

Special Issue on the Iran's Commercial Laws

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Iran

Prologue for this Special Issue on the Iran's Commercial Laws

The World is preparing for the end of the international sanctions against Iran. Many state delegations as well as many companies are visiting Iran to prepare themselves according to the prevailing circumstances.

The sanctions on Iran date back to the year 2006. Even if sanctions are still not lifted, the 5 + 1 States and the Iran are much closer to agree to an end as they are working on a specific plan to gradually lift the sanctions.

However, as long as the sanctions are not lifted and no time schedule is known, nothing really has changed. The laws before and during the sanctions are the same despite some adjustments. Therefore, it is advisable to get familiar with them before the sanctions are lifted. This is the purpose of this Special Issue.

However, during the sanctions Iran has changed. Necessity is the mother of invention, and Iran and the Iranians have learnt a lot to help themselves, where they did not get help from elsewhere. Whatever they got in the past from abroad, they may today produce themselves. Its time now to join forces to find the needs on one side and the right partners to deliver them on the other side. It is time to develop new trust and confidence in the other side's performance, which is not a one-way road.

For this reason, the publishers listed

above are preparing for seminars as soon as a timetable for lifting the sanctions is known.

While visiting Tehran recently, Mr. Rolf Meyer-Reumann, and Ms. Zahra Tahsili, head of the M&P Department in Tehran, received the most friendly and very efficient welcome and support of a Department of the Iranian Ministry of Trade and Energy. They offered to select qualified speakers from various Ministries on topics, which should be of particular interest for German companies. We are grateful for such assistance and hereby convey our tremendous thanks!! Thus the right Iranian Expert will explain in a couple of seminars Iran's plans after the sanctions. The speakers, the dates and the location of the seminars will be published as soon as known.

The above publishers are convinced that an update of the most relevant laws will enable the participants of the seminars to convert the news disclosed after the sanctions into a success.

Sesam and M&P welcome you on this our special Iran Website (<http://www.meyer-reumann.com/iran-seminar/index.asp>). Here you will find all information on the seminars, topics and speakers. The site will be constantly updated. Any further inquiries you may have please submit them to the dedicated email Iran2015@Meyer-Reumann.com and it will be a pleasure for us to be at the disposal at any time. We would be even more pleased and honored to welcome you to one our seminar, whether in Berlin, Frankfurt or Munich.

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Iran

Iran Sanctions – The Nuclear Deal with Iran Agreed

Guiding Principle

On July 14, 2015, the P5 + 1 (China, France, Germany, Russia, U.S. and the U.K., coordinated by the European Union's High Representative, reached a historic deal, a Joint Comprehensive Plan of Action (JCPOA), with Iran to ensure that Iran's nuclear program will be exclusively peaceful. Those who wish to do business in Iran should continue to monitor the JCPOA's implementation.

A. Introduction

On July 14, 2015, after almost two years of negotiations, China, France, Germany, Russia, the United Kingdom, and the United States (the E3/EU+3, also known as the P5+1) and Iran, along with the European Union, reached a final comprehensive agreement, [Joint Comprehensive Plan of Action](#) (JCPOA) in Vienna, Austria, regarding Iran's nuclear program. The JCPOA, builds on the foundation of the Joint Plan of Actions (JPOA), achieved in November 2013, and the political framework announced in Lausanne on April 2, 2015. The JCPOA serves as a detailed and complex process by which Iran must take certain steps to ensure the peaceful nature of its nuclear program, in return for certain relief from the sanctions imposed on them by the United States, the European Union, and the United Nations.

B. Joint Comprehensive Plan of Action

The JCPOA does not provide any immediate sanctions relief to Iran. Instead, U.S. and EU shall withdraw sanctions in a phased manner, based on Iran's achievement of certain milestones. The first phase of sanctions relief will take place on the "Implementation Day", the date on which the International Atomic Energy Agency (IAEA) verifies that Iran has implemented key nuclear-related measures described in the JCPOA, and therefore, sanctions relief under the JCPOA will commence will probably take six to nine months. Further sanctions relief will follow in time or upon further confirmation from the IAEA of Iran's compliance with restrictions on its nuclear program. If Iran materially fails to comply, the suspended sanctions will "snap back."

Until Implementation Day, only the limited relief already provided to Iran under the Joint Plan of Action, in effect since November 2013, which includes the temporary suspension of certain EU and U.S. sanctions, was extended. On Implementation Day, the JCPOA anticipates that the United States and the EU will provide sanctions relief beyond the scope of the Interim JPOA in a number of areas described further in this article.

On July 31, 2015, the European Union (EU), through [Council Decision \(CFSP\) 2015/1148](#), has extended the EU temporary sanctions relief for six months to 14 January 2016. The US, through a [statement](#) issued by the Treasury Department's Office of Foreign Assets Control (OFAC) on 14 July 2015, has confirmed that the US temporary

sanctions relief remains in effect through the Implementation Day.

C. UN Sanctions

The UN sanctions against Iran have principally focused on prohibiting certain nuclear-related activities, and exports of arms, such as battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, and missiles or missile systems, and missile-related technology, as well as on the imposition of asset and travel bans against certain Iranian individuals/entities.

On July 20, 2015, the United Nations Security Council took the first step contemplated by the JCPOA by unanimously adopting [Resolution 2231 \(2015\)](#), which endorsed the JCPOA and urged its full implementation. The resolution agrees to terminate on Implementation Day the seven current UN resolutions on Iran. The UN Security Council will then replace these with specific restrictions on an arms embargo and missile technology.

D. EU Sanctions

The EU, based on Council Decision 2015/1148, adopted the first measures to prepare for the implementing of JCPOA with Iran by allowing EU Member States to open the door for allowing certain previously prohibited activities, subject to strict conditions, including prior notification to the United Nations Sanctions Committee. However, any of the other currently restricted or prohibited activities involving Iran or Iran-related parties remain in place until the EU formally lifts them. The precise timing of the lifting of sanctions on “Implementation Day” remains unclear.

