

**MONTHLY NEWSLETTER**

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Recent Legal Developments  
in the  
United Arab Emirates  
and  
Highlights from  
Bahrain, Egypt, Iran, Kuwait,  
Oman, Pakistan, Qatar and Saudi Arabia

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UNITED ARAB EMIRATES

1. Copyright Treaties

Pursuant to Federal Decree No. 10 of 2004, the U.A.E. has acceded to three international copyright conventions.

The Berne Convention for the Protection of Literary and Artistic Works governs a wide range of subjects, setting forth uniform rules on the protection of works and associated "moral" rights. It addresses subjects such as the term of protection enjoyed, rights of translation and reproduction, free use, and rights of adaptation, arrangement and other alteration. It contains specific provisions on dramatic and musical works, broadcasting and related rights, and cinematographic and related rights.

The Rome Convention (formally known as the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations) contains detailed rules on the protection of performances, the protection of phonograms, the protection of broadcasts, joint performances, variety and circus artists, and performers' rights in films.

The Copyright Treaty of the World Intellectual Property Organization, a treaty ancillary to the Berne Convention, addresses such specific subjects as computer programs, databases, rights of distribution, rights of rental, and rights of communication to the public.

2. Copyright Regulations

Four new resolutions implementing the Copyright Law were promulgated by the Minister of Information and Culture in March. The resolutions bring the U.A.E. into greater conformity with its treaty obligations, as discussed in the previous item. Updated copyright regulations were also needed in light of the promulgation of the new Copyright Law in 2002 (see the July 2002 edition of this Newsletter).

The first resolution amends the regulations for the registration of works under the Copyright Law, while the other three resolutions address subjects that previously had

not been expressly addressed in the U.A.E.

a. Registration of Works. Ministerial Resolution No. 131 of 2004 on the Registration of Works introduces new rules for the registration of literary and artistic works (the "Works") in the U.A.E. The Office of Intellectual Property (the "Office") in the Ministry of Information and Culture maintains a register for the recording of particulars of the Works. The Office is authