SWITZERLAND GLOBAL ENTERPRISE

The Sultanate of Oman
Legal Provisions

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GENERAL REMARKS

A middle-income country with an economy based primarily on dwindling hydrocarbon resources, Oman has summarised the country's development priorities and objectives for the coming years in the Economic Vision 2020. Through this ambitious programme, Oman plans to accomplish a diversification programme of its economy by developing its natural gas resources, including Liquefied Natural Gas (LNG) facilities, energy-based industries, and related businesses. In addition to encouraging the development of gas intensive industries, LNG is expected to be a major non-oil revenue source. The country is also focusing on the expansion of non-energy-related industry including agriculture and fisheries, light manufacturing, and tourism. To reduce its dependence on the oil price fluctuations, the Sultanate of Oman is aiming at involving the private sector in the development and the diversification of the national economy.

Acceded to the World Trade Organization in 2000, Oman is a member of the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). Oman continues to liberalise its markets by lifting restrictions on foreign investment and ownership of companies. To reduce unemployment and limit its dependence on foreign labour, the government is encouraging the replacement of foreign expatriate workers with local workers through a national "Omanization" programme.

The Sultanate of Oman has set up the Public Authority for Investment Promotion and Export Development ITHRAA (formerly PAIPED, OCIPED) to promote private sector and foreign investment and to support the export of Omani products. This centre is considered to be a "one stop shop" for foreign investors.

Judicial power lies with the courts, which are independent of the executive authority. The commercial circuit of the Omani court has jurisdiction over commercial disputes. In enforcing agreements between parties and/or concluding rulings based on the Sharia, the court applies Omani laws established by Royal Decrees that codifies rules and principles derived from Sharia and Civil Law. However, there are special laws that govern and regulate specific areas of law like arbitration in civil and commercial disputes regulated by Sultani Decree 47/97. Thus, the Sultanate of Oman has established special laws.

Oman is a member to the International Convention for the Settlement of Investment Disputes between States and Nationals of other States (ICSID) and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards. Oman maintains other judicial bodies to adjudicate various disputes. All litigation and hearings are conducted in Arabic. Binding international arbitration of investment disputes between foreign investors and the Omani government is recognised. Omani courts recognise and enforce foreign arbitral awards, and international arbitration is accepted as a means to settle investment disputes between private parties. Nonetheless, Oman courts may disregard the application of the foreign governing law and applies Oman law or reject the recognition of the foreign court judgment or arbitral award on specific grounds.

The Omani Court has jurisdiction over most tax and labour cases, can issue orders of enforcement of decisions and also accept cases against governmental bodies. The Court can only issue, without any implementation, rulings against the government. Cases whose value is less than OMR 70,000 is looked at by one judge at the primary court level, and by three judges for cases whose value exceed OMR 70,000. Primary court judgments, regardless of its value, can be appealed before the court of appeal and Supreme Court in Oman. Cases can only be reopened after judgment if new documents are discovered or irregularities (e.g., forgery, perjury) are found. There is no provision for the publication of decisions, and the decisions do not carry precedent.

In case the amounts of disputes are small, parties to a dispute may refer their dispute to the Dispute and Settlement Department at the court to resolve such dispute amicably, failure of which, the dispute can be transferred to the court. Omani Chamber of Commerce and Industry is in process of establishing an arbitration centre to settle commercial disputes which would give Swiss investors another direct mean for resolving their disputes. Oman is a member of the GCC Arbitration Centre as well. If a dispute arises, the Swiss company should consider using Omani courts. It is worthy to know before entering into a transaction with an Omani party, how a dispute will be resolved. This involves three important considerations:

- Whether to use Omani courts or courts of other countries;
- The type of Omani tribunal in which the dispute will be resolved; and
- The possibility of arbitration. Nonetheless, before suing an Omani company in another country, the Swiss company should verify if the Sultanate of Oman has a reciprocal enforcement treaty with that country.