The JCPOA currently anticipates removing entirely the EU economic and financial sanctions on the oil, gas, petrochemical, and civilian nuclear sectors. Annex V to the JCPOA sets out the precise detail and timing for the sanctions’ lifting. As a result, the following activities, which are now prohibited, will be permitted:

- Transfers of funds between EU persons and entities, including financial institutions, and Iranian persons and entities, including financial institutions;
- Banking activities, including the establishment of new correspondent banking relationships and the opening of new branches and subsidiaries of Iranian banks in the territories of EU Member States;
- Provision of insurance and reinsurance;
- Supply of specialized financial messaging services, including SWIFT, for designated persons and
- Entities, including the Central Bank of Iran and Iranian financial institutions;
- Financial support for trade with Iran (export credit, guarantees or insurance);
- Commitments for grants, financial assistance and concessional loans to the Government of Iran;
- Transactions in public or public-guaranteed bonds;
- Import and transport of Iranian oil, petroleum products, gas and petrochemical products;
- Export of key equipment or technology for the oil, gas and

petrochemical sectors;

- Investment in the oil, gas and petrochemical sectors;
- Export of key naval equipment and technology;
- Design and construction of cargo vessels and oil tankers;
- Provision of flagging and classification services;
- Access to EU airports of Iranian cargo flights;
- Export of gold, precious metals and diamonds;
- Delivery of Iranian banknotes and coinage;
- Export of graphite, raw or semi-finished metals such as aluminum and steel, and export of software for integrating industrial processes;
- Designation of certain persons, entities and bodies (asset freeze and visa ban); and
- Associated services for each of the categories above.

In addition, the EU has also committed further to explore possible areas for cooperation between the EU Member States, and Iran. In particular, the EU will consider the use of available instruments, such as export credits to facilitate trade, project financing, and investment in Iran. The EU provides an overarching framework for export credit principles, but export credit agencies which are run at a Member State level, potentially provide a range of different opportunities for EU investors.

Nevertheless, the EU political sanctions imposed in response to human rights violations in Iran, by Council Decision 2011/235/CFSP and Council Regulation

359/2011 (as subsequently amended) will remain in place. In practice, the ban on the supply of certain goods used for internal repression will continue in addition to the asset freezing measures on designated persons and entities.

E. U.S. Sanctions

Annex II to the JCPOA commits the United States to take certain steps with respect to both U.S. primary sanctions and nuclear-related secondary sanctions on Implementation Day, although the commitments with respect to primary sanctions are more limited and in the form of certain licensing commitments.

I. U.S. Primary Sanctions

It is a bit early to anticipate which impact the deal between Iran and 5P+1 will have on U.S. companies and their non-U.S. subsidiaries, given the JCPOA's limited impact on U.S. primary sanctions. The U.S. government has made a commitment in the JCPOA to issue licenses for activities related to certain activities, including:

- **Non-U.S. Subsidiaries of U.S. Companies:** The wording of the JCPOA states that the U.S. will “license non-U.S. entities that are owned or controlled by a U.S. person to engage in activities with Iran that are consistent with this JCPOA.” The JCPOA defines an entity as owned or controlled by a U.S. person “if the U.S. person: (i) holds a 50 percent or greater equity interest by vote or value in the entity; (ii) holds a majority of seats on the board of directors of the entity; or (iii) otherwise controls the actions, policies, or personnel decisions of the entity.” The JCPOA

further clarifies that “U.S. persons and U.S.-owned or -controlled foreign entities will continue to be generally prohibited from conducting transactions of the type permitted pursuant to this JCPOA, unless authorized to do so by the U.S. Department of the Treasury’s Office of Foreign Asset Control (OFAC).” It remains to be seen how this licensing commitment will be implemented by OFAC.

- **Civil Aviation:** The JCPOA commits the United States to allow licenses for primary sanctions in civil aviation. Specifically, the United States committed to “*allow for the sale of commercial passenger aircraft and related parts and services to Iran by licensing the (i) export, re-export, sale, lease or transfer to Iran of commercial passenger aircraft for exclusively civil aviation end-use, (ii) export, re-export, sale, lease or transfer to Iran of spare parts and components for commercial passenger aircraft, and (iii) provision of associated serviced, including warranty, maintenance, and repair services and safety-related inspections, for all the foregoing, provided that licensed items and services are used exclusively for commercial passenger aviation.*” But if the United States determines that “*licensed aircraft, goods, or services have been used for purposes other than exclusively civil aviation end-use, or have been re-sold or re-transferred to persons on the SDN List, the United States would view this as grounds to cease performing*” its civil aviation

commitments in the JCPOA.

- **Imports of Food:** The JCPOA commits the United States to provide licenses for the importation into the United States of Iranian-origin foodstuffs, specifically including pistachios and caviar. The foodstuff provision also extends to Iranian-origin carpets.
- **Education:** The JCPOA anticipates that the United States would end the exclusion of Iranian citizens from higher education coursework related to careers in nuclear science, nuclear engineering, or the energy sector.

II. U.S. Secondary Sanctions

With respect to secondary sanctions, U.S. sanctions relief will occur in a number of sectors as follow:

- **Financial and Banking Measures:** Certain secondary sanctions measures, including those related to the Central Bank of Iran and other Iranian financial institutions, the National Iranian Tanker Company and National Iranian Oil Company, along with several other Specially Designated Nationals (SDNs), transactions involving Iranian Rials and government bonds, would be suspended and eventually terminated.
- **Insurance Measures:** The JCPOA specifically addresses certain secondary sanctions measures related to the insurance industry and indicates that the U.S. will lift “sanctions on the provision of underwriting services, insurance, or reinsurance in connection with activities consistent with this JCPOA, including activities with

individuals and entities set forth in Attachment 3 to this Annex.”

- **Energy and Petrochemical Sectors:** The JCPOA anticipates that the United States would cease efforts to reduce Iran’s crude oil sales, including limitations on the quantities of Iranian crude oil sold and the nations that can purchase Iranian crude oil. Additionally, many secondary sanctions restrictions would be permanently removed, including sanctions on investment, participation in joint ventures, goods, services, information, technology, and technical expertise and support for Iran’s oil, gas, and petrochemical sectors. Furthermore, sanctions on the purchase, acquisition, sale, transportation, or marketing of petroleum, petrochemical products, and natural gas from Iran; sanctions on the export, sale, or provision of refined petroleum products and petrochemical products to Iran; and sanctions on transactions with Iran’s energy sector, including with the National Iranian Oil Company and Naftiran Intertrade Company.
- **Shipping, Shipbuilding, and Port Sectors:** The agreement would permanently remove secondary sanctions restrictions that threaten sanctions for persons found to have knowingly engaged in transactions with Iran’s shipping and shipbuilding sectors and port operators, including IRISL, South Shipping Line, and the National Iranian Tanker Company, as well as the port operators of Bandar Abbas.
- **Automotive Sector:** The JCPOA

includes language specifically addressing certain secondary sanctions measures related to the automotive industry and indicates that the United States will lift “sanctions on the sale, supply or transfer of good and services used in connection with Iran’s automotive sector.”

F. Next Steps on Implementation

Under U.S. law, U.S. Congress has 60 days to review the JCPOA from the date the President submits the agreement to Congress. In theory, Congress could enact legislation to attempt to disapprove the JCPOA and interrupt the progression of the terms agreed. President Obama has indicated he would veto any such legislation, requiring a veto-proof majority, two-thirds of the House and Senate, to override the President’s veto.

Within ninety days of the UN Security Council Resolution, the JCPOA comes into effect (Adoption Day). This will be 18 October 2015, unless the parties agree on an earlier date. The parties then become legally obligated to commence preparations to implement their JCPOA commitments.

On Implementation Day, the EU will terminate specified provisions of Council Regulation 267/2012 and suspend Council Decision 2010/413/CFSP, while the United States will cease the application of specified sanctions. That said, it remains to be seen how the agreement will be implemented in practice given the complexities of the various provisions.

On Transition Day, eight years from the adoption of the Security Council Resolution, the European Union and the United States will take further steps to

terminate the sanctions specified.

As the parties work to meet their obligations, the JCPOA also contemplates the “snap-back” of Iran sanctions in the event that Iran fails to comply with the agreement.

G. Considerations from a Business Perspective

The JCPOA marks a landmark step towards reopening the Iranian market for Western businesses, though within limits. The existing US embargo affecting Americans’ trade with Iran will not be fully lifted, as that embargo is based in large part on concerns about terrorism and regional destabilization rather than nuclear proliferation.

The sanctions relief, if implemented, represents a significant opportunity for European companies, but it remains to be seen what effect the deal will have on U.S. companies and their non-U.S. subsidiaries, given the agreement’s limited impact on U.S. primary sanctions. The JCPOA will benefit EU businesses by allowing them to sell a wide range of products to Iran and engage in financial transactions with that country.

In the longer term, if the JCPOA is implemented successfully and Iran abides by its commitments, restrictions on trade by U.S. companies in non-sensitive items can be expected to be rolled back, probably in stages.

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Iran

Setting up a Business Establishment in the Islamic Republic of Iran

Guiding Principle

Foreign companies, entering the Iranian market and setting up an establishment in Iran, may choose between a joint venture company with an Iranian partner, or a company in the mainland with 100% foreign shareholding or a branch or representative office in Iran.

A. Introduction

Foreign companies, who enter the Iranian market and set up an establishment in Iran, may choose between different alternatives dependent on their intended activities: They may form a joint venture company with an Iranian partner, or a company in the mainland with 100% foreign shareholding or a branch or representative office in Iran.

B. Commercial Companies

The Commercial Code of Iran (abbrev. IR-CC)¹ contains four important topics. One of which is related to commercial companies. The IR-CC recognizes seven

¹ The present Iranian Commercial Code, consisting of 600 articles, was approved by the National Consultative Assembly on April 03, 1932 and amended on March 04, 1969. Most of this law was taken from the 1807 French Trade Law.

types of commercial companies, which could be associated with the following types of business:

- a) Joint Stock Company or Corporation (*Sherkat Sahami*)
- b) Limited Liability Company (*Sherkat ba Masouliyat Mahdoud*)
- c) General Partnership (*Sherkat Tazamoni*)
- d) Limited Partnership (*Sherkat Mokhtalet Gheyr Sahami*)
- e) Joint Stock Partnership (*Sherkat Mokhtalet Sahami*)
- f) Proportional Liability Partnership (*Sherkat Nesbi*)
- g) Production and Consumption Cooperative Society (*Sherkat Ta'avoni Towlid va Masraf*)

From the above companies, three types of companies are of significant importance and are more common in Iran, which are Private Joint Stock Company, Public Joint Stock Company, and Limited Liability Company.

I. Joint Stock Company (Public and Private)

The Joint Stock Company by law is defined as a company whose capital is divided into shares and the liability of the shareholders is limited to the par value of their shares. It is an independent legal entity, which may enter into contracts, may sue and may be sued. Therefore, shareholders' personal properties are separate from their contributions and the creditors of the company should pursue the properties belonging to the company. A managing board chosen from shareholders, by an ordinary general assembly, directs the company. The joint stock company may be either a public or a private company.

The main difference between the two is that the public company may offer its shares and debt securities to the public while a private company may not. The form of a public joint stock company is generally adopted by entities who wish to raise capital publicly, regardless of the fact that the company is listed on the board of stock exchange or not. The number of shareholders in the public one must be at least five persons and a private company may operate with at least three persons. Shares can be transferred, although this issue is subject to the certain restrictions in the private company and is subject to the approval of managing board or shareholders. The private joint stock company is the most common form of commercial enterprises in Iran and the one most frequently used by foreign investors in forming joint venture companies. Articles 1-300 of the amended IR-CC dated 1969 define the procedures, rights and obligations that govern the joint stock company and its shareholders.

