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Inside this Issue

United Arab Emirates

A new Chapter in Rental Disputes in Dubai

Agnes Urbancsek, Dubai..... p.1

Iraq

**Business Trip of a German Delegation to Baghdad
in the country between Euphrates and Tigris -
organized by the German Ministry of Economy
from 11. to 14.10.2013**

Rolf Meyer-Reumann, Dubai p.3

Iran

EU Court Sanctions against IRISL

Zahra Tahsili, Tehran..... p.7

Oman

Environmental Laws of Oman

Catherine Jaskiewicz, Muscat..... p.12

United Arab Emirates

A New Chapter in Rental Disputes in Dubai

Guiding Principle

As of 17th November 2013 Dubai has a new Rental Disputes Settlement Center, which will replace the Rent Committee, and a new procedure for the settlement of rental disputes.

As the prices - especially for residential units- are constantly rising all over Dubai, it is a crucial question for many tenants, whom they can turn to in case of a dispute (e.g. over the increase of the rent or the renewal of the contract) with the landlord.

Since 1993, rental disputes in Dubai were exclusively referred to the “Special Judicial Committee” or as it is widely known the “Rent Committee”. On the 18th of September 2013, a new Decree (Decree No. 26 of 2013 concerning Rental Disputes Settlement Center in the Emirate of Dubai, hereinafter referred to as “the Decree”) was issued to set up the “Rental Disputes Settlement Center in Dubai”. The new Center shall be based at the Dubai Land Department, in opposition to the Rent Committee which operated in the Dubai Municipality. The law will come into force 60 days after its publication in the Official Gazette.

A. Jurisdiction of the Center

Generally the new Center shall have exclusive jurisdiction over any residential or commercial rental dispute in Dubai mainland and in the free zones and may enforce its decisions and judgments. However, the Decree

excludes disputes arising inside of those free zones, which may have their own special judicial committees or courts to settle rent disputes. Therefore, before one can take any official steps, it is to be determined based on the location of the object rented, whether the new Center is in charge of the dispute at all. The Jebel Ali Free Zone has not established a special judicial committee for rental disputes. On the other hand, in the case of the Dubai Technology and Media Free Zone Dubai Law No. 1 of 2000 expressly states, that companies and individuals operating in the free zone shall not be subject – among others – to the laws and regulations of the Rent Committee. And the courts of Dubai International Financial Centre do hear their own rental disputes. Until now, rental disputes, where the free zone authority was party to a lease contract, were also excluded from the jurisdiction of the Rent Committee (see Article 2 of Dubai Law No. 15 of 2009). This clause has been omitted in the new Decree, therefore it is to conclude, that the new Centre shall be also empowered to hear such disputes unless there is a special committee as described above.

Furthermore, the new Center shall not hear any cases of finance lease or long-term leases (Article (6) (B) of the Decree).

B. Process and Departments**I. Department of Reconciliation**

The Decree has introduced a new department: the “Reconciliation Department” (Article 10 of the Decree). For the purpose of a speedy and amicable settlement of rental disputes, a conciliation hearing before one of the

committees of this Department shall be mandatory. Excluded from this compulsory requirement are only cases for temporary and summary orders, applications and actions, which cases can be presented to the First Instance Department directly.

As a rule, the Committee shall within 15 days after the conciliation hearing try to settle the dispute.

The Reconciliation Department may appoint experts or specialized persons to provide their technical expertise.

The committees of the Department consist of a chairman and two members of experience. The chairman of the committee shall be a judge. Previously the participation of a judge in the committees was not mandatory.

II. First Instance Department

If an agreement can be achieved, then it will be signed by the parties and be approved by the judge. Such a reconciliation agreement shall have the power of an executive instrument, i.e. it can be executed without further proceedings, and otherwise the dispute is referred to the First Instance Department, which shall come to a verdict within 30 days from the date of referral of the action file.

III. Appeal Department

Decisions of the Rent Committee were binding and final. An appeal against them was previously not possible. By the Decree, a new instance shall be introduced against the decisions of the First Instance Department in cases in which the rental claims are over AED 100.000. In many residential rent disputes, the claims remain, however,

usually below this amount. Thus, the lawmaker included the following cases, in which the parties may appeal against a decision of the First Instance Department (Article 17 of the Decree):

1. If an eviction judgment is issued,
2. If a judgment is issued in violation of the jurisdiction rules.
3. If a judgment is issued with something not requested by the parties, or with more than what they requested or it disregarded some requests.
4. If a judgment is issued against a person who has not been correctly represented in the action or there was a nullity in the service thereupon;
5. If a judgment is based on papers or documents which were declared to be forgeries after the judgment was issued or a judgment of their forgery was issued or the judgment was based on a testimony that was judged as a false testimony after the judgment was issued and
6. If a party to the lease hides data or documents from the First Instance Department that would have changed the judgment on the action.

The time period for an appeal is 15 days from the day following the issuance of the judgment or in case of absence of the convicted party, from the date of serving the judgment to him.

If a financial claim (not eviction) is to be appealed, then the convicted person shall deposit the 50% of the amount judged until the appeal is decided. However, an exception can be granted.

The judgments of the Appeal Department are final and

unchallengeable.

Further specifics on the new procedures and rules (e.g. on registration of the actions) shall be issued by the Chariman of the Judicial Council shortly.

IV. Law Enforcement Department

All final judgments of the new Center shall be executed by the Law Enforcement Department. But the Center may use the Execution Department of Dubai Courts as well (Article 21 of the Decree).

C. Fees

Until a new order has been issued, the fees according to the Local order No. 1 of 2004 by the Dubai Municipality shall remain in force. Thus, generally the fees amount to 3.5% of the claimed sum, but they should not be less than AED 500 and not more than AED 20.000. However, if the dispute can be settled amicable, 50% of the fees advanced will be refunded to the applicant.

D. Result

The new procedure of a mandatory reconciliation with the professional help of the committees may reduce the number of court actions and help the parties to find a solution within a few weeks. The further possibility to challenge a judgment by the First Instance Department will lead to a consequent and predictable jurisprudence in rental disputes. These changes thus serve both the interests of the parties and the real estate market as well.

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Iraq

Business Trip of a German Delegation to Baghdad in the country between Euphrates and Tigris - organized by the German Ministry of Economy from 11. to 14.10.2013 by Rolf Meyer-Reumann

Guiding Principle

The German Ministry of Economy organized a business trip for a German Delegation to Baghdad from 11. to 14.10.2013 . Rolf Meyer-Reumann joined the Delegation and reports on his visit to a city, which he knew well since the Iraq Embargo time and which is still behind the curtain for the entire world.

The Travelogue

When the German-Arab Friendship Society (DAFG) informed me in September 2013 that the German Federal Ministry of Economy was planning a journey to Baghdad/Iraq I indicated interest and was invited. The Federal Ministry of Economy must have been aware and must have considered that apparently the imminent risks in Iraq remained within limits. During the embargo (Aug. 1990 to April 2003) I had visited Baghdad frequently and toured the country. Selected photos and reports of this period are available on M&P's website <http://meyer-reumann.com/travel-reports/erbil-102011/>.

As my flight on FlyDubai approached Iraq, I saw below me the Euphrates and Tigris peacefully seeking their path in many bays from Turkey to the Gulf. Peacefully? Really or a Fata Morgana?

Mesopotamia was and is too land to be ever left in peace by its neighbouring nations. To understand the present dilemma, you have to go into history, to see that this is Iraq's fate in general. The reigns of Hammurabi¹, Alexander the Great² and Haroun Al Rashid³ are peaks of Iraqi history. During the ruling of a dynasty and the country flourished. However the good periods were followed by invasions and conquests, and the prosperity period was followed

at some point by the fall of the dynasty. This was the destiny of Iraq through the ages. At a time, Euphrates and Tigris carried milk and honey instead of water, at other times, the bloodshed in hefty battles coloured the water. Other drifts and turbulences came from underground, mostly masterminded by humans. The Tower of Babel (2300 B.C. http://de.wikipedia.org/wiki/Turmbau_zu_Babel) is an outstanding sample of this cycle in prehistoric times. Advanced civilizations have existed in Iraq since 6000 years and made Iraq to "the cradle of civilization". In the 2nd century A.D., the Romans added Mesopotamia to their empire. In the 7th century, the country became Islamic. In the medieval times the Turks and in modern times it was the British who tried to rule Iraq. The fall of Iraq in recent times was initiated by the takeover of Saddam Hussein in July 1979. Armed conflicts followed i.a. with Syria, Persia and the Kurds. Saddam Hussein invaded Kuwait on August 2, 1990. This step was based – probably not only – on his craving for power. The world, i.e. the United Nations, with the strong support of the United States of America, stopped him successfully⁴. However, Saddam Hussein did not gain power, but Iraq ran into a worldwide embargo, which lasted 12 years until April 2003, when the Americans liberated Iraq from Saddam Hussein. However, the situation did not turn to the better but to the worse. Terroristic attacks occur ever since on a daily basis.

¹ Reigns of Hammurabi – 2250 B.C., who issued the first written civil code in 282 paragraphs, in which no human rights were reflected, cf. <http://www.constitution.org/ime/hammurabi.pdf> [English], <http://www.reinerjungnitsch.de/folie-hammurabi.pdf> [excerpts in German] and <http://www.theologische-links.de/downloads/archaeologie/codex-hammurabi.html>. The Babylonian King Hammurabi wrote a code of law that included many seemingly biblical ideas on morals, but his writing took place before Moses wrote the Bible's first books, which means that Moses has copied some of his codes from Hammurabi.

² Reigns of Alexander the Great – who conquered Babylon in 331 B.C. His grave is also located there, http://de.wikipedia.org/wiki/Alexander_der_Gro%C3%9Fe

³ Reigns of Haroun Al Rashid – 763 – 809 A.D. His reign was a golden age for science, culture, religion and music and the Arabian Nights fables are closely associated with his name, http://en.wikipedia.org/wiki/Harun_al-Rashid

⁴ <http://www.ag-friedensforschung.de/regionen/Irak/kuwait.html>. An elaboration is available in the internet.

Only Kurdistan managed to stay out of this chaos.

During the trip of the German delegation, all of the official spokesmen tried hard to look positively at the future of Iraq, but none of them really managed to create a bright nearby future. Not only because of Al Kaida but rather for various different interests of individual groups such as the Sunnis, Shias, Kurds and other smaller groups. All means are taken by each group to defend their interests and to secure or get their part of the cake even before it was even baked.

The welcome speech of the German Ambassador Mrs. Birgit Wegener addressing the delegation at the Cristal Grand Ishtar Hotel – previously Sheraton Hotel – described the present scenario well. The image she put across was not really a bright one. The small size of the German delegation reflected the current politics of the German federal government i.e. the politics of small steps. I considered this to be the right approach nevertheless and preferable rather than the loud rumble of the world powers, including America, England, China and Russia. From the regional neighbourhood, Turkey, Syria, Iran and Israel interfere severely. None of the speakers had a nostrum how to solve this dilemma and no one dared to make any realistic prognosis. They restricted themselves to maintaining the hope for better times. There was no vision for a nearby bright future.

At my arrival in Baghdad I was leaving the airport and looked for a taxi to take me to the car park, where my driver was waiting for me. Someone saw me and offered me a lift to the parking ground. He was a consultant of the Southern Oil

Company in Basra, which is affiliated to the Petroleum Ministry and in charge for the Iraqi petroleum trade in the South. The drive took about 10 minutes. When we arrived, he had appointed me as his “wakil” i.e. attorney! Knowing the Arab world, I took it for what it was: Arabic courtesy. I would be happy to welcome him to a cup of coffee at his next visit to Dubai. The next day I phoned him and before saying anything, he greeted me saying "Hello Mr. Meyer!" Where, the hell, did he get my name from? The answer: He had a computer program that very quickly associated my telephone number with my name and displayed both!

Upon arriving at the hotel, we had to pass through the hotel guard post. My driver rolled the windowpane down and the guard asked (I guessed) for our passports. Instead of passports, my driver reached for his pistol, released the safety catch and handed it to the guard. The guard had not asked for our passports, but for the pistol and my driver didn't release the safety catch, but he secured the pistol. The pistol had been ready all the time to fire. The guard and my driver had considered all as normal and routine in a city where nothing actually was normal.

As my driver was holder of a safety ID card he was allowed to enter blocked areas, such as the Green Zone. His car was "normal" like any other car. The German Ministry for Economy had hired armoured security cars for the delegation. The trained drivers, the security personnel and the passengers wore bulletproof vests. The entire delegation could have easily been transported by two cars but there were

two extra cars. I had doubts that these two extra cars indeed improved the security. I had the impression that the convoy was equipped to drive through a war zone and everyone could recognize this.

The streets of Baghdad were crowded due to the large number of security checkpoints which reduced the lanes of the streets from 4 – 5 lanes to one lane only. Since my last visit to Baghdad in April 2011 the number of checkpoints had been reduced considerably. It definitely was good for the traffic but apparently it was also good for terror attacks which had increased in number again.

Not only the streets were crowded, our schedule was also crowded with appointments, such as the visit of Baghdad International Fair 2013 with speeches of the Iraqi Minister of Trade, the German Ambassador Mrs. Wegener and the representative of the German Federal Ministry of Commerce Mr. Karl Wendling. Visits to the Ministry of Petroleum, Ministry of Higher Education and the Chamber of Commerce were all on the agenda. In the evenings, a reception of H.E. the Ambassador and an invitation to the Hunting Club took care that we didn't feel bored.