Generally, agreements with local agents or distributors are written in English. Agreements in Arabic should not be signed without independent certified translation. Clauses regarding individual responsibilities, performance, expiry and termination are critical. The Swiss company might hire the services of a local legal firm. Upon a request, the Embassy of Switzerland in Muscat might provide a list of some local lawyers.

CUSTOMS

Like the other members of the Gulf Cooperation Council (GCC), Oman has implemented the customs union on the 1st of January, 2003. A duty of five per cent is imposed on most imports, where some exceptions may apply. Some tariff lines (mainly food, animals and medicines) attract a zero duty rate. However, all imported meats require a health certificate issued by the country of export and a “Halal” slaughter certificate issued by an approved Islamic centre in that country. Some restrictions still exist in the Omani market. Oman applies some protective duties on a limited number of products such as dried lemon, bananas, dates and ghee.
Only companies registered with the Ministry of Commerce and Industry (MOCI) and members of the Oman Chamber of Commerce and Industry are allowed to import goods into the Sultanate of Oman. Importation of certain categories of goods, such as livestock, alcohol, poultry and their respective products, firearms, explosives and narcotics, requires a special license issued by various governmental authorities. Also, only Omani nationals are permitted to submit documents to clear shipments through customs. The Royal Oman Police, The Directorate General of Customs website provides further information related to customs &custom duties: www.customs.gov.om
Importers/distributors are most commonly used in the retail food business.

IMPORT AND EXPORT REGULATIONS

Foreign companies willing to distribute their products in Oman often opt for appointing a local agent. Having local agent is mainly useful for selling to the Omani government. Although, government procurement officials purchase directly from suppliers; it is still difficult for foreign companies to sell to the government without an Omani agent. Likewise, in other Gulf States, regular personal contact is the key to success in trade relationships. Before appointing a local agent, personal visits to potential agents are recommended. Before drawing up an agency agreement, foreign company should obtain a local legal counsel.

Before conducting business in Oman, Swiss companies must be aware that manufacturer or supplier may not unilaterally terminate the agency agreement except where there is a justifiable breach of agreement by the agent. The agency agreement should be registered at the Oman Ministry of Commerce and Industry. Agents must register with the Registrar of Agents and Commercial Agencies at the Ministry of Commerce and Industry (MOCI).

The Omani authority in charge of supervising importations into Oman is the Directorate General of Customs under the Royal Omani Police (ROP). The Common Customs Law of the GCC States of 2003 provides the following types of import regimes:

- Release for free circulation;
- Transit;
- Temporary Admission; and
- Importation into a free zone.

Oman has a computerised custom declaration form for import declaration and confirmation that goods have been cleared from customs. Import procedures in the Sultanate of Oman follow standard international practice with no quantitative or price restrictions for importers. However, the importation of plants, plant products, animals and animal products require prior permission from the Ministry of Agriculture and Fisheries. Phytosanitary and veterinary certificates, as appropriate, are required and goods will be inspected and released upon approval of Ministry of Agriculture authorities. For animal products or foodstuffs containing substances of animal origin, a Halal Certificate is required.

For cultural reasons, Oman restricts the importation of alcoholic beverages and pork products and applies high duties. To export to Oman, it is essential for Swiss companies to label or to put stickers on all food products in Arabic or bilingual English/Arabic language. Production and expiry dates are required to appear on all “original” food packages.

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.

CURRENCY REGULATIONS

The Omani unit of currency is the Omani rial, abbreviated RO. The rial is divided into 1,000 baizas. The Omani rial is freely convertible. Since 1986, the exchange rate of the rial against the US dollar has been fixed at RO 1 = USD 2.60.

With the exception of certain restrictions on the foreign-currency holdings of commercial banks, Oman does not impose exchange controls. In general, Oman does not restrict the remittance abroad of equity or debt capital, interest, dividends, branch profits, royalties, management and technical service fees, and personal savings.

However, the following commercial bank transactions require prior approval from the central bank:
- Declarations of dividends by locally incorporated banks; and
- Remittances by foreign bank branches to their head offices of any surpluses from the previous year's profits

Except for capital ratios on financial services institutions, Oman does not impose rules on debt-to-equity ratios. Also, there are practically no currency exchange restrictions or controls in any form on inward or outward investment or on repatriation of capital and profits, either by nationals or expatriates in Oman. Exchange for payments abroad may be obtained freely, and there are no taxes or subsidies on purchases or sales of foreign currency.

REGISTRATION PROCEDURE FOR PRODUCTS

Royal Decree No. 67/2008 promulgated the Law of Industrial Property Rights. This law provides for the protection and registration of trademarks, patents, industrial designs, topographic designs and inventions. Upon registration of industrial property rights, the owner gets full protection of the law and exclusive rights. Trademark laws in Oman are Trade Related Aspects of Intellectual Property Rights (TRIPs) compliant. Trademarks must be registered and noted in the Official Gazette through the Ministry of Commerce and Industry. Local law firms can assist companies with the registration of trademarks.
In order to receive protection, a foreign-copyrighted work must be registered with the Omani government by depositing a copy of the work with the government and paying a fee. It is also possible to seek counsel from local attorneys or IP consultants. A good partner is an important ally in protecting IP rights. Thus before signing any partnership agreements, it is always advisable to conduct due diligence on the selected partner.

STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

As far as standards are concerned in metrology, calibration, making and identification of commodities and products, the competent organisation to formulate national standards is the Directorate General for Specifications and Measurements (DGSM), which operates under the Ministry of Commerce and Industry.

Common GCC labelling standards of imported goods is a key issue facing foreign manufacturers. Food labels must include product and brand names, production and expiry dates, country of origin, name and address of the manufacturer, net weight in metric units, and a list of ingredients in descending order of importance. All fats and oils used as ingredients must be specifically identified on the label. Labels must be in Arabic only or Arabic/English. Arabic stickers are commonly used by exporters to Oman. The manufacturer must print production and expiry dates on the original label or

container; dates cannot be added to the package via a sticker. Swiss exporters should work closely with their partners/importers to ensure compliance with local shelf-life requirements.

Although member of the Technical Barriers to Trade Agreement and the WTO; Oman implements mainly the Gulf Standards Organization (GSO) standards. But American standards are also recognized. Through the GSO, Oman is working toward unifying its standards and conformity assessment systems with those of the GCC Customs Union. Therefore, most Omani standards are either GSO standards or some international standards organization ones. GSO is currently developing a conformity assessment scheme that could be adopted by each of the six GCC Member States.
The Directorate General of Specifications and Measurements of the Ministry of Commerce and Industry is the government entity in charge of establishing and reviewing the Omani standards. A manufacturer declaration is required to assure conformity to Omani/GCC standards. In cases of nonconformity to current standards, a letter should be addressed to the Directorate General of Specifications and Measurements with authenticated results of laboratory testing.

TAXES

a. Overview

The Omani government imposes tax on the following entities:
- Sole proprietors carrying on commercial, industrial or professional activities;
- Any company established under Omani legislation:
- Joint ventures;
- Branches of foreign companies; and
- Permanent establishments of foreign companies and establishments carrying on commercial, industrial or professional activities.

Direct taxes in Oman are income tax imposed on tax payers and certain municipal taxes. No personal income tax is assessed in Oman. Customs duty is the only indirect tax imposed in Oman. In addition, it has been formally confirmed by the GCC Supreme Council that the introduction of VAT tax will take effect. However, the exact date of implementation in Oman is still under discussion.

