the development of Upper Egypt-Red Sea Road, which connects six provinces in southern Egypt in the Red Sea. The target is to develop the region on both sides of the road, having a length of 414 kilometers.

#### **E. Expected PPP Projects in Egypt in 2013:**

Mr. Atter Hannoura, Head of PPPCU at the Ministry of Finance mentioned that the Unit is now working on feasibility studies for several projects, participating

with the Private Sector during the next few months which include:

- Technological area project for export of telecommunications services and technology in Maadi;
- The establishment of a railway linking the area of Ain Shams with Tenth of Ramadan;
- A highway linked Shubra – Banha; and
- Factories for recycling solid waste in the governorates, which includes the expansion and development of the industrial port of Safaga, Suez Canal Specialist University Hospital and Nile Schools.

Mr. Atter Hannoura added that there are many future projects expected to be launched during the last quarter of next year including: the establishment of the Egyptian Italian University, Academy for Cardiac Surgery at Ain Shams University, the establishment of a new hospital for Children at Ain Shams University, a Specialist Center for patients with brain , nerves and the treatment of victims of road accidents, a hospital for Zagazig University as well as the creation of 3 ports river for the development of transport system river.

#### **F. Conclusion :**

Today under the provisions of the new PPP law :

- The Investor can enter into an agreement with the Administrative Authority under the PPP law regardless of traditional procurment law and its executive regualtions.
- There is an express prohibition on confiscation or compulsory acquisition of project assets by the

government

- The foreign investors is well protected: for instance, his consent is required to amend the contractual stipulations and the administration cannot unilaterally amend the stipulated prices
- Egypt amended its rules for public private partnerships (PPP) to allow disputes to be resolved through arbitration rather than through Egyptian courts. Under the new rule, arbitrations would be carried out at the Cairo International Arbitration Centre and be based on the regulations and procedures of the United Nations Commission on International Trade Law (UNCITRAL)

The above mentioned advantages would encourage more foreign investors to invest in Egypt and the government is working on that.

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**United Arab Emirates**

## **Legal Framework of the UAE-Polish Bilateral Relations**

### **Guiding Principle**

*The United Arab Emirates and the Republic of Poland support further expansion of bilateral relations. The article focuses mainly on the recent growth in trade and economic cooperation, connected with new legislation and developments in science diplomacy from the end of 2006 through mid-year 2012.*

### **A. Facts**

The history of relations between Poland and the UAE dates back to the year 1988 when Poland expressed desire to tighten bilateral relations with the UAE as the key-partner in the Middle East Region. Following the opening of the Polish Trade Office in Dubai in 1988, the Embassy of the Republic of Poland in Abu Dhabi was opened in 1991.

The UAE opened its Embassy in Poland in May 2009, when H.E. Mr. Asim Mirza Al Rahmah presented his letter of credence to the late President of the Republic of Poland H.E. Mr. Lech Kaczyński, which constituted a very important step in strengthening bilateral relations and cooperation between the two countries. Opening of the Embassy by the UAE reflected in the intensification of cooperation between the countries, mainly in the area of trade and economy.

Considering the total trade turnover rate,

the UAE ranked among the major trade partners of Poland in the Middle East and it is hoped that Polish-Emirati trade relations will further expand. Just in 2010 the UAE were the third largest trading partner of the Republic of Poland in the Middle East, after Israel and the Kingdom of Saudi Arabia, and among the countries united in the Arab League- the second one, after the KSA.

Polish trade turnover with the UAE in 2006-2010 (in millions of USD)

	2006	2007	2008	2009	2010	Trade Turnover Dynamics 2009/2010
Export	218.0	302.1	763.5	476.1	244.9	53.5
Import	78.6	119.2	100.3	44.1	69.7	166.0
Turnover	296.6	421.4	863.8	520.2	314.6	62.9
Balance	139.4	182.9	663.2	432.0	175.6	-

Source: GUS (CSO- Central Statistics Office Poland)

The main Polish goods exported to the UAE in the year of 2009 were: mechanical and electrical equipment (42%), transportation (17%) and food products (groceries, tobacco, sugar), metallurgy intermediates and measuring equipment.