We were able to enjoy the "Masqouf", an Iraqi fish speciality, four times. As for me, I could have liked even more Masqouf. The very first evening, I went like in the old days to a Masqouf restaurant on the Abu Nuwas Street⁵,

⁵ Abu Nuwas Street is a famous street along the Tigris. It has its name from Abu Nuwas, a poet from the period of Haroun Al Rashid, who is still world-

where I often had enjoyed Masqouf⁶ during the embargo time.

The schedule for the last afternoon had to be changed on a short notice. The head of our delegation had indeed managed it to arrange a visit to the Iraqi National Museum. It was said, that it actually was under renovation – since many years. This was a sensation. I would gladly have visited the museum already during the embargo. But it was and remained closed. It is still closed till today, with some very rare exceptions. Now we were granted an exception to the rule! It felt that all of us of the German Delegation were given a medal of honour!

When the Americans ousted Saddam Hussein in 2003, there was a rumour that the museum had been looted. It was said that some 15.000 pieces had "gone lost" and it was rumoured that the Americans themselves had their finger in the pie. Rumours only? It seems to be ascertained that the Americans actually did nothing to prevent the looting. On August 17, 2006, the director of the museum, Dr. Donny George Youkhanna,

famous till today. He was the author of Ali Baba and the 40 thieves, Aladdin and the magic lamp and quite a number of Arabian Nights stories, cf. http://en.wikipedia.org/wiki/The_Book_of_One_Thousand_and_One_Nights

⁶ The 'Masqouf' is one of the most popular fish dishes. The fish is cut open from the back and grilled on open fire of special wood or charcoal, making one of the most traditional of Iraqi dishes. Shabbout, gattan, bunni, carp, samti, hummari, callas, shallik, catfish, salfar, are all river fish of the Euphrates and the Tigris sold by women in the market. <http://www.niqash.org/articles/?id=240>.

fled for fragile reasons to the USA via Syria, where he became a lecturer at the Department of Anthropology of the Stony Brook State University of New York till his death in March 2011.

The museum's visit was a real pleasure. Some photos available on the M&P website [http://meyer-reumann.com/travel-reports/erbil-102011/speak for themselves](http://meyer-reumann.com/travel-reports/erbil-102011/speak-for-themselves).

My resume and Thanks

My résumé of the trip: Within three days, I had seen a lot and established new contacts. The security risks were – to my understanding – within an acceptable range. The small size of the delegation was rather an advantage than a disadvantage. The trip was well and thoroughly planned and the museum's visit was the icing on the cake.

I would like to express my gratitude to the Federal Ministry of Economy, the German Embassy in Baghdad and – especially – to Mr. Klaus U. Hachmeier, the head of the German Bureau of Economy in Baghdad, who indeed played a decisive role to bring this visit to success.

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Iran

EU Court sanctions against IRISL

Guiding Principle

The European General Court, based in Luxembourg, has lifted the European Union's sanctions against the Islamic Republic of Iran Shipping Lines (IRISL) and 17 other Iranian shipping companies connected to IRISL in its judgment dated 16 September 2013, in Case T-489/10, Islamic Republic of Iran Shipping Lines vs. Council of the European Union. The General Court came to this decision that the evidence of IRISL's alleged involvement in nuclear proliferation offered by European governments 'does not justify the adoption and maintenance of restrictive measures'. This ruling also included other Iranian shipping firms connected to IRISL.

The General Court of the European Union has, in a judgment dated 16 September 2013 in Case T-489/10⁷, annulled restrictive measures against Islamic Republic of Iran Shipping Lines ("IRISL") and 17 other applicants⁸

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62010TJ0489:EN:HTML>

⁸ Bushehr Shipping Co. Ltd (Malta); Hafize Darya Shipping Lines (HDSL) (Iran); Irano – Misr Shipping Co. (Iran); Irinvestship Ltd (UK); IRISL (Malta) Ltd (Malta); IRISL Club (Iran); IRISL Europe GmbH (Germany); IRISL Marine Services and Engineering Co. (Iran); ISI Maritime Ltd (Malta); Khazar Shipping Lines (Iran); Leadmarine (Singapore); Marble Shipping Ltd (Malta); Safiran

linked to IRISL, having determined that the Council of the EU could not justify the adoption and maintenance of restrictive measures against these entities.

IRISL, having been targeted by the US, EU and even the United Nations Security Council, operated the largest dry bulk carrier in the Middle East and had up to 150 vessels under its control prior to EU sanctions against it in 2010. However, successive EU and U.S. sanctions against it and its subsidiaries have severely affected its commercial operations.