II. Limited Liability Company

Two or more partners, who are only liable for the company's debts to the extent of their contribution, whereas, the capital is not divided into shares, may establish this type of company. Transfer of partnership share is very difficult, where a three quarters majority of partners is required to authorize this deal and share transfer should be notarized in the Notary Public. This company is managed by one or more directors, salaried or not, chosen from among the partners or outside, for a limited or unlimited period. Where a limited liability company consists of more than twelve partners a board of supervisors

must control them. Articles 94-115 IR-CC define the procedures, rights and obligations that govern the limited liability company and its partners.

C. Joint Venture Companies

Depending on the size and nature of commercial activities and business plan of foreign companies, they may enter into joint venture agreement with Iranian companies and establish a joint venture company. Based on Iranian law, the amount of contribution imported by foreign party is not subject to any limitation and it could be approved even up to 100% of equity share. A joint venture company is a registered company in Iran and these types of companies may take either the form of a private joint stock company or in some cases a limited liability company.

D. Foreign Companies' Branch / Representative Office

One of the simplest and most common means for commercial transactions and investment could be an establishment of a branch or representative office of a foreign company in Iran.

According to Iranian Law the branch office of a foreign company is the subordinate local unit of the principal company, which carries out the objectives, and functions of the principal company in that location. The activity of the branch in the location must be conducted under the name and responsibility of the principal company. The representative of the foreign company, is the natural person or legal entity who is in charge according to the representation (agency) contract, with carrying out a certain part of the object and functions of the principal company. The representative of the foreign

company shall be responsible with respect to the activities carried out in the location under the agency granted by the principal company.

The foreign representatives and branch offices are presently registered in Iran according to the stipulations of the Act Permitting the Registration of Branch or Representative Offices of Foreign Companies, ratified on November 12, 1997, and its Executive By-Laws of May 02, 1999.

According to Article 1 of Executive By-Laws, foreign companies, which are recognized as a legal company in their country of origin, may register their branch or representative in Iran, for activities listed below, in conformity with the country's laws and regulations and by observing the principle of reciprocal action:

1. Offering after-sale services for the goods or services of the foreign company;
2. Carrying out the executive operations of the contracts concluded between Iranian persons and foreign companies;
3. Studying and laying grounds for the foreign company's investment in Iran;
4. Cooperation with Iranian technical and engineering companies for undertaking activities in third countries;
5. Increasing the non-oil exports of the Islamic Republic of Iran;
6. Offering technical and engineering services and transfer of know-how and technology;
7. Engaging in activities permitted by the governmental agencies legally

authorized to issue such permits, in areas such as offering services in transportation, insurance and surveying, banking, marketing, etc.

One or a number of natural persons residing in Iran or having a residence permit as to allow him to travel to and from Iran at any time should manage the branch or representative office.

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Iran

Tax System in the Islamic Republic of Iran

Guiding Principle

The principal taxes in Iran are corporate and personal taxes on income and VAT. The Iranian tax law is formulated in a way that encourages investments in production activities, mainly in industry and mining. This is done by means of providing low tax rates and quality facilities and other exemptions.

A. Introduction

The Tax system of Iran is based on the Direct Taxation Law dated May 11, 1988 (as amended) (abbrev. IR-DTL) and the Value Added Tax Law, enacted on June 08, 2008 (abbrev. IR-VATL). The Ministry of Finance and Economic Affairs is the authority empowered to levy and collect taxes.

All foreign investors doing business in Iran or deriving income from sources in Iran are subject to tax. Depending on the

type of activity, the foreign investor is engaged in, different taxes and exemptions are applicable, including profit tax, income tax, property tax, VAT.

B. Types of Taxes based on Direct Tax Law

Based on the Direct Taxation Law the following types of taxes are applicable in Iran:

I. Property Income Tax:

All income earned by any natural person or legal entity derived from the transfer of rights in property in Iran, shall be subject to the property income tax. The property income tax is divided into inheritance tax and stamp duty.

1. Inheritance Tax:

The provisions related to inheritance tax has been set out in Art. 17 through Art. 43 IR-DTL.

2. Stamp Duty:

Stamp duty is a type of tax levied on some documents such as checks, bills of exchange, promissory notes, negotiable instruments, stocks and shares, etc. according to Art. 44 – Art. 51 IR-DTL.

II. Income Tax

According to Art. 52 through to Art. 131 IR-DTL, the income tax is grouped into the following seven categories. In this Article, each of these categories is briefly explained.

1. Real Estate Income Tax:

The income earned by any natural person or legal entity derived from the transfer of rights in real estate in Iran, shall be subject to the real estate income tax under the provisions of Art. 53 – Art. 80 IR-DTL.

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2. Agriculture Income Tax:

The income derived from all activities in the field of agriculture; animal rearing; stockbreeding, fish farming, bee-keeping, poultry husbandry, hunting and fishing; sericulture, revival of pastures and forests, horticulture of any type and palm trees, is exempted from the payment of taxes.

3. Salary Income Tax:

According to Art. 82 - Art. 92 IR-DTL, the income of a natural person employed by another natural person or legal entity, that is derived against services rendered by that employee with regard to the occupation of employee in Iran whether on basis of time spent or work done, and whether paid in cash or otherwise, shall be subject to tax on salary income. Employers are required to make the necessary tax deductions from their employees' payroll and submit them directly to the tax authorities.

Taxable salary income consists of the salary (fixed emolument or wage, or basic salary) and benefits paid in connection with the employment. Salary income is taxed at 0-20% (maximum) according to Art. 85 and Art. 131 IR-DTL. As a quick reference, please find the following table on Local Employees Salary Tax Rates based on the above Articles in Iranian year 1394 (March 21, 2015 – March 19, 2016):

Annual Salary/Profit (in IRR)	Annual Salary/Profit (in USD on 17.08,2015)	Tax Rate
Up to 138,000,000	4,6405	(Exemption) 0%
138,000,000 to	4,6405 to 32,4837	10%

966,000,000		
In excess of 966,000,000	In excess of 32,4837	20%

Approx. IRR 29738= 1 US dollar

4. Tax on Business Income (Self-Employment Tax)

Self-employment tax is a type of income a person earns in Iran through self-employment. Such income derived in Iran by natural persons through engagement in one of the thirty-one businesses, provided in Art. 96 IR-DTL, shall be subject to the tax on business income.