In 2010, in the Polish exports prevailed:

- Devices - mechanical and electrical (equipment for telephone systems, cable, carbon electrodes, lamps) - 33.7 % of our exports to the UAE;
- Base metals (razor blades, steel products) - the share of 16.0 %;

- Groceries (milk, tobacco, sugar) - 8.2 %;
- Chemical products (mainly cosmetics) - 7.8 %;
- Miscellaneous items (mainly furniture, bedsteads and mattresses) - 7.2 %;
- Means of transport (vessels, spare parts, transport vehicles) - 6.6 %.

The most prominent exporters are Komsa Poland Sp. z oo, Spinox Uno Poland Sp. z oo, Gdansk Shipyard "Repair" SA, Procter & Gamble Sp. z oo, Swedwood Poland Sp. z oo, Stalprodukt SA, Wilk Elektronik SA, Solaris Bus & Coach SA, SGL Carbon Poland SA.

Imports from the UAE in 2010 (as in 2009) dominated:

- Aluminum and articles of base metals - 65.2 % share of total imports;
- Plastic products (films, tapes, sheets) - share of 21.8 %;
- Textile materials and products - 6.9 %.

The largest Polish importers are ATS Stahlschmidt & Maiworm Ltd., Ronal Poland Sp. z oo, Sapa Aluminium Ltd., Alupol Packaging Sp. z oo, Bon Prix Sp. z oo, Total Pack Sp. z oo, Pragma Trade Sp. z oo, Praxis SA.

## **B. International, Bilateral Agreements Related to the Case**

### **I. The European Union Cooperation Agreement between the EU and the GCC Countries to which Poland is a State Party**

The European Union - UAE mutual relations, including economic and

political sphere are governed by the provisions of the Cooperation Agreement between the EU and the GCC countries (including the UAE) - signed in 1989.

### **II. Bilateral Cooperation Agreements Regulating Relations between Poland and the UAE**

The most important agreements between Poland and the UAE are:

- The Agreement on the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital, 1993;
- The Agreement on Mutual Promotion and Protection of Investments, 1993;
- The Agreement on Civil Air Transport, 1994;
- The Agreement on Cooperation in the Fields of Information, Culture and Science, 1994;
- Memorandum of Understanding concerning bilateral cooperation between the UAE Federation of Chambers of Commerce and Industry and the Polish Chamber of Commerce, 2009;
- Memorandum of Understanding between the Anti-Money Laundering Unit of the UAE and General Inspector of Financial Information of the Republic of Poland concerning cooperation in the exchange of financial information related to money-laundering and terrorist financing; 2011;
- The Agreement for Mutual Exemption of Pre-visa Requirement for Diplomats between the UAE and Poland (in July 2007, the Polish side proposed the mutual abolition of visa

requirements for holders of diplomatic passports), 2012;

- The Agreement for Economic Cooperation between the UAE and Poland, 2012.

UAE Vice President and Prime Minister and Ruler of Dubai His Highness Sheikh Mohammed Bin Rashid Al Maktoum, Deputy Prime Minister and Minister of Interior Lt. General HH Sheikh Saif Bin Zayed Al Nahyan, Deputy Prime Minister and Minister of Presidential Affairs HH Sheikh Mansour Bin Zayed Al Nahyan, Minister of Higher Education and Scientific Research Sheikh Nahyan Bin Mubarak Al Nahyan and Prime Minister of Poland Donald Tusk signed in April 2012 an agreement for economic cooperation between UAE and Poland. The agreement is to give a boost to economic cooperation in all areas and sectors of the economy. It applies in particular to such sectors as manufacturing, investment, innovation, trade, fuels, small and medium-sized enterprises, or financing of business projects.

The clauses of the agreement establish the basis for cooperation on projects of mutual interest to both countries, cooperation in the field of certification and standardisation, development of consulting, legal, banking and engineering services.

The agreement provides for initiating and promoting various forms of contacts between Poland and the UAE as well as a range of forms of practical cooperation. In addition, the agreement outlines the opportunity to exchange experts and technical personnel, scientific cooperation and exchange of scientific personnel, training,

participation in fairs and exhibitions, business missions, collaboration in promotional events and other projects related to economic and tourism cooperation.

The agreement deals with the exchange of information on legislation, encouraging business networking and the establishment of representative offices, branches or agencies promoting the other State's economic activities. It also addresses the search for industrial investment opportunities and support for cooperation between small and medium-sized enterprises.

Moreover, the agreement has established a Joint Economic Committee whose tasks will include analysing how the agreement has been performed, assessing mutual economic cooperation, submitting proposals and identifying problems.

## **C. Capital Investment and Cooperation**

### **I. Preliminaries**

The total value of the direct Polish investment in the UAE is estimated at USD 150 million. Polish companies operate mainly within the oil and gas industry, construction (Librus), installation (Sergas), surveying services, air conditioning (VTS Clima), furniture (MDD), or metal containers (Cracow company Can-Pack in 2005, built in the UAE Arab label cans Can. Co.).

The most spectacular polish investments in the UAE is a property development project in the city of Dubai, founded by Kulczyk Investment House; the fluoride factory in Abu Dhabi (Gulf Fluor).

The Emirates originated investments in

Poland are mainly of the so-called wallet character. In addition, in 2007 Dubai development company - Limitless pursued the initiative of buying the building sites in Poland (main cities like Wroclaw, Poznan, Masuria region). Furthermore in 2008 the company entered into an agreement with the city of Chrzanów to build a greater residential area. Abu Dhabi based, industrial holding company Al Masaood invested in industrial factory bearings and mechanical workshops in Wroclaw. In Gdansk, holding representatives from the Royal Group of Abu Dhabi visited main polish dockyards, revealing interest in the investment proposals coming from the polish side.

In 2009, as in previous years, banks and companies from the UAE invested mainly into Polish government bonds, using, however, their subsidiaries or agents acting within European Union borders.

## **II. Access to the UAE Market**

Polish export of goods and services does not meet the specific administrative barriers to access the emirates market. Uniform import tariff rate of 5 % ad valorem, with approximately 400 items (consisting mainly of basic food and medicine) is free of customs duty. Exempted from customs duties is also import for special economic free zones.

The most important non-tariff barrier and obstacle is the requirement of a certificate of ritual slaughter "halal" for export of meat products. This problem seems to be close to a solution, therefore, the Muslim Religious Union in Poland is to receive the power to issue the certificates of "halal" recognized in

the Emirates. The diverse group of consumers in the UAE alone, and above all a very wide range of goods re-exported to other countries in the region create favourable conditions for export expansion. An important incentive seems to be the fact that in general in this country continues to apply a zero rate of corporate tax and personal income.

In addition to the key to the economy of the UAE oil and gas sector, prospective in terms of bilateral trade and economic cooperation are:

- foreign investments in Poland by companies and specialized financial institutions revolving investment fund of the Gulf countries;
- supply of equipment and materials for the development of infrastructure;
- food processing and food supplies;
- the defense industry;
- health services and rehabilitation (spa);
- higher education (offer of study at Polish universities).

A chance for Polish companies (manufacturing and trading) may be operating in a number of UAE free zones (UAE are classified as the third-after Hong Kong and Singapore- the largest re-export center in the world).

## **D. Promoting the Development of Bilateral Polish- UAE Economic Cooperation**

Diversity and prestige exhibitions organized in the UAE will provide additional opportunities for cooperation. There has been a regular participation from the side of the Polish businessmen in various thematic exhibitions in the

UAE.

In March 2007 the Polish Minister of Economy, G. Wozniak visited the UAE, which included a meeting with the UAE Minister of Economy, Sheikh L. Al-Qasimi. At the end of March/April 2007 a delegation of Polish entrepreneurs with the representatives of the Polish Chamber of Commerce (PCC) signed a cooperation agreement with the Chamber of Commerce and Industry in Dubai.

During the Polish Business Days in November 2007, the Polish National Exhibition and the Polish-Arab Economic Forum under the patronage of the Ministers of Economy of Poland and the UAE was organised in the premises of Dubai World Trade Center.

Since 2006, in Abu Dhabi the Polish Business Group leads the development of Polish-Emirates economic and trade relations. This association-operating under the auspices of the Chamber of Commerce and Industry Abu Dhabi - Polish business associates employed in local companies and representative offices of foreign companies, Polish exporters, Emirati importers of Polish goods, etc.

