

United Arab Emirates

Legal Provisions

Compiled by:

Swiss Business Hub GCC

Dubai, June 2015

GENERAL REMARKS

A. Economic position of the UAE

The UAE has an open economy with a high per capita income and a sizable annual trade surplus in addition to a virtually tax free economy, which makes it a fast paced growing business hub and truly international business centre of global significance. Successful efforts at economic diversification have reduced the portion of GDP based on oil and gas output to approximately 29%. The country has undergone a profound transformation from an impoverished region of small desert principalities to a modern state with a high standard of living. The government has increased spending on job creation and infrastructure expansion and is opening up utilities to greater private sector involvement.

The UAE did not escape the impact of the global economic slowdown in 2009. However, its exposure to the global economy, combined with the government's considerable fiscal resources and the encouraging performance of other sectors (tourism, retail, banking, etc.) helped the UAE to stage a strong recovery which remains true in 2015.

The European Free Trade Association (EFTA) successfully finalized its negotiations with the Member States of the Gulf Cooperation Council (GCC) – comprising Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE – on 24 April 2008. The agreed texts cover a broad range of areas including trade in goods, trade in services, government procurement, competition and intellectual property rights. Bilateral arrangements on agricultural products between the individual EFTA States and the GCC are also part of the package.

The UAE has reached Double Taxation Agreements (DTAs) with more than 70 countries from all over the world including Switzerland. The DTA between the UAE and Switzerland was signed in 2011 and entered into force in 2012.

The UAE has been able to maintain its position in the 2015 World Economic Forum “Global Competitiveness Report”. Ranked 12th (out of 144), the UAE confirmed its position as one of the most competitive economies in the Middle East region. The higher oil prices have allowed the UAE to reduce public debt and invest in a high quality infrastructure. However, there have been recent changes in this regard after the fall in oil prices. The country's institutional environment remains, as in previous years, a competitive advantage, characterized by a low regulatory burden, high public trust in politicians, and reliable security services.

B. Investment incentives

Due to strategic location, UAE has been hosting & providing routes to business since centuries. It offers easy access to the 1.5 billion consumer markets situated in Africa, West Asia, CIS countries, and Europe as well as the areas surrounding the Red Sea and the Gulf. With 11 state-of-the-art ports – with the most well-known being the Jebel Ali Port in Dubai - 8 airports and satellite links to most countries, the UAE has become one of the leading enter port centres of the world, rivalling the emerging tigers of South East Asia, having long since consolidated its position among the top oil producing nations, the visionary leadership of the UAE is concentrating its efforts on industrial development in the country.

According to experts, sustained economic growth still can be expected in the future as well, due to political stability and liberal economic policies. The UAE offers incoming business all the advantages of a highly developed economy. Its infrastructure and services match the highest international standards, facilitating efficiency, quality and service. Among the benefits are: tax exemption, no corporate taxes, no income taxes, no foreign exchange controls, no trade barriers, competitive import duties (5% with many exemptions), competitive labour costs, balanced labour law, free enterprise system, free trade zones, highly developed transport infrastructure, state-of-the-art telecommunications, sophisticated financial and services sector, top international exhibition and conference venues, high quality office and residential accommodation, reliable power and utilities, first class hotels/hospitals/schools, and shopping cosmopolitan lifestyle.

C. Court and legal system

A stable court and legal system provides investors with the necessary security in carrying out business transactions. Although the individual emirates retain the right to pass laws, federal uniform laws apply to the economically most important judicial areas, since the UAE has legislative rights for this area. While Islamic law, the Shari 'a, is constitutionally the source of most legislations, such as personal matter laws for Muslims, it has only a subordinate role in economic law. One basic principle of contract law of the Shari 'a should however, always be observed: "The contract is the law of the parties." Individual legal concepts and intentions should always be exhausted in the implementation of planned investments.

The courts of the UAE have a three-tiered structure. Each of the seven emirates has the constitutional right to pass its own independent regional laws. Thus far, this has been utilized up to the highest level of appeals only by Abu Dhabi with the Supreme Court of Cassation and Dubai with the Dubai Court of Cassation. The five other emirates also have courts of first and second instance, but in matters of final instance they are subordinate – with the exception of the Emirate of Ras Al-Khaimah – to the Supreme Court of Cassation in Abu Dhabi.