Any natural person who is involved in one of these thirty-one businesses should maintain sufficient demonstrative records and documents for assessment of their taxable income.

Hence, they are obligated to maintain the relevant books of accounts, records and documents in conformity with the accepted auditing principles, and they should register their business activities in the books of journal and ledger prescribed in the Commercial Law of Iran.

This group of taxpayers' income shall be exempt from taxation up to the exemption threshold and the income in excess of that, shall be taxed at the progressive tax rate based on Art. 131 (Table below).

Annual Taxable Income (in IRR)	Annual Taxable Income (in USD)	Rate
Up to 30,000,000	Up to 1.009	15%
30,000,001 to 100,000,000	1.009 to 3,3627	20%
100,000,001 to	3,3627 to	25%

250,000,000	8,4068	
250,000,001 to 1,000,000,000	8,4068 to 33,627	30%
Over 1,000,000,000	Over 33,627	35%

5. Corporate Income Tax

The aggregate income of companies derived from different sources in Iran or abroad, less the losses resulting from non-exempt sources and minus the prescribed exemptions, shall be taxed at the flat rate of 25%, except the cases for which separate rates are provided under the Direct Taxation Law. The taxation is based on the declared accounting profit.

C. Tax Holidays

All taxpayers are obligated to, even within the exemption period; submit tax declaration and profit and loss balance sheets, provided from their official statutory books. If they do not submit the documents within the stipulated time span, the tax exemption will be invalid.

The current tax exemption in Iran applies as follow:

Activity	Level of Exemption	Duration of Exemption
Agriculture	100%	Perpetual
Industry and Mining	80%	4 Years
Industry and Mining in Less-Developed Areas	100%	20 Years
Tourism	50%	Perpetual
Export of services & non-oil goods	100%	During 5th development Plan
Educational & sport	100%	Perpetual

services		
Cultural activities	100%	Perpetual
Handicraft	100%	Perpetual
Salary in Less-Developed Areas	50%	Perpetual
All Economic Activities in Free Zones	100%	20 Years

D. Value Added Tax (VAT)

All companies engaged in the supply of goods and services, or in imports or exports, are regarded as taxpayers and subject to the provisions of the VAT Law. The supply of commodities and services in Iran, as well as imports and exports, is subject to the provisions of the VAT Law. Based on the Law all taxable companies must register themselves for VAT and account for VAT on a quarterly basis by filing a quarterly VAT return. The overall VAT rate for the year (current Iranian Year) 1394 shall be 9%.

The basis for calculating the tax is the price of the goods or services indicated on the invoice. In cases where (i) no invoice is available, (ii) no invoice is presented, or (iii) it is established according to supporting proof, documents and evidence that the price on the invoice is not real, the basis for calculating the tax is the prevailing prices of the commodities or services on the date of application of the tax.

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Iran

Protection of Intellectual Property Rights in the Islamic Republic of Iran

Guiding Principle

The Iranian Intellectual Property Law (IR-IPL) is a legal concept, which determines the protection and the use of intellectual including Trademarks, Patents and Patent Designs. Protection of intellectual property has a long tradition in Iran. New efforts because of technological innovations in Iran during recent years have caused the legislator to pay more attention to IP protections. Foreign companies returning to the country or newcomers are well advised to have a close look on their IP protection.

A. Introduction

One of the essential core of commercial transactions, taking place every day, consists of assets such as brands, know-how and technologies, which requires considerable diligence when entering into these transactions. The commercial values of such transactions largely revolve around intellectual property rights (“IPRs”). Intellectual property rights cover several types of legally recognized rights arising from some type of intellectual creativity. Intellectual property rights typically include:

- Copyrights and related rights;
- Patents;
- Design Patents
- Trademarks.

International awareness of the

importance of IPRs protection is continuously growing. The industrialized countries suffer enormous losses in their export markets year by year due to faked products and imitated IPRs. Therefore, all major export countries endeavor to achieve an improvement in industrial property legislation worldwide. Protecting an intellectual property right against imitators is of utmost importance, in particular in areas like Iran, where faked products are constantly penetrating the market. With regard to IPRs, companies dealing with Iran are well advised, to reserve in their budget an amount for IP protection.

Most intellectual property rights require formal registration with the competent authorities in order to exist and/or have full legal protection. The registration process varies based on the nature of intellectual property. A registration certificate is usually issued by the competent authority as evidence of registration of intellectual property rights.

B. Intellectual Property Legislations in Iran

IP protection in Iran started with trademark protection in 1925. A few years later, the Patent and Trademark Registration Act of Iran was more or less copied from the laws of European countries and enacted in 1931, and its executive regulations were amended in 1958, mainly in order to conform the old 80 classes of goods and services to the new 36 classes of international classification.

In recent years, the IPRs system of Iran was repeatedly revised. As a case in point, Art. 45 of the fourth economic, social and cultural development plan of

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Iran (2005–2010) calls on the government to design and implement a comprehensive IP system to encourage the development of knowledge-based products and commercialization of research results. This section attempts to document and faced critique in the latest developments in the IP scene.

Therefore, on October 28, 2007, the Law of Registration of Patents, Industrial Designs and Trademarks (abbrev. the Judicial Committee of the Islamic Consultative Assembly approved “IR-PITL”)², to supersede the Patent and Trademark Registration Act, according to which, industrial designs and geographical indications were not registrable. The Executive Regulations of the Law of Registration of Patents, Industrial Designs and Trademarks was approved on January 20, 2009.

The Law offers the opportunity to guarantee the protection by registering all types of IPRs in the Iran. This law aims to create a balance between monopoly of rights resulting from innovations in the fields of science and traditional knowledge and protection of public interest against excessive intellectual property protection, whilst at the same time harmonizing itself with international conventions on intellectual property rights.