Among the most important official meetings in the last period, a visit to the UAE of the Ministry of Sport and Tourism of Poland delegation (February / March 2009), Minister of State Treasury of Poland (March 2009 and June 2010) and Under-Secretary of State at the Ministry of Economy M. Korolec (January 2010, April 2011) should be mentioned, and also a visit to Poland of the Minister of Economy of the United Arab Emirates, who was accompanied

by a group of representatives of the major emirates companies (January 2010).

The United Arab Emirates Federation of Chambers of Commerce and Industry first mission to Poland took place on 28-31 October 2009. A delegation of the UAE Federation of Chambers of Commerce and Industry headed by H.E. Eng Salah Salem bin Omeir Al Shamsi paid a three day visit to Poland upon the invitation from the Polish Chamber of Commerce. During the visit, the UAE Federation of Chambers of Commerce and Industry and the Polish Chamber of Commerce signed the Memorandum of Understanding concerning bilateral cooperation. The delegation was also received by the Deputy Prime Minister and the Minister of Economy, Mr. Waldemar Pawlak, by the Minister of Sports and Tourism, Mr. Adam Giersz and Minister of Treasury, Mr. Aleksander Grad. At the Polish Chambers of Commerce, the delegation attended the Business Forum Poland - UAE, where both sides discussed over the bilateral economic relations between Poland and the UAE and the ways of its extension. The UAE delegation also met Polish businessmen who attended in a large number of networking session at the Polish Chamber of Commerce.

A Polish economic and investment mission headed by Undersecretary of State in the Ministry of Foreign Affairs, Mrs. Beata Stelmach followed an invitation of the UAE's Minister of Foreign Affairs, Sheikh Abdullah Bin Zayed Al Nahhan and visited Dubai and Abu Dhabi on 2-3 November 2011. With the delegation, the representative of the Ministry of Treasury, Undersecretary of

State Mr. Krzysztof Walenczak joined the visit.

The Ministry of Infrastructure of the Republic of Poland, along with the Polish National Pavilion's Participants were organizing the Polish National Pavilion at ITU Telecom World 2011. The Ministry of Infrastructure along with the Polish National Pavilion's Participants (Telekomunikacja Polska S.A., Netia S.A., Comarch S.A., Cyfrowy Polsat S.A., P4 Sp. z o.o., Pomorska Specjalna Strefa Ekonomiczna sp. z o.o., Oxycom S.A.) were dedicated to present the Polish achievements within the establishment and development of information society.

Recently, Donald Tusk, the Prime Minister of the Republic of Poland, paid an official two-day visit to the UAE on the 21<sup>st</sup> - 23<sup>rd</sup> of April 2012. The Prime Minister was accompanied by high-ranking official and commercial delegation aiming to tighten relations between the two countries and to expand in particular trade and investment. The Polish side expected to attract Emirati investments to Poland and at the same time to increase Polish exports to the Emirati markets. The visit resulted in signing an agreement on economic cooperation and mutual exemption of visas for diplomats between the UAE and Poland. Following the delegation, the UAE Minister of Foreign Affairs, H.H. Sheikh Abdullah bin Zayed Al Nahyan made a visit to Poland, which took place on the 18th of May 2011.

H.E. Eng. Sultan Bin Saeed Al Mansoori, UAE Minister of Economy met Polish Deputy Prime Minister and Minister of Economy H.E. Mr. Waldemar Pawlak on 21 June 2012. The

meeting was also attended by H.E. Mr. Asim Mirza Al Rahmah Ambassador of the UAE to Poland and a number of Polish representatives. The principal aim of the meeting was to discuss the ways of strengthening bilateral relations between the countries especially in the area of economic cooperation and investment opportunities. Both parties agreed upon the implementation of an agreement concerning economic cooperation which had been signed by the Polish Prime Minister, H.E. Mr. Donald Tusk during his visit to the UAE in April 2012.