Thus far, no agreement exists between the UAE and Switzerland on mutual recognition and enforcement of judicial decisions or arbitration. However, it is worth mentioning that the UAE has recently subscribed to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards. The recognition and enforcement of foreign arbitration decisions in the UAE is thus possible through the implementation of the said new law.

CUSTOMS

The Harmonized System (HS) coding structure is used in the UAE for the import of goods. Unless particular product is exempted, the UAE levies a relatively low import duty of 5% on import goods into UAE and outside the Free (Zones (as of 01/01/2003), based on the CIF (cost, insurance and freight) value of the goods. No customs are levied on a variety of goods, e.g. foodstuffs, certain raw materials, or medical equipment. However, 50% duties are levied on alcohol and 100% on tobacco products. For goods that are intended for re-export, the customs duties paid are returned after a certain period following re-export. To benefit from reduced customs duties, manufacturers will have to prove that at least 40% of the value was added in the UAE and at least 51% owned by UAE nationals.

For further information, please visit: www.fca.gov.ae/En/.

FREE TRADE AGREEMENT (FTA)

On 1 July 2015, the Free Trade Agreement (FTA) between Switzerland and the GCC was officially implemented, providing customs duty exemptions between the two parties. However, at this point in time, the GCC member countries are still working on ensuring the smooth implementation of the agreement, and some delays may occur as a result.

For certification technicalities and other related matters, the Swiss exporters are advised to consult the following:

Arab-Swiss Chamber of Commerce

70, route de Florissant, CH-1211 Geneva 12

Tel.: +41 22 347 3202

Fax: +41 22 347 3870

Email: arabswisscham@caschi.ch

Website: www.caschi.ch

IMPORT AND EXPORT REGULATIONS

Goods, which are not already prohibited by the country, can be imported with an import permit issued by UAE customs. Goods can either be imported through a third party freight forwarder or logistics provider, or through a distributor/agency. Some products may require special documents, and this can be clarified at the UAE Customs.

Normally, the below documents will be required to bring goods into the UAE:

- Master Airway Bill/House Airway Bill for Air channel
- Master Bill Of Lading/House Bill Of Lading for Sea Channel
- Commercial Invoice
- Certificate of Origin
- Packing List
- Delivery Order
- Permits wherever applicable

(additional documents may apply for the FTA)

When importing through a Free Zone, all goods are exempt of customs duties. As long as the goods are not exported to other GCC countries from the Free Zone, they may be exported onwards without any duties.

The UAE government prohibits the import of drugs and narcotics into the UAE, as well as pornographic material, non-Islamic religious pamphlets for missionary activities, fireworks, ivory, weapons & ammunition, chemical and organic fertilizers, laser pens, radar jammers/unauthorized communication devices, endangered animal species, and any objects, sculptures, paintings, books or magazines which do not adhere to the religious and moral values of the UAE.

CURRENCY REGULATIONS

In the UAE, there are no restrictions on currency exchanges. It is freely convertible and is pegged to the American Dollar (US\$). Average Exchange Rate: 1 CHF = AED 4.00 (3.99212 on 19.05.2015).

REGISTRATION PROCEDURE FOR PRODUCTS

The necessity for product registration depends mainly on the industry line of the products. Usually, it is the importer or trade agent based in the UAE that is responsible for carrying out the registration procedures. Such products tend to fall under appliances, cosmetics, medicines, and electronics, to name a few.

Please refer to the Emirates Authority for Standardization & Metrology for further information:

<http://www.esma.gov.ae/en-us>.

STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

The Gulf Standards Organization (GSO) sets the framework for the UAE's packaging and labelling requirements, which are also made up of international norms for standards and other technical requirements.

Exporters are encouraged to consider cultural norms and values when designing and developing product packaging. A best practice would include consulting local contacts for context and current information when developing labels and packages. An Arabic translation should appear on the packing in addition to other languages used.

The labels should include:

- A complete list of ingredients in decreasing order
- Name and brand of the product
- All the food additives
- Water content should appear on the label
- The transport and storage conditions should appear
- Name and address of the manufacturer and packer
- Country of origin
- Method of preparation for consumption
- Origin of animal fat or gelatin should be mentioned
- Manufacturing and expiry dates

Sometimes, other regulating bodies (eg. ESMA <http://www.esma.gov.ae/en-us>) will have labeling conditions that need to be considered as well.

Halal should be clearly mentioned for all meat products. Food products should not contain alcohol or pork. Municipalities have established a list of food additives or colorings authorized in Emirates.