² The Law was approved in the course of a session of the Judicial Committee of the Islamic Consultative Assembly on October 28, 2007 and was subsequently confirmed by the Guardians Council on February 12, 2008. It was published in Official Gazette No.18389 on April 20, 2008.

Amongst others, the Law introduces provisions for substantive examination of patent applications, protection for industrial designs, amending the trademark regime and introduces criminal penalties for infringement of intellectual property rights.

C. Access to International Treaties

Iran became a member of the World Intellectual Property Organization (WIPO)³ in 2002 and has acceded to several WIPO intellectual-property treaties and already previously joined the Convention for the Protection of Industrial Property (Paris Convention)⁴ in 1959. In December 2003 Iran became a party to the Madrid Agreement and the Madrid Protocol for the International Registration of Marks⁵. In 2005 Iran joined the Lisbon Agreement for the Protection of Appellations of Origin and

³ <http://www.wipo.int/portal/index.html>

⁴ The Paris Convention for the Protection of Industrial Property, signed in Paris, France, on March 20, 1883. For more information please see the following link: http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html

⁵ The Madrid system (officially the Madrid system for the international registration of marks) is the primary international system for facilitating the registration of trademarks in multiple jurisdictions around the world. Its legal basis is the multilateral treaty Madrid Agreement Concerning the International Registration of Marks of 1891, as well as the Protocol Relating to the Madrid Agreement (1989). For more information please see the following link: <http://www.madridprotocol.info/ProtocolText.pdf>

their International Registration⁶, which ensures the protection of geographical names associated with products. As at February 2008 Iran had yet to accede to the Hague Agreement for the Protection of Industrial Designs⁷.

⁶ The Lisbon Agreement, concluded in 1958, was revised in Stockholm in 1967, and was amended in 1979. The aim of the Lisbon Agreement is to provide for the protection of appellations of origin, that is, the “geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors” (Article 2). For more information please see the following link: http://www.wipo.int/lisbon/en/legal_texts/lisbon_agreement.html

⁷ The Hague Agreement Concerning the International Deposit of Industrial Designs, also known as the Hague system provides a mechanism for registering an industrial design in several countries by means of a single application, filed in one language, with one set of fees. The system is administered by WIPO. The Hague Agreement consists of several separate treaties. Countries can sign up to the 1960 (Hague) Act, the 1999 (Geneva) Act, or both (the 1934 Act is frozen as of January 1, 2010). If a country signs up to only one Act, then applicants from that country can only use the Hague system to obtain protection for their designs in other countries which are signed up to the same Act. For more information please see the following link: http://www.wipo.int/hague/en/legal_texts/

D. Protection of Copyright and related rights in Iran

Copyright and all related rights are protected under the Law for Protection of Authors, Composers and Artists Rights, enacted in 1970 and the Law of Translation and Reproduction of Books, Periodicals and Audio Works, enacted in 1973. These works on the Internet are also protected under the Electronic Commerce Act, enacted in 2003. Iran has not acceded to any International Convention or Agreement on Copyright and Related Rights Protection (e.g. Bern and Rome Conventions).

E. Protection of Industrial Property in Iran

Based on the Paris Convention, in particular Art. 10(2), industrial property consists of the following subjects:

- patents;
- utility models;
- industrial designs;
- trademarks;
- service marks;
- trade names;
- indication of source;
- appellations of origin; and
- the repression of unfair competition.

Iranian laws and regulations provide specific legal rules protecting a number of the above subjects.

I. Patent

Based on Art. 1 IR-PITL, a patent is the fruit of the intellectual endeavors of one or more individuals who, for the first time, come up with a special new process or product and solve a problem in a vocation, trade, technology, industry and the like. According to Art. 2 IR-

PITL, having the following prerequisites is required a patent is accepted for registration:

- a) New initiative: It means the elements that did not exist in the previous technology or industry and were not known yet to ordinary holders of skills in that profession. Such initiative needs to be an applied invention and innovation from an industrial prospect that can be manufactured or used in an industrial field.
- b) Industrial usage: By industry, the vastest application, including handicrafts, agriculture, fishing and services, has been taken into consideration.

The following instances may not be covered by IR-PITL, if the subject of the patent is:

- Discoveries, scientific theories, mathematical methods and works of art.
- Designs, procedures or methods for carrying out commercial activities and other intellectual and social activities.
- Methods of diagnosis and treatment of human or animal diseases.
- Genetic resources and genetic components thereof as well as the biological processes of their production.
- Any and all matters already known in technologies and industries of the past.
- The patents, the exploitation of which shall be contrary to the Rules of Sharia or public order and good social morals.

Under IR-PITL, patent rights shall belong exclusively to the inventor thereof. The rights under patent may be freely transferred to others. In case of death of a holder of patent, the rights thereunder are transferred to the heirs.

The lifetime of a patent however is limited. In Iran, it is 20 years from the time of filing.

II. Trademarks

A Trademark is not only a name or a logo. It's actually representing the value for what is registered. Its value stands for the market value of the product, which was created by developing a high quality product and by winning the confidence of a wide range of customers, by promoting, advertising and marketing it through the years and guarantees the customer the constant quality of the product showing the trademark. Well known trademarks have a tremendous value, which is of course also known to copy and infringe the trademark and attach it on faked or imitated products, which in return damages the genuine one, when this is known to the public. As opposed to patents, which lose value with age (after 20 years a patent becomes part of the public domain), trademarks gain their value over time.

Trademark in Iran may be any word, name, slogan, symbol, device, package design or combination of these that serves to identify and distinguish a product from others in the marketplace and is used to identify its source. Based on Art.30 IR-PITL, trademark means any visible sign by the use of which it shall be possible to distinguish the commodities and services offered by natural persons and legal entities.

A statement of registration of a mark shall be submitted to the Trademark Registration Bureau together with a sample of the mark and the list of the goods and services for which registration of the mark has been applied, based on the classification that is being enforced or on the basis of the international classification. With regard to the fees, each registration of a trademark for each separate class is considered as one trademark registration.

