

# Percez les Marchés du Golfe Persique

Aspects Légaux: assurer son implantation  
dans la région

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BAYAT LEGAL SERVICES

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# Subjects:

- Geographic area / countries
- Bayat Group
- Legal aspects to consider
- Companies – Canada vs. GCC
- UAE
- Qatar
- KSA
- Kuwait, Bahrain, Oman
- Conclusion
- Questions

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# Geographic area

- GCC ... (Kuwait, Bahrain, Qatar, UAE, Oman and KSA)
- Iran and Iraq

Consider:

CIS

India

Pakistan

Turkey

MENA



# Bayat Group

- Established in 1993 in Dubai
- Several resident Lawyers
- Area of practice
  - Business immigration
    - Individuals
    - Corporations
  - Business matchmaking / trade missions
- Related / representing
  - Canada Export Center (Vancouver)
  - JAFZA and Dubai Export

# Legal aspects to consider

- Legal environment and Business laws
- Company law
- Income tax
- Labor and Immigration laws
- Litigation and arbitration
- Intellectual property laws
- Sharia laws

## ... other legal aspects to also consider

- Construction permits
- Property
- Banking / getting credit
- Protecting investors
- Trading across borders
- Enforcing contracts
- Resolving insolvency
- Unions

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# Legal environment and Business laws

- Hierarchy of laws – constitution
- Customs duties – importing/exporting goods
- Documentation
- Labeling and Packaging
- Getting paid – cash against docs
- Agency laws
- Competition law
- No exchange control restrictions on repatriation of capital, profits and dividends, enabling full financial transferability of capital, profits and dividends.
- Local currencies are fully convertible. All are pegged to the US dollar at the fixed rate
- Business hours/work days



# Company laws

- Sole proprietorship
  - Professional firms
- Limited Liability Companies – 51/49
- Branches and representative offices
- Commercial agencies
- Free zone
- Limits on business activities, company charter
- Business License to conduct business

# Income tax

- Different regime for nationals and expatriates
- No personal income tax
- Some corporate taxes:
  - Direct
  - Indirect
  - Usually on net profits – normally range 10 to 20%
- Municipal taxes –5% services / on lease (5% residential and 10% commercial)
- Since January 2003, unified customs fees in GCC countries, following the establishment of a customs union between the six Gulf States.
- Double taxation Agreements

# Labor and Immigration laws

- All expatriates need a labor card/permit and National ID
- Investors don't need a labor permit
- No part time work or 2<sup>nd</sup> job
- All expatriates need a residency permit
  - Dependents?
- Canadians we need a visitor visa!?!
  - No multiple visas but easy to obtain a single visitor visa
  - Europeans (all OECD) need no entry visitor visa
- Nationalization of work force

# Litigation and arbitrage

- Good court system
- Arbitrage is governed by civil procedure code, if explicitly mentioned in the contract.
- Many local/affiliated arbitrage centers;
  - Dubai International Arbitrage centre
  - Intellectual property rights
  - Bahrain chamber of dispute resolution
  - Qatar International Arbitration Centre

# Intellectual property laws

- The Patents, Designs and Industrial Models Law which protects a patent for up to 20 years and a utility patent for 10 years. Patents need to be worked within four years of filing. Designs are protected for up to 15 years from the date of registration.
- trademarks are valid for 10 years from date of filing and can be renewed for periods of 10 years.
- The Copyright Law which is optional, grants protection for the lifetime of the author plus 25 years. This applies to cinematographic films, works of art, works made by corporate bodies and works of art published under pen names. Photographic works
- Photographic works are protected for 10 years only.

# Sharia laws

- The Ministry of Justice governs the Shari'a Courts.
- The Shari'a Courts have three sections:
  - Ordinary Courts; Summary Courts; and Courts of Appeal.
- Islam is the official religion and ... Islamic Sharia is a main source of legislation

## ... Sharia laws

- Elements of the nation's criminal code offer for instance, payment of blood money in the event of a death or injury is allowed according to Sharia.
- Crimes such as the desertion of Islam, fornication, murder, theft, adultery and homosexuality - all crimes classified as "Al Hudud" in Arabic - are punishable by predetermined.