TAXES

The UAE has no uniform tax law for the whole country. Tax legislation is reserved to the individual emirates. The laws in the overwhelming majority of the emirates provide for taxes to be levied, but in practice, most of these regulations are not applied. In principle, the individual emirates do not levy income tax on natural persons (locals or foreigners). The income tax for legal entities/bodies is thus far levied only on companies that are directly involved in the production and processing of oil, gas, and petrochemical products, and on domestic and foreign banks at the Emirate level and courier companies at the Federal level. Further, Emirate-level taxes are imposed on the holder of petroleum

concession at rates specifically negotiated in the relevant concession agreements. Dubai and certain other Emirates impose taxes on some goods and services including, for example, sales of alcoholic beverages, hotels and restaurant bills and residential leases. However, there is no sale tax or VAT (yet). In the various free zones, the governments of the respective emirates guarantee tax exempt status for 15 years, with the option to renew for another 15 years.

INHERITANCE AND SUCCESSION

On 30 April 2015 the Dubai International Financial Centre Wills and Probate Registry ("DIFC WPR") was launched. The new DIFC WPR provides a unique service that allows non-Muslim individuals over 21 years of age to register their wills in accordance with their wishes with full testamentary freedom, hence avoiding the application of Sharia Law.

The DIFC WPR aims at addressing with certainty succession and inheritance matters of non-Muslims with assets in Dubai. As such, it represents a fundamental step forward for the jurisdiction. The testator does not need to be a Dubai resident to register a DIFC will. The DIFC is a Common Law jurisdiction and the WPR's Rules are based primarily on the principles contained in the UK Estates Act and Probate Rules. Shari'a principles do not form part of the DIFC WPR's legal framework.

For the probate proceedings of the testator's will registered with the DIFC WPR, the DIFC Courts have sole jurisdiction.

Prior to the implementation of the DIFC WPR, the non-Muslims alternative in Dubai was a duly executed will before a Notary Public with an express stipulation of the applicable foreign law. It is a condition *sine qua non* for the application of such law by a competent Court. If no will has been made, Shari'a principles would automatically apply.

COMMERCIAL LAW

Commercial Agency in the UAE is regulated by Federal Law No. 18 of 1981 as amended by Federal Law No. 14 of 1988, Federal Law No. 13 of 2006 and Federal Law No. 2 of 2010 (CCL).

The CCL's main principles have essentially remained unchanged since the law's promulgation in 1981.

The CCL is the protection granted to UAE Nationals or UAE companies totally owned by UAE Nationals – the only persons allowed by the CCL to act as a commercial agent – when an agreement is entered with a typically foreign principal.

Currently, a principal that has a registered agreement with an UAE agent can only terminate it – regardless of the term provisions of such agreement – and register an agency agreement with another agent, if the principal: (i) has obtained a consent of the agent; (ii) has proved "justifiable reasons" accepted by the Committee; or (iii) has obtained a conclusive court order confirming the termination or non-renewal.

Increasingly, termination and deregistration of agency agreements in the UAE are completed through settlement between the parties, when typically a monetary compensation is paid by the principal to the agent.

Effective 1 July 2015, the new UAE Commercial Companies Law - Federal Law No. 2 of 2015 ("New CCL") has been implemented. The New CCL aims to achieve a global high standard in the market, improve the corporate governance, raise companies' social responsibility, alleviate the economic status of the jurisdiction and protect the rights of the shareholders.

The New CCL brought changes relating to Limited Liability Companies as well as to Joint Stock Companies among others.

SETTING UP COMPANIES

In the UAE, economic activity is regulated by individual Emirates as well as by the Federal Government. Generally, the following business possibilities are available to foreign companies:

- Direct Trade
- Appointment of commercial agency
- Establishment of /or participation in a commercial company
- Establishment of a business in a free trade zone
- Offshore Companies

Basically, business activity in the UAE is based on the principle of local participation with the exception of free zones. This applies not only to the appointment of commercial agents, but also to the establishment of a business, and this principle can be found in various forms in all provisions of business law in the UAE and also in the rest of the GCC states. This is to ensure the participation of the local population in the economic boom and guarantee final control by locals. Only purely export business from a free trade zone is exempted from this regulation.

Often, the principle of local participation is (mistakenly) equated with the so-called sponsor. Originally, the sponsor functioned exclusively as a guarantor for foreigners who conducted business in the UAE. However, the increase of foreign business activity in the country transformed the term and the liability of the sponsor. For example, sponsorship in business law refers to the required 51% participation of UAE citizens as real partners in limited liability companies or to their function as so-called service agents for branches of foreign companies or representative offices.