IRISL was hit with financial sanctions by the U.S. Treasury in 2008 for what it said was its role in aiding Iran's ballistic missile development program, and any foreign companies doing businesses with IRISL may face punitive measures under U.S. law. On 26 July 2010, IRISL and 23 IRISL's affiliates were placed on the list of entities involved in nuclear proliferation set out in Annex II to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran. Based on EU Regulation 267/2012, at Article 23 (2)(a), all funds and economic resources of the persons and entities listed in Annex IX of the Regulation 267/2012 are frozen. The criteria for being listed in Annex IX is that the persons within it have been identified in the Decision 2010/413 as being engaged in or having supported Iran's proliferation sensitive

Payam Darya Shipping Lines (SAPID) (Iran); Shipping Computer Services Co. (Iran); Soroush Saramin Asatir Ship Management (Iran); South Way Shipping Agency Co. Ltd (Iran); Valfajr 8th Shipping Line Co. (Iran).

nuclear activities. Following the sanctions, several IRISL vessels were temporarily seized in foreign ports.

In Decision 2010/413, the EU Council stated the following grounds in respect of IRISL:

'IRISL has been involved in the shipment of military-related cargo, including proscribed cargo from Iran. Three such incidents involved clear violations that were reported to the [United Nations] Security Council Iran Sanctions Committee. IRISL's connection to proliferation was such that the [United Nations Security Council] called on States to conduct inspections of IRISL vessels, provided there are reasonable grounds to believe that the vessel is transporting proscribed goods, in [United Nations Security Council Resolutions] 1803 and 1929.'

The other applicants were identified in Decision 2010/413, in essence, as companies owned or controlled by IRISL or acting on its behalf. Khazar Shipping Lines was also identified as a company, which '[had] facilitated shipments involving UN- and US-designated entities, such as Bank Melli, by shipping cargo of proliferation concern from countries like Russia and Kazakhstan to Iran'.

IRISL (together with 17 of the 23 entities listed in Annex IX) applied to annul the Decision and the Regulation. The applicants put forward five pleas in law. The first plea alleged breach of their rights of defense and of their right to effective judicial protection. The second plea alleged breach of the obligation to state reasons. The third plea alleged breach of the principle of

proportionality, of their right to property and of their right to carry on an economic activity. The fourth plea alleged error of assessment as regards the adoption of restrictive measures against the applicants. The fifth plea alleged that Article 16(2) of Regulation No 961/2010 and Article 23(2) of Regulation No 267/2012 are unlawful in that those provisions impose a prohibition on the loading and unloading of cargoes.

The Court addressed just two of the five grounds relied on by the applicants in its judgment; the second plea in law, as it concerns the statement of reasons relating to IRISL, and then the fourth plea in law.

With regard to the second plea in law, the applicants' argument was that the Council breached its obligation to state reasons for the designation of IRISL when deciding to subject it to restrictive measures. The Council contested and stated that 'the statement of reasons must be appropriate to the act at issue and to the context in which it was adopted. It is not necessary for the statement of reasons to specify all the relevant facts and points of law, since the question whether the statement of reasons is sufficient must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question. In particular, the reasons given for a measure adversely affecting a person are sufficient if it was adopted in circumstances known to that person which enable him to understand the scope of the measure concerning him. Taken as a whole, that evidence is sufficient to enable the applicants to

understand that, in concluding that IRISL was providing support for nuclear proliferation, the Council relied on the three incidents involving the shipment of proscribed cargo by IRISL and on the fact that the Security Council considered it necessary to call on States to conduct inspections of IRISL vessels in certain circumstances.'

With regard to the fourth plea in law, the applicants' argument was that the Council relied upon mere presumptions that the applicants were involved in nuclear proliferation and did not identify any evidence to support that conclusion. The applicants stated, in particular, that the three incidents involving the shipment by IRISL of proscribed goods did not relate to nuclear proliferation but to military material, and did not therefore justify the adoption of the restrictive measures relating to nuclear proliferation. In addition, in any event, IRISL was unaware of the nature of the goods shipped.

The Council contested the merits of the applicants' arguments. According to the Council, 'in the first place, although the three incidents in respect of which IRISL is accused relate to military material, they constitute support for nuclear proliferation, given, in particular, that they violate the Security Council resolutions relating to nuclear proliferation. In the second place, irrespective of the classification of the three incidents mentioned above, the fact that IRISL, as a large shipping company with an international presence that is owned by the Iranian State, transported prohibited military material means that it also necessarily transported material linked to nuclear proliferation, given that

the development of activities linked to nuclear proliferation depends on shipping transport services. In the third place, in any event, the three incidents involving IRISL establish that there is a serious risk of IRISL transporting material linked to nuclear proliferation. Therefore, the adoption and maintenance of the restrictive measures to which it is subject is justified on a precautionary basis.'

After taking into consideration of the above arguments, the Court decided as follows:

- 1) Article 20(1)(b) of Decision 2010/413 provides for the freezing of funds of 'persons and entities ... that are ... providing support for ... Iran's proliferation-sensitive nuclear activities or for the development of nuclear weapon delivery systems, including through the involvement in procurement of the prohibited items, goods, equipment, materials and technology'. Similarly, Article 16(2)(a) of Regulation No 961/2010 and Article 23(2)(a) of Regulation No 267/2012 cover inter alia entities designated as 'providing support for Iran's proliferation-sensitive nuclear activities or the development of nuclear weapon delivery systems by Iran, including through involvement in the procurement of prohibited goods and technology'. Article 7(2) (a) and (b) of Regulation No 423/2007 covers inter alia persons and entities providing support for nuclear proliferation, without referring expressly to the procurement of prohibited technology and goods.

The wording used by the legislature

implies that the adoption of restrictive measures against a person or an entity on account of the support which that person or entity has allegedly given to nuclear proliferation presupposes that person or entity has actually done so. By contrast, the mere risk that the person or entity concerned may in the future provide support for nuclear proliferation is not sufficient.

Therefore, Article 20(1)(b) of Decision 2010/413, Article 7(2) of Regulation No 423/2007, Article 16(2)(a) of Regulation No 961/2010 and Article 23(2)(a) of Regulation No 267/2012 required the Council to establish that support for nuclear proliferation had actually been provided by IRISL.

- 2) In the present case, it is apparent from the 2009 annual report of the Sanctions Committee of the Security Council that the three incidents involving IRISL related to alleged breaches of the prohibition laid down in paragraph 5 of Resolution 1747 (2007) concerning the export of arms and related material by the Islamic Republic of Iran. By contrast, the other documents in the file, communicated to the applicants at their request by the Council and produced before this Court, do not contain evidence to suggest that the goods in question were also covered by the prohibition relating to material linked to nuclear proliferation, laid down in paragraph 7 of Resolution 1737 (2006).

In those circumstances, it must be concluded that it has not been established that, by having transported –

on three occasions – military material in breach of the prohibition laid down in paragraph 5 of Resolution 1747 (2007), IRISL provided support for nuclear proliferation. Therefore, the three incidents in question do not justify the adoption and maintenance of the restrictive measures concerning IRISL.

In those circumstances, the Council's assertion that IRISL has necessarily transported material linked to nuclear proliferation cannot be accepted.

- 3) The Council claims that the three incidents involving IRISL establish that there is a serious risk of IRISL transporting material linked to nuclear proliferation, it must be borne in mind that, the existence of such a risk is not sufficient to justify the adoption and maintenance of restrictive measures in the light of the wording of Article 20(1)(b) of Decision 2010/413, Article 7(2)(a) and (b) of Regulation No 423/2007, Article 16(2)(a) of Regulation No 961/2010 and Article 23(2)(a) of Regulation No 267/2012.

Therefore, even if it appears appropriate to regard the fact that IRISL was involved in the three incidents concerning the shipment of military material in breach of the prohibition laid down in paragraph 5 of Resolution 1747 (2007) as increasing the risk that IRISL may also be involved in incidents relating to the shipment of material linked to nuclear proliferation, that does not, as the relevant legislation now stands, justify the adoption and maintenance of restrictive measures against it.

- 4) With regard to the involvement of Khazar Shipping Lines in nuclear proliferation, Khazar Shipping

Lines maintains that it is not involved in nuclear proliferation, and submits in particular that it has neither transported cargoes linked to nuclear proliferation nor provided services to Bank Melli Iran. In that regard, it is sufficient to note that, while Khazar Shipping Lines challenges the substance of the allegations against it, the Council has not provided any information or evidence to support them. In those circumstances, those allegations do not justify the adoption and maintenance of the restrictive measures against Khazar Shipping Lines.