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Iran

## Dissolution and Liquidation of Joint Stock Companies in Iran

### Guiding Principle

*As a result of placing international sanctions against Iran, 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. The request for dissolution and liquidation should be submitted before Corporate and Non-Commercial Institution Registration Bureau, the authority before which all legal commercial companies are required to be registered. Nevertheless, in some cases, the shareholders are required to submit their request before the court.*

### A. Introduction

The Commercial Code of Iran (IR-CC) contains four important topics whereas one of them is related to the business organizations. The IR-CC recognizes seven types of commercial companies which could be associated with the following types of business:

- Public or Private Joint Stock Company or Corporation
- Limited Liability Company
- General Partnership
- Limited Partnership
- Joint Stock Partnership
- Proportional Liability Partnership
- Production and Consumption Cooperative Society

From the above types of companies,

Private Joint Stock Company is the most common form of commercial enterprise in Iran and the one most frequently used by foreign investors in respect of the Joint Venture Company. The liability of shareholders is in principle limited to their capital subscription. The Private Joint Stock Company is an independent legal entity that can enter into contracts and can sue and be sued. Shares can be transferred (subject to certain restrictions) without affecting the continued existence of the company, though in principle they may not be offered for public subscription or trading.

As a result of placing international sanctions against Iran, many foreign establishments have suspended their transaction with Iran and some of them proceed to close down their legal companies. In this article, we decided to briefly explain about the legal formalities for dissolution and liquidation of joint stock companies in Iran.

### B. General Rules for Dissolution of a Joint Stock Company

An Iranian joint stock company may be dissolved, if and when certain requirements are met. Art. 199 IR-CC provides that:

“A joint stock company must be dissolved:

- (1) When the company has carried out the task for which it has been formed or if the carrying out of such a task becomes impossible; or
- (2) When a company has been formed for a fixed period which has expired, unless the period has been extended

before such expiry date; or

(3) When it becomes bankrupt; or

(4) When an extraordinary general meeting has passed, for any reason whatsoever, a resolution to this effect; or

(5) When a final judgment is issued by the courts of justice.”

Based on the above article and in practice, generally there are two options for dissolution of a joint stock company in Iran: (A) Request for dissolution through Corporate and Non-Commercial Registration Institution Bureau and (B) Request for dissolution through the Court.

### **I. Dissolution through Corporate and Non-Commercial Registration Bureau**

Commercial companies are required to be registered before Corporate and Non-Commercial Institution Registration Bureau of Iran (CNCIRB). Therefore, in case the shareholders of such companies decide to close down their establishment, submission of their dissolution application before CNCIRB is the most comment and convenient way. The first step for dissolution before CNCIRB is passing a resolution in the extraordinary general meeting of the company. According to Articles 83, 84 and 85 IR-CC, any change in the manner of dissolution of the company shall fall under the exclusive jurisdiction of the extraordinary general meeting. At the extraordinary general meeting, the presence of the holders of more than fifty percent of the shares entitled to vote is required. Resolutions passed at an extraordinary general meeting are valid when they have been passed by the

affirmative vote of two-third of those present at the meeting.

Moreover and based on Art. 101 IR-CC, the general meeting shall be managed by a directorate composed of a chairman, secretary, and two supervisors. The chairman and supervisors will be elected among the shareholders of the company, but it is not a requirement for the secretary of the meeting to be a shareholder of the company.

In case of meeting all requirements for holding the extraordinary meeting and approving the respective resolution, the resolution should be submitted before CNCIRB. The request will be studied by CNCIRB's experts and if everything is fine, CNCIRB will announce the dissolution of the company and will publish the notice on dissolution of the company in the Official Gazette of Iran. Thereafter, the formalities for liquidation of the company will commence.

By taking into consideration the above, a company could be dissolved through CNCIRB if the requirements on the manner of holding the general meeting and making decision in such meeting are fulfilled. Otherwise, the application for dissolution of the company shall be submitted to the court.

At this stage, we would like to bring one scenario as an example: In case a shareholder of a joint stock company holding the majority shares (e.g. 97% of shares) requests for dissolution solely, it is most likely that CNCIRB rejects the shareholder's request as a result of not fulfilment of provisions of the Commercial Code. In such case the requirements of Articles 83, 84 and 85 IR-CC are met but provisions of Art. 101

IR-CC remains unfulfilled. Based on such Article, it is required to have at least three shareholders of a joint stock company be present in the extraordinary general meeting. Such requirement is mandatory. A shareholder holding 97% of the shares is only considered as one shareholder while for dissolution of such joint stock company, two more shareholders are required.