# Companies – Canada vs. GCC

- Canada: Federal / Provincial
- GCC:
  - Normal LLC and General Trading LLC – 51/49
  - Free zone – 100%
  - Establishment – 100%
  - Agency Rep.
- Iran:
  - LLC at 51/49 and Free zones (several eco. zones)



# UAE - Government

- Federal government
  - Constitution!
- 7 Emirates – local governments:
  - Abu Dhabi\*
  - Dubai
  - Sharjah\*
  - Ras Al-Khaimah
  - Fujairah\*
  - Umm Al-Quwain\*\*
  - Ajman\*

# UAE – Judicial

- The Judicial System:
  - Two court system, Federal and local system.
  - Federal: first instance, appeal and federal supreme court.
    - Each emirates has court of appeal and first instance. While the supreme court is located in Abu Dhabi.
  - Sharia courts
    - Personal status, but expanding to civil commercial and serious criminal offenses

# UAE – Establishing a business

- We will discuss only about two types:
  - Limited Liability Companies – 51/49
  - Registering in a free zone – 100%
- Average of 15 days to set up business
- Process to set up an LLC:
  - Register name by DED
  - Articles of association
  - Application for a trade license at DED
    - Office lease and registered capital
  - Publication in commercial registry
  - License to be issued
- Talks to abolish the 49/51 rule

# UAE – Labor

- Once a license is issued:
  - Application package to labor
  - identifying a PRO for formalities
  - deposit of AED 3,000 per employee
  - Employment contract and Work permits
- Working hours, leave and air ticket
- End of service benefits
- Labor dispute
- Emiratisation of work force

# UAE – Immigration

- Visitor visa – 14 days / 30 days / 60-90 days
- Employment visa – need medical
- Investor visa – need medical
- Student visa – need medical
- Medical treatment visa
- Visit visa application:
  - Passport copy and photograph
  - No need to apply in person
  - Cost: AED 400 to 1500
- NO exit permit

# UAE – Free Zones

- Companies holding FZ licences are allowed to operate outside the UAE but not inside UAE
- Main advantages:
  - 100% foreign ownership
  - 100% repatriation of Capital and goods
  - No corporate taxes
- Different free zones:
  - Maritime, Airport, Specialized

# ... UAE – Free Zones

- Abu Dhabi Airport Free Zone (ADAFZ)
- Higher Corporation for Specialized Economic Zones (HCSEZ)
- Industrial City of Abu Dhabi (ICAD 1 and 2)
- Khalifa Port and Industrial Zone (KPIZ)
- twofour54 (Two Four Fifty Four / 54) media and production free zone
- Dubai Airport Free
- Dubai Car and Automotive City Free Zone (DUCAMZ)
- Dubai Flower Center Free Zone - at Dubai International Airport
- Dubai Gold and Diamond Park
- Dubai Health Care City (DHCC)
- Dubai Industrial City (DIC)
- Dubai International Financial Centre (DIFC)
- Dubai Internet City (DIC)
- [Dubai Knowledge Village \(KV\) \(DKV\)](#)
- [Dubai Media City](#)
- Dubai Multi Commodities Centre (DMCC)
- Dubai Gold and Commodities Exchange (DGCX) - part of DMCC
- Dubai Silicon Oasis
- Dubai Technology and Media Free Zone (TECOM) - includes DIC, DMC, DKV
- Economic Zones World (EZW) - includes Techno Park, Dubai Auto Zone, Jafza International, JAFZ
- [Jebel Ali Free Zone \(JAFZ\)](#)

# ... UAE – Free Zones

- Ajman Free Zone (AFZ)
- Fujairah Free Zone (FFZ)
- Fujairah creative city
- RAK Free Trade Zone (RAKFTZ or RAK FTZ)
- RAK Investment Authority Free Zone (RAKIA FZ)
- Ras Al Khaimah Media Free Zone (RAKMFZ)
- Hamriyah Free Zone
- Sharjah Airport International Free Zone (SAIF)
- Ahmed Bin Rashid Free Zone (ABRFZ)



# UAE – import/export – Customs procedures

- Unified custom tariff 5%, CIF values of goods
- Re-export in 60 days – customs reimbursed
- Value add of 40% in ex work price to be considered made in GCC
- NO Canada-UAE business council, No memorandum of Understanding on business, trade and technical cooperation.

# UAE – Taxes

- No personal income tax
- No corporate income tax
  - Talks in the last 5 years for a 5-10% tax on net income
- No VAT
  - Talks on a 5 % general tax
- Tax exemptions for up to 40 years in most free zones

# Qatar – Government & Judicial

- Government
  - executive authority is vested in the Emir
  - assisted by the Council of Ministers as specified by the Constitution
  - Emir is the Head of State and represents the country internally, externally and in all international relations.
  - He is also the Commander-in-Chief of the armed forces, which he supervises with the assistance of Defense Council, set under his direct authority.
- Judicial
  - The judicial authority is vested in courts of law; and court judgments are proclaimed in the name of the Emir.

# Qatar – Establishing a business

- Not as easy as UAE
- 1) Contractual solutions, without a permanent structure:
  - Rep office or Branch
- 2) Permanent solutions:
  - Real JV with a local partner or Dormant partner
- 3) Independent solutions: Free zones solutions
  - 3 zones: financial; Sc. and Technical; Education

# ... Qatar – Establishing a business

- Difficulty to choose a sponsor:
  - Dormant / powerful
  - Well known / neutral

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# Qatar – Labor and Immigration

- Very similar to other GCC countries
- Exit permit
- Visit visa can be obtained at immigration on arrival at the airport ... cost QR 100
  - Credit card or debit card only

# Qatar – taxes

- No personal income tax
- Companies doing business in the country do have to pay certain taxes and obligations
  - All are required to keep adequate financial records
  - Only companies with foreign ownership
  - Flat 10% on profits - on foreigner's shares
  - Since Jan 2010
- Zakat income tax – 2.5%
- Custom Duties and Tariffs
  - A flat rate of 5% is applied to most goods

# KSA – Government & Judicial

- The king combines legislative, executive, and judicial functions - has no legally binding written constitution
- royal decrees to form the basis of the country's legislation
- The primary source of law is the Islam and the Sunnah
- Not codified and no system of Jurisprudence
- Business and commerce is governed by Sharia



# KSA – Establishing a business

- There are several ways of doing, most common of these are:
  - LLC
  - Partnership
  - Non Resident Execution of Projects
  - Commercial Agents and Distributors
  - JV
  - Branch Offices

# KSA – Labor and Immigration

- Resident visa / permit
- exit/re-entry visa after obtaining residency visa
- Employers have a number of obligations, including at least 15 days paid holiday after a year's employment.
- Terminated employees must receive an "end-of-service" payment of a half a months' salary for each year employed going up to one month if employed for more than 5 years.

# KSA – Taxes

- GCC national
  - No income / corporate tax
  - Zakat of 2.5%
- Foreigners
  - Income from activity KSA of 20%
  - Employer must pay social security
  - Income is: self employment, capital investment, business activity in kingdom

# Kuwait – Government & Judicial

- The constitution gives the Emir (Al Saba) the authority to appoint the Prime Minister. The Prime Minister in turn appoints the ministers who forms the government, conditional on the approval of the Emir.
- Women vote in 2005
- The court system in Kuwait is divided into several branches: personal, criminal, commercial, administrative, leases, and civil courts.
- The personal courts have jurisdiction over matters relating to the personal status of Muslims, in particular family and inheritance law
- The civil courts has jurisdiction over all non-criminal cases not dealt with by other branches.
- Generally, courts will not exercise jurisdiction in cases where there is an express written agreement between the parties to refer a dispute to arbitration

# Kuwait – Establishing a business

- Limited Liability Company
  - Shareholder company (holding co)
  - Joint Liability Company (partnership)
  - Joint Venture
  - Commercial agency
  - Branch
- 
- Business licenses are issued only to Kuwaiti nationals or to Kuwaiti companies