The period of validity of registration of a mark shall be ten years after the date of filing the statement of registration. This period may be extended unlimited at the request of the proprietor for ten-year periods, by payment of applicable charges.

The exclusive right of exploitation of a mark shall belong to the one who registered that mark, according to the provisions of IR-PITL.

Exploitation and use of any mark registered in Iran, by anyone except the proprietor of the mark, shall be subject to agreement by proprietor. A proprietor of a registered mark may file suit with court against anyone making use of his mark without any agreement or against anyone who commits an act that shall customarily result in violation of the rights of the proprietor of a registered mark. Such rights include the instances where a mark similar to the registered mark was used for sale of goods for services similar to those sold with the registered mark thereby causing misleading of the public.

Apart from IR-PITL, Art.66 of Electronic Commerce Act⁸ provides the protection of trademarks and domain names on the Internet. Also, Art. 76 provides the imprisonment and the fine for the infringement of right of owner trademark.

The total fee for registration of trademark in Iran about AED 11.500 per trademark/class including the official and professional fees

III. Industrial Designs

According to Art. 20 IR-PITL, any combination of lines or colours and combinations of 3 dimension shapes and figures with lines and/or colors or without such elements, but to such extent that the combination or profile of an industrial design or a product of handicrafts shall change, will be regarded as an industrial design.

An industrial design may be registered only in case it shall be novel and genuine. An industrial design shall be novel when prior to publication of notice, it was not known or disclosed to the public, in any part of the world.

Exploitation and use of any industrial design registered in Iran, by any person, shall be subject to agreement by the proprietor of the industrial design.

The period of validity of an industrial design shall be five years after the date of filing the statement of registration. This period may be extended for two

⁸ Electronic Commerce Act was enacted by the Islamic Consultative Assembly on 07.01.2004 and was ratified by the Guardian Council on 07.01.2004.

more consecutive five years periods by paying the relevant charges.

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Free Trade-Industrial Zones and Special Economic Zones in the Islamic Republic of Iran

Guiding Principle

There are seven Free Trade-Industrial Zones and many Special Economic Zones in Iran. The Iranian Free Trade Zones are more ambitious in their objective of acting as a tool for attracting Foreign Direct Investment and ultimately for generating a diversified industrial base and promoting Iran's non-oil exports. On the other hand, Special Economic Zones facilitate transit of goods and improve the supply and distribution networks in Iran.

A. Introduction

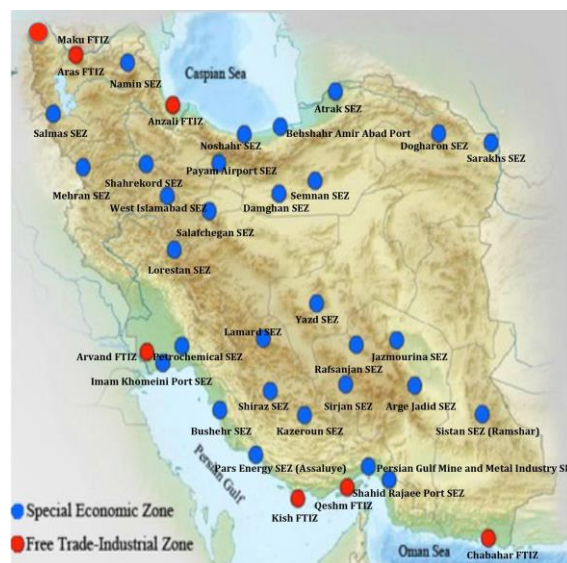
The Islamic Republic of Iran began to implement the First Five-Year Economic, Social and Cultural Development plan aimed at the reconstruction and economic recovery in 1989, after the end of the eight-year war with Iraq. Based on this plan, various locations were assigned and free or special economic zones established in order to fully adopt the principles of a free market and attract the foreign

investment.

The Free Trade-Industrial Zones (FTIZs) and Special Economic Zones (SEZs) are those parts of Iranian territory that are managed according to the special laws and bylaws and in some aspects; they are excluded from the laws of the governing mainland.

In FTIZs and SEZs, there is no limitation for the percentage of partnership by foreign investors. According to Art. 5 of Regulations on Investment in the Free Trade-Industrial Zones, foreign investors are allowed to take part in economic activities of the FTIZ with any percentage of partnership.

The geographical location of each FTIZs and SEZs has been marked in the below map:



B. Free Trade-Industrial Zones

FTIZs in Iran are excluded from the domain of the customs authorities and enjoy the full freedom for inflow and outflow of goods and commodities. The Iranian Parliament approved the Law on the Administration of Free Trade-Industrial Zones of the Islamic Republic

of Iran in September 1993.

The Council of Minister approved the by-laws of the free zones in May 29, 1994. These by-laws have defined and set out all regulations pertaining to import, export, investment, insurance, banking, labour and employment of these zones.

The incentives and advantages for investment in FTIZs of Iran are as follow:

- Tax exemption for the period of 20 years from the date of the commencement of the operation mentioned in the licenses for all economic activities;
- 100% foreign ownership;
- Legal guarantees and protection for foreign investment;
- No limitations on transfer of foreign currency to other Iranian Free Zones or to other countries;
- Freedom of inflow and outflow of capital and expatriation of profits generated by economic activities in FTIZs;
- No requirement for entry visa for foreign nationals and easy procedures for issuance of residence permits;
- Facilitated regulation on labour relations, employment and social security;
- Transfer of part manufactured goods to the mainland without paying customs duties;
- No requirement for payment of customs duties on imports from abroad and visa versa; and
- Utilization of raw materials, oil and gas as feedstock and fuel for all

industrial activities.

The list of the FTIZs of the Islamic Republic of Iran are as follows:

- Qeshm Free Trade-Industrial Zone;
- Chabahar Free Trade-Industrial Zone;
- Aras Free Trade-Industrial Zone;
- Anzali Free Trade-Industrial Zone;
- Arvand Free Trade-Industrial Zone;
- Kish Free Trade-Industrial Zone; and
- Maku Free Trade-Industrial Zone.