## **II. Dissolution through the Court**

The application for dissolution could be submitted before the court based on the instances of Art. 202 IR-CC as follow:

“In the following cases, any interested person may apply to the court for the winding-up of a company:

- (1) When no measures are taken with a view to carrying out the objectives of the company within one year after formation or, if there is a break in the activities of the company, for more than one year.
- (2) When a general meeting of the company is not held for the purpose of approving the accounts of each of the previous fiscal years up to ten months after the period fixed in the articles of association.
- (3) When the position of all or a number of directors of the company or that of the managing director of the company has remained vacant for a period exceeding six months.
- (4) In the case of sections (1) and (2) of Article 199, when an extraordinary general meeting is not held or, if held, no resolution is passed for the purpose of winding up the company.”

It takes usually nine months to one year for the issuance of a verdict on

dissolution of a joint stock company by the court. Subsequent, the verdict should be submitted to CNCIRB for fulfilment of requirement on liquidation of the company.

## **C. Liquidation of Joint Stock Company**

Either the joint stock company may be dissolved through CNCIRB or through the court, a person as liquidator and the place of liquidation should be appointed and determined in the resolution or court verdict (as a case may be). The liquidator may be a person among the shareholders or someone outside the company. Upon publishing a notice of dissolution in the Official Gazette of Iran, the dissolved company should request CNCIRB to declare the commencement of liquidation and shall publish the respective notice in the Official Gazette and in one of the Iranian circular newspapers. Following that, the liquidator shall start liquidation. Based on the Commercial Code, no distribution of the assets, whether during the liquidation proceedings or thereafter, shall take place unless the notice stating the commencement of liquidation and the call for creditors have been published three times, with an interval of one month between each call, both in the Official Gazette and in the circular newspaper and at least six months have elapsed from the publication of the first notice.

During the liquidation, the liquidator shall settle all claims for and against third parties, Iranian authorities such as Tax Bureau and Social Security Organization. Upon completion of the liquidation, the liquidator is bound to notify CNCIRB of the completion of the

liquidation proceedings within one month thereof in order to register the same and publish the case in the Official Gazette, in the circular newspaper and, in conclusion, to strike off the name of the company from the register of companies with CNCIRB.

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Yemen

## One Number for the Trademarks in Yemen

### Guiding Principle

*As of October 1st, 2011, all the registration numbers of the Trademarks in Yemen shall hold the same No. of filing once the application is accepted. This is based on the new implementing regulation of the Yemeni Trademark law No. 23 of 2010, issued on July 27th, 2011.*

The new implementing regulation of the Yemeni Trademark Law has kept the number of filing the application for registering a new trademark to be the same number as for the registration of the trademark, once the application is accepted. This amendment was carried out to facilitate the procedures of registering the trademark and to have prior knowledge of the registration number from the moment of filing the application.

In the previous implementing regulation, the registration number of the trademark was only given after the approval of the

trademark department at the Yemeni Ministry of Commerce

Moreover, the new implementing regulations have stated the following provisions:

- expecting in complete the substantive examination (examination on absolute and relative grounds) within 30 days from submission of all required documents;
- The 8<sup>th</sup> edition of the Nice classification is adopted with no local sub-classification;
- Renewal of trademarks applications will be published in the Official Gazette;
- The Trademark Office has cancelled all surcharges imposed on late filing of documents;
- In the event that a trademark owner desires to secure provisional protection to a mark which is used on products or services displayed in national or international exhibitions held in the country, he has to notify the competent authority one month before the opening of the exhibition. The trademark's owner shall be granted a certificate of provisional protection of his trademark within a period not exceeding 3 months after the end of the exhibition.
- The Trademark Office will no longer issue any certificates of renewal, change of name or address. Only official receipts to this effect will be granted to applicants attesting to any change of title. The Trademark Office will only issue the following certificates:
  - a) Registration Certificate;
  - b) Assignment Registration Certificate;

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- c) Pledge Registration Certificate;
- d) License Registration Certificate;
- e) Merger Registration Certificate.
- There is a grace period of one year for late renewals without paying any surcharge.

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