# Kuwait – Labor and Immigration

Work permit issued from the Ministry of Social Affairs and Labor

Health insurance certificate and Disease-free certificate

Process: Work permit; work visa; medical check; residency visa; Civil ID

Residency visa valid up to 5 years

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34 nationalities entry visas upon arrival

# Kuwait – Taxes

- No personal income tax
- Companies doing business in the country do have to pay certain taxes and obligations
  - are required to keep adequate financial records
  - Only com with foreign ownership
  - Flat 15% on profits - on foreigner's shares
- Zakat income tax
- Custom Duties and Tariffs
  - A flat rate of 5% is applied to the cost

# Bahrain – Government & Judicial

- Constitutional monarchy - The constitution enshrined the hereditary leadership on the al-Khalifa family
- Women vote in 2002
- All legislation must be passed by a majority in both the Chamber of Deputies and the Shura Council, and must be ratified by the King.
- The Judiciary of Bahrain is divided in to two branches: the Civil Law Courts and the Shari'a Law Courts



# Bahrain – Establishing a business

- The Commercial Companies Law allows for companies to be incorporated with 100% foreign capital, in certain circumstances and for certain activities
- Otherwise, foreign ownership is limited to 49% and certain business activities are restricted to GCC nationals

# ... Bahrain – Establishing a business

- Obtain lease agreement to prove location
- Draft standard Memorandum of Association and obtain preliminary approval from the Ministry of Commerce at the Bahrain Investment Center's one-stop shop
- Obtain approval from the Municipality
- Notarize Memorandum of Association
- Open an account at the bank and obtain proof of deposit of capital
- Obtain Certificate of Registration from Ministry of Commerce
- Register the company and employees with the General Organization for Social Insurance (GOSI)

# Bahrain – Labor and Immigration

- An employer cannot employ non-Bahraini workers without obtaining a work permit for the workers from the Ministry of Labour and Social Affairs
- A work permit normally takes approximately a month to process
- Two Weeks Tourist Visas and 72 hour / 7 day Visas

# Bahrain – Taxes

- A copy of annual report and the auditor's report within ten days of the date that the documents are prepared
- Corporate Taxation
  - There is no corporate tax on companies, except for oil, gas and petroleum companies which are engaged in exploration, production, or refining, regardless of their place of incorporation. The tax rate is 46% of net profits generated in Bahrain.
- Customs duty at a rate of 5% is levied on some imported goods such as certain foods, perfume, cars and electronic products. Tobacco products are levied at 100% and alcohol at 125%.

# Oman – Government & Judicial

- The Basic Law of the State
- An independent judiciary
- Rights are derived from Islamic and Omani legal and social values and traditions
- Oman's legal system is based on the Ibadi interpretation of the sharia
- Modern commercial law, borrowed from other parts of the Middle East and Europe, operates in the business sphere

# Oman – Establishing a business

- Foreign persons or companies may participate in four types of business associations defined under the Commercial Companies Law, as follows:
  - Partnerships
  - Holding company
  - Limited Liability Companies
  - Joint ventures

# ... Oman – Establishing a business

- Deposit the legally required initial capital in a bank
- Registration with the Commercial Registry at the Ministry of Commerce and Industry (MOCI)
- Notification of the Tax Department of the Finance Ministry
- Register employees for social insurance
- Make a company seal

# Oman – Labor and Immigration

- Same as UAE
- Omanisation
  - % of Omani works

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# Oman – Taxes

There is no income tax

Top corporate tax rate for Omani companies is 12% if profits are above OR 30,000

Other established companies which are supported by any foreign establishment shall pay taxes at the following rates are 5% to 30%

There is no consumption tax or value-added tax (VAT)

# Conclusion and Questions

- Other difficulties inherent when expanding into foreign markets include economic and political risks, shifting borders and the instability of some foreign governments which can pose a threat to the security of a business overseas.
- As companies make overseas investments, several factors dominate their location decisions including lower costs, higher quality labour, the protection of intellectual property rights, reliable educational systems and sophisticated IT infrastructures.