Under the Union arrangements, customs duty is imposed at the port of first entry within the GCC. Most imported goods are subject to customs duty levied at a flat rate of 5% on their cost insurance-freight (CIF) value. Consumer goods, including foodstuffs are exempt from customs duty. Alcohol and tobacco are subject to higher rates of duty. Exemption from customs duties has been granted to imports of certain materials, imported in the name of specialised Ministries or the Internal Security Services.

Goods produced within the GCC are generally imported duty-free. In certain circumstances, contractors are allowed to import duty-free equipment and materials for use on government, PDO and OLNG projects. Oman does not impose quotas or other nontariff trade barriers, and has not enacted antidumping regulations. All tax payers are taxed at a single rate of 15% in respect of taxable income. Special tax provisions apply to petroleum companies. In general, companies deriving income from the sale of petroleum are taxed on their taxable income derived from such sales at a rate of 55%, subject to certain conditions.

The tax year runs from January through December. If a company's financial-year end falls within the tax year, the tax rates applicable to the tax year apply to the entire income relating to that year. Foreign companies that do not have a permanent establishment in Oman are subject to a flat tax of 10% of gross income on the following types of income: royalties; management fees; computer software and research and development fees.

Tax is assessed on income that accrues to the tax payer. Income includes business profits, interest, dividends, royalties, management fees and income of any kind.

b) Exemptions and Tax Holidays

Tax exemptions from corporate tax and customs duty may be granted by the Ministry of Finance. Tax exemptions may be available for companies engaged in certain activities. Exemptions are granted for five-year; a five-year extension may be granted. Management agreements and construction contracts do not qualify for tax exemptions.
Foreign airlines and foreign shipping companies are exempt from taxation based on reciprocal treatment. Investment funds registered with and regulated by the Muscat Securities Market are exempt from tax.

c) Withholding Tax

Oman does not impose withholding tax on dividends or interest. Withholding tax at a flat rate of 10% is withheld for royalties and certain other categories of income received by a foreign company that does not have an Omani permanent establishment or a foreign company which has a permanent establishment but payments covered under the withholding tax regime are excluded from gross income of such permanent establishments. The payer of these types of income must withhold and remit such tax to the government on a monthly basis.

Penalties are imposed for delays in payment. The withholding tax is a final tax to the recipients; therefore, such recipients are not required to submit tax declarations

SETTING UP COMPANIES

Foreign companies are allowed by the "Foreign Capital Investment Law" to set up a branch office, to incorporate a local company, to establish a consultancy, or to appoint a commercial agent in the Sultanate of Oman. For most investments, the law requires that there be at least 30% Omani ownership. There are exceptions; notably wholly foreign-owned branches of foreign banks are allowed to enter the market. Investors may also obtain approval by the Ministerial Cabinet to allow a 100% foreign-owned business entity.

Before establishing its presence in Oman, a Swiss company should develop a basic understanding of the laws governing its businesses and know how to resolve legal disputes.

According to the Commercial Companies Law (CCL), a foreigner investor may do business in Oman with a local partner through the following business entities:

1- General Partnerships;
2- Limited Partnerships;
3- Joint Stock Companies;
4- Limited Liability Companies, and
5- Joint Venture.

Nevertheless, foreign companies might also establish their:
- Foreign commercial representation;
- Commercial agency or
- Branch office.

It is worthy to know that it might not be easy to unilaterally terminate the agency agreement. Thus, it is not recommended to enter into an exclusive agency agreements with a local agent.

JOINT VENTURE OPPORTUNITIES

When conducting a business in Oman, foreign investors often partner with a local investor for commercial, legal or practical reasons. In most cases the joint venture partners will need to establish some form of legal entity in the country which is duly licensed to conduct the business (the local company). The local company often takes the form of a limited liability company.
The local entity has to adopt a standardised form of constitutional documents e.g. articles of association and/or bye-laws (Articles). Unfortunately, these standardised documents will not address many of the issues that a foreign investor might face when entering into a joint venture in Oman. To avoid any legal issues, it is usually recommended to document and govern any cooperation by some

form of agreement that supplements the Articles. This document is usually referred to in Oman as either a shareholders' agreement or as a joint venture agreement (JV Agreement).