- 5) With regard to the fact that the applicants other than IRISL are owned or controlled by IRISL or act on its behalf, it should be noted that, when the funds of an entity identified as providing support for nuclear proliferation are frozen, there is a not insignificant danger that that entity may exert pressure on the entities it owns or controls or which act on its behalf, in order to circumvent the effect of the measures applying to it. That being so, the freezing of the funds of entities owned or controlled by an entity identified as providing support for nuclear proliferation or acting on its behalf is necessary and appropriate in order to ensure the effectiveness of the measures adopted vis-à-vis that entity and to ensure that those measures are not circumvented. However, in the present case the Council has not established that IRISL had provided support for nuclear proliferation. In those circumstances, even if the

applicants other than IRISL are in fact owned or controlled by it or act on its behalf, that does not justify the adoption and maintenance of the restrictive measures to which they are subject, since IRISL has not been properly identified as providing support for nuclear proliferation.

In the light of all the foregoing, the fourth plea must be upheld in regard to all the applicants and the contested measures must, in consequence, be annulled in so far as they concern the applicants, without there being any need to examine the applicants' other arguments and pleas in law.

EU governments have two months to appeal, and sanctions will remain in place until the appeals process is exhausted.

The judgment only annuls the applicants' listing in Annex IX; it does not affect any of the other restrictions upon IRISL and the other applicants that might apply under other Articles of the Regulation 267/2012. For example, EU insurers will still be unable to provide insurance/reinsurance to IRISL as IRISL is considered as an "Iranian Person" and so EU domiciled companies will still be unable to provide key naval equipment and technology to IRISL.

This judgment has no effect upon EU member states' UN obligations to inspect cargoes on vessels operated by IRISL. Furthermore, it will have no effect upon the US sanctions against IRISL. IRISL has been listed as a Specially Designated National under the US Weapons of Mass Destruction Proliferators sanctions regulations and it

involves in the Iranian shipping industry under the Iran Freedom and Counter-Proliferation.

Zahra Tahsili

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Oman

Environmental Laws of Oman

Guiding Principle

The United Nations (UN) Environment Program has credited Oman with having one of the best records in environmental conservation, pollution control and maintenance of ecological balance. Oman is even stated as having one of the world's most rigorously "green" governments. Oman's biodiversity is catered for by varying topographic features, from a vast arid deserts in the West, to a belt of grass and woodland in the mountainous region of the South, and the Arabian Sea in the East.

A. The Status of the Development (Kyoto)

The Gulf Cooperation Council (GCC) embraces a future in renewable energy; in 2009 the newly created International Renewable Energy Agency (IRENA) announced that its headquarters would be located in Abu Dhabi's Masdar City. The Sultanate of Oman, party to the Kyoto Protocol to the United Nations Framework Convention on Climate Change since January 19, 2005 led the GCC further, announcing the creation of a Designated National Authority (DNA) pursuant to its commitment as a 'non-

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Annex B' party to the Kyoto Protocol.

The creation of a DNA is a crucial step that will ultimately allow Oman to host projects, including renewable energy and clean technology projects, which reduce greenhouse gases under the Kyoto Protocol. These projects can provide an additional revenue stream to Oman from emissions credits sales in developing international carbon markets.

The Sultanate's decision to establish a DNA presented businesses in Oman with new opportunities in the renewable energy space. While wind, biogas, geothermal and wave energy pose strong opportunities for Oman, the greatest promise is held by solar energy. According to the May 2009 report of the Omani Authority for Electricity Regulations (AER), Oman is the beneficiary of some of the highest levels of solar density in the world. If harnessed, solar energy could provide for all of Oman's electricity needs.

Under Kyoto, non-Annex B members, primarily developing countries free from Kyoto's carbon emission limits, are permitted to monetize investments in carbon reduction projects by developing projects under the Protocol's Clean Development Mechanism (CDM). Projects under the CDM program are accredited by the CDM Executive Board, an implementing body of the Protocol, and result in reductions in carbon emissions, the implementation of which will earn emissions reduction credits (CERs) which can be sold on the open market to emitters in Annex B member nations.

Projects in Oman developed under the CDM must be approved by both the

Oman DNA and comply with requirements established by the CDM Executive Board. Furthermore, all CDM projects must adhere to Omani law, as well as CDM rules.

The sale of CERs could facilitate the benefits posed by solar energy by helping finance such projects. According to AER, Oman's origination of CERs could save anywhere from three to 18 percent of the operational and capital costs of solar and wind grids.

I. Regulations on the National Level in the Sultanate of Oman

Oman's environmental regime is primarily regulated by the Law on the Conservation of the Environment and Combating of Pollution (Royal Decree No. 114/01). Although its forerunner (of the same name – Royal Decree No. 10/82) now stands repealed, it enabled the enactment of a series of environmental legislation, most of which continues to be in force today.

Legislation for wildlife protection and nature conservation is mainly comprised of three Royal Decrees and two Ministerial Decisions:

- The Law on the Protection of National Heritage (Royal Decree No. 6/80);
- The Law on the Protection of Marine Biological Wealth (Royal Decree No. 53/81);
- The Law on the Conservation of the Environment and Combating Pollution;
- Ministerial Decision No. 4/76; and
- Ministerial Decision No. 128/93.

Proclamations on protected areas are to be found in three Royal Decrees:

- The Protection of Arabian Oryx (Royal Decree No. 4/94);

- Establishing the Turtle Sanctuary (Royal Decree No. 23/96); and
- Establishing Animal Reserves and Natural Parks (Royal Decree No. 48/97, No. 49/97, and No. 50/97).

Royal Decree No. 68/79 established the Council for Conservation of Environment and Prevention of Pollution, under the chairmanship of His Majesty the Sultan Qaboos bin Sa'id. Royal Decree No. 45/84 established the Ministry of Environment – the first of its kind in the Arab world – which, pursuant to Royal Decree No. 90/07, is now called the Ministry of Environment and Climate Affairs.

II. International Treaties and Conventions

Oman has ratified many international treaties related to environmental protection, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the UN Convention on the Law of the Sea, the UN Framework Convention on Climatic Change, and the UN Agreement on Prevention of Desertification in Countries Facing Severe Arid Conditions.

B. General Overview of Environmental Standards in the Sultanate

As stated above, Oman has a whole body of environmental laws, principal among them being Law for Protection of Environment and Combating Pollution (Royal Decree No. 114/01). This law imposes strict penalties for release of environmental pollutants and discharge of effluents in land and marine territory of Oman.

The Environmental regime regulates circulation and use of chemicals (Royal Decree No. 46/95); marine pollution (Royal Decree No. 34/74); air pollution from stationary sources (Ministerial Decision No. 5/86); management of solid non-hazardous waste (Ministerial Decision No. 17/93); management of hazardous waste (Ministerial Decision No. 18/93); noise pollution in the work place (Ministerial Decision No. 80/1994); waste water re-use and discharge (Ministerial Decision No. 145/93); occupational health and industrial safety precaution (Ministerial Decision No. 19/82); noise pollution in the public environment (Ministerial Decision No. 79/94); disposal of commercial waste materials (Ministerial Decision No. 8/84); and finally disposal of liquid effluents into the marine environment (Ministerial Decision No. 7/84). Petroleum Law (Royal Decree No. 42/74) and Mining Law (Royal Decree No. 27/03) stipulate environmental standards for items covered by it and the Civil Defense Law (Royal Decree No. 76/91) contains provisions relating to fire safety and environment.

Environmental problems currently faced by Oman include:

- high levels of soil and water salinity in the coastal plains;
- scarcity of water due to prolonged drought in certain areas;
- industrial effluents seeping into the water tables and aquifers; and
- desertification due to high winds driving desert sand into arable lands.

III. Main Areas of Environmental Concern

1. Marine pollution

The Law on Marine Pollution Control (Royal Decree No. 34/74), 1974, brought to light Oman's early concern for the safety of its marine environment. This law prohibits the discharge or release of any pollutant from a ship, shore location or oil transport facility in the Pollution Free Zone of Oman. This zone is the belt of water around Oman's territorial waters, which stretched for a distance of 38 miles. Any person violating the provisions of this law is subject to a maximum penalty of OMR 25,000 for a single violation, and of OMR 4 million for multiple violations, and may also be deprived, either temporarily or permanently, of all environmental rights granted by the government. Terms such as "operator", "oil transport facility", "pollutant", "pollution control officer", etc. are all defined in this law.

2. Air pollution

Ministerial Decision No. 118/04 on the Control of Air Pollution from Stationary Sources stipulates that owners must employ scientific methods specified by the ministry for the prevention of the emission of pollutants, and for their treatment and disposal. This law prohibits the emission of smoke over a specified density, and burning of organic or agricultural waste in the open. Approval must be obtained before installing a chimney, which must conform to the height specifications stipulated depending on its intended use.

3. Noise pollution

Ministerial Decision No. 79/94 on the

Control of Noise Pollution in Public Places prescribes noise levels based on the classification of public places, and identifies the following as external sources of noise:

- Industrial plants and construction sites;
- Road traffic; and
- Airports and the operation of commercial and other aircrafts.

Variations in noise levels during the day on weekdays and holidays are measured in accordance with the prevailing international standards, taking into account wind velocity direction, temperature and humidity.

Ministerial Decision No. 80/94 on Noise Pollution Control in the Work Place prescribes noise limits in places of work. Machines, equipment and other noise generating installations are required to be checked for noise emission levels during operation and installation.

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