With regard to the previously mentioned peculiarity there are two points that are of decisive significance:

1. The right local business partner, whether a commercial agent, partner in one of the commercial companies types available, service agent in a branch, or just an importer / exporter of goods.
2. For any kind of business relationship, a well-balanced contractual basis adapted to local legal and business customs.

The search for the right business partner can often take a long time and require patience, but it is always worth it in the long run. You should therefore be urgently fore-warned of the often extensive

legal consequences of a hasty and untested contractual commitment to a local partner. For anyone who does not have sufficient experience and local connections, professional advice – of any kind – can only be recommended for those seriously considering attempting to establish a successful business in the Gulf states. The New CCL allows one person, a natural or a corporate national, to incorporate and hold a Limited Liability Company (LLC) as a sole shareholder. The same benefit applies to a Private Joint Stock Company, which may be held by a single shareholder.

PROMOTION OF INVESTMENT

The UAE economy is open to Foreign Direct Investment, and it is usually done so in the form of either joint ventures or direct investments. Part of the UAE foreign investment strategy is to offer attractive incentives to foreigners such as no taxes, 100% ownership, affordable manpower, ease of opening and doing business, and high standards of living. It is nevertheless advised that Swiss companies interested in investing in the UAE study all aspects of their plan and be prepared for unexpected consequences. Seeking legal advice is strongly recommended.

ENTRY CONDITIONS, WORK PERMITS, RESIDENCE PERMITS, LABOUR LAW

In order to lawfully work in the UAE, expats ranging from 18-65 will need an employment contract as well as a work permit. In order to be eligible to sponsor his/her family dependants in the country as well, the UAE authorities have set a minimum salary level for a person to do so. This minimum salary is set at AED10,000/month.

In order to be issued a work permit, the expat will need to be sponsored by an Emirati sponsor, which can be in the form of an individual, a private company or a governmental entity. This work permit is issued by the Ministry of Labour, in accordance to the license of the Emirati sponsor. In addition, it has become mandatory for employers to issue health insurance for their employees in order for the Ministry of Labour to issue the work permits.

Only then will the expat be issued a renewable (every 2-3 years) residence visa.

Visitors

Citizens of EU benefit from a very advantageous regime since April 2015 pursuant to an agreement between the European Union (EU) and the UAE, according to which nationals of EU countries may stay in the territory of the UAE for a maximum period of 90 days in any 180-day period. Such visa waiver does not apply to persons travelling for the purpose of carrying out a paid activity during their visit to the UAE.

PROCEDURES FOR COLLECTING PAYMENT

The collection of outstanding payments for projects executed especially by foreign entities in the UAE has become stricter, especially when it comes to working with governmental entities. Payment terms

usually include an upfront payment, with the outstanding amount being paid directly upon the delivery of the project. Generally, import of goods into the UAE is received on the basis of an irrevocable letter of credit (L/C), although other arrangements such as open account, cash in advance and documentary collection are also permitted. It is advised that the terms of payment be clearly defined in contracts, with a legal advisor going over the details.

The Dubai Land Department (DLD) has extended until 31 October 2015 the registration of all property transactions in the Emirate. The fee for registering a real property sale contract is 4% of the property value as per Executive Council Resolution No. 30 of 2013.

SOURCES OF INFORMATION AND LINKS

MEED	www.meed.com
NOOZZ	www.noozz.com
Department of Economic Development	www.dubaied.gov.ae
Dubai Chamber of Commerce	www.dubaichamber.com
Expat Arrivals	www.expatarrivals.com
Federal Customs Authority	www.fca.gov.ae
Dubai Customs	www.dubaicustoms.gov.ae

Note: Due care and diligence have been taken to ensure the highest accuracy and quality for the production of this report, however S-GE and its partners decline any responsibility for decisions taken based on the findings of this report.

Laws & Regulations revised by: M/Advocates of Law
Mr. Yann Mrazek, Managing Partner

Date: 30 July 2015
Author: Lamia Damerje
Trade Advisor
Author's address: Swiss Business Hub GCC
C/o Consulate General of Switzerland
P.O. Box 9300
Dubai, United Arab Emirates
Tel: +971 4 329 0564
Fax: +971 4 331 3679
sbhdubai@eda.admin.ch