The most common legal form adopted by foreigners to carry out business in Oman is a limited liability company (LLC). An LLC must have at least two shareholders, often referred to as partners in LLCs. One of them must be an Omani national (whether natural or corporate entity) with an ownership of at least a 30% shareholding of the company.

Apart from GCC and American (individuals and corporates), the practice implemented by the Ministry of Commerce and Industry responsible for the registration of companies in Oman is that a foreign investor may not own more than a 70% shareholding in the share capital of a corporate entity, and the remaining is legally required to be owned by a local Omani partner as mentioned above. However the profit and loss of the business can be split between the foreign and local shareholder on any other percentage, as it does not need to be proportionate to the shareholding ownership. This depends on the partners' contribution in the business which is entirely a commercial arrangement. Such percentage could, for example, be 80/20 or 99/1.

PROMOTION OF INVESTMENT

Oman actively seeks foreign investment and is in the process of improving the framework to encourage such investments. Oman promotes higher education, manufacturing, healthcare, aquaculture, renewable energy, ICT, and tourism as areas for investment. Oman is targeting particularly investors transferring technology, developing management expertise, and providing training for Omanis. ITHRAA provides prospective foreign investors with information on government regulations, which are not always transparent and sometimes inconsistent. Although the Ministry of Commerce and Industry (MoCI) and ITHRAA have established a 'one-stop shop' for government clearances, the approval process for establishing a business can be slow.

Oman has privatised some organisations and is in the process of privatising others, but maintains government dominance in several sectors. This year the government amended legislation to allow for public-private partnerships in government hospitals and clinics. Foreign investors are allowed to participate fully in privatisation programmes, even in drafting public-private partnership frameworks. The most successful privatisation programme to-date has been the electricity and desalination privatisation programme. The telecommunications sector has also been increasingly privatised.

ENTRY CONDITIONS, WORK PERMITS, RESIDENCE PERMITS, LABOUR LAW

Recently, a single entry visit visa has replaced the tourist visa, business visa and short visit visa which cease to exist. For entry in Oman, a foreigner needs a visa and must hold a passport valid for at least six months. Before travelling to Oman, it is necessary to be aware about the duration of the validity of the given visa and how long a visitor can stay in Oman and how and when the visa can be renewed. The visa can be obtained at the border of the country, but the multi-entry business visa must be requested by a local sponsor. It will be issued under his responsibility to foreign businessmen who wish to enter the country more than once. It is valid during six months from the date of issue and its validity varies between six months to one year from the date of the passport stamp. However, the visa is renewable under the following conditions:

1. The owner of the passport must have visited the same sponsor at least once on a Commercial or Urgent Visa;
2. The owner of the passport must be in the country during the submission of the application; and
3. The owner of the passport must personally appear for finger-printing.

To take up employment or residence in Oman, foreigners, except GCC citizens must have a sponsor. Only the local sponsor or a company existing under the laws of the Sultanate is allowed to apply for the work permit. Visas are valid for a maximum stay of two years from the date of entry. The visa is renewable for similar periods as dictated by labour law and allows automatically multiple entries by air.

PROCEDURES FOR COLLECTING PAYMENT

Generally, import of goods in Oman 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. Swiss exporters are advised to obtain payment from Omani clients only by confirmed L/C or advance payment. It is worthy to know that the imports do not require mandatory, maximum or minimum credit terms.

SOURCES OF INFORMATION AND LINKS

MEED	www.meed.com
NOOZZ	www.noozz.com
Deloitte	www.deloitte.com
Oman Broadband Contest	www.oman.om
Al Tamimi & Company	www.tamimi.com
Economist Intelligence Unit	www.eiu.com
ITHRAA	www.ithraa.om
Oman eGovernment Services Portal	www.oman.om

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.

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