C. Special Economic Zones

SEZs are those parts of territory of Iran, in which the Iranian Customs regulations are not applicable. Special Economic Zones were established close to entry borders of Iran for easing the export and import of commodities and protecting the domestic industry and attracting the new technologies. Iranian Parliament approved the Law on the Establishment and Management of Special Economic Zones Islamic Republic of Iran on 01.06.2005.

In accordance with Para. (D), Note 25 of the Law for the Second Five-Year Economic, Social and Cultural Development Plan of the Islamic Republic of Iran, which was approved in the year 1993 in order to support domestic products, development of non-oil exports and making the regional economy more active, the Government was authorized to establish special protected zones in entry borders and domestic customs departments in certain parts of the country having the required capacity for this purpose.

As per Article 2 of the executive by-law of the same law, the authorized activities

in the zones include:

1. Maintenance of goods in trust;
2. Facilitating and speeding up access to the goods, including raw materials, machinery and other domestic products, in order to make the owners' scene of activity closer to domestic consumers for supporting the state domestic production;
3. Goods processing or alteration in order to achieve value added price by using potentialities;
4. Providing the required facilities for domestic and foreign whole purchasers to have access to their required goods in these zones; making the regional commercial markets closer and developing the state foreign trade;
5. Creating fields for regional commercial activities while considering the markets of Middle Asian countries, Caucasus and beyond, connections with Asian, European and other countries as well as useful operation of these markets using all domestic and foreign transit, export and re-export facilities; and
5. Absorbing capital and domestic/foreign facilities for the above activities in order to achieve the required goals while abiding by the relevant rules and regulations.

The list of SEZs of the Islamic Republic of Iran are as follows:

- Arge Jadid Special Economic Zone;
- Atrak Special Economic Zone;
- Behshahr Amir Abad Special

Economic Zone;

- Bushehr Port Special Economic Zone;
- Damghan Special Economic Zone;
- Dogharon Special Economic Zone;
- Imam Khomeini Port Special Economic Zone;
- Jazmourina Special Economic Zone;
- Kazeroun Special Economic Zone;
- Lamard Special Economic Zone;
- Lorestan Special Economic Zone;
- Mehran Special Economic Zone;
- Namin Special Economic Zone;
- Noshahr Special Economic Zone;
- Pars Special Economic Energy Zone (Assaluye);
- Payam Airport Special Economic Zone;
- Persian Gulf Mine and Metal Industry Special Economic Zone;
- Petrochemical Special Economic Zone;
- Rafsanjan Special Economic Zone;
- Salafchegan Special Economic Zone;
- Salmas Special Economic Zone;
- Sarakhs Special Economic Zone;
- Semnan Special Economic Zone;
- Shahid Rajaei Port Special Economic Zone;
- Shahrekord Special Economic Zone;
- Shiraz Special Economic Zone;
- Sirjan Special Economic Zone;
- West Islamabad Special Economic Zone; and
- Yazd Special Economic Zone.

D. Comparison between FTIZ and SEZ

The below table will show the differences between FTIZ and SEZ:

Comparison between Free Trade-Industrial Zones and Special Economic Zones in Iran			
No.	Description	FTIZs	SEZs
1.	Entry to the Zones	No entry visa required for entering into the Zone. Visa shall be issued at entrance	Subject to the law concerning foreigner's entrance into the mainland
2.	Applying for investment	Subject to the relevant regulations enforced in FTIZ	Subject to the law enforced in the mainland
3.	Registration of a company in the free zone, intellectual property, trademarks, brands, patents, etc.	Subject to the relevant regulations enforced in the Free Zone	Subject to the relevant regulations enforced in the mainland
4.	The percentage of foreign capital investment allowed in the Zone	Up to one hundred percent of foreign capital investment	Subject to the law and regulations on foreign capital investment enforced in the mainland (In normal cases, up to one hundred percent of foreign capital investment is allowed in the mainland)
5.	Import of goods from abroad into the Zone to be sold in the zone or re-exported abroad, but not re-imported to the mainland	Free from all kinds of taxes and duties, but local levies and fees are collected according to the services rendered by the executive departments	Free from all kinds of taxes and duties, but local levies and fees are collected according to the services rendered by the executive departments
6.	Re-exporting imported goods to the Zone to abroad	Free from all kinds of taxes and duties	Free from all kinds of taxes and duties
7.	Warehousing in Zone	Available having no grace period for clearance of goods	Available having no grace period for clearance of goods
8.	Goods, semi-finished parts, raw materials from mainland to the Zone	If exported from FTIZ, subject to General Exports-Imports regulations in the mainland	If exported from SEZ, subject to General Exports - imports regulations in the mainland
9.	Import of goods from abroad into the free zone, then to the mainland	Subject to the General Exports-Imports regulations in the mainland	Subject to the General Exports-Imports regulations in the mainland
10.	Unloading, loading, transit and transshipment of merchandises abroad	Free from all kinds of taxes and duties, only warehousing and local charges shall be collected	Free from all kinds of taxes and duties, only warehousing and local charges shall be collected
11.	Utilization of land and natural reserves	Land is sold and/or leased to the Iranian nationals, but only leased to the foreigners	Land is sold and/or leased to the Iranian nationals, but only leased to the foreigners
12.	Foreign Exchange rates	Free market exchange rates in the Zone	Domestic Banking exchange rates in the mainland
13.	Retail selling	Allowed, except in the Arvand, Aras and Anzali Free Zone	Not allowed

14.	Offshore banking services and operations by private sector	Available in FTIZ	Only domestic banking services operated by the state banks
15.	Protection of Foreign capital investment	Accepted, protected and guaranteed	Accepted, protected and guaranteed
16.	Social security, social insurance	The mainland social security regulations enforced	The mainland social security regulations enforced
17.	Labor law, labor and industrial relations	Subject to the regulations enforced in FTIZ	Subject to the mainland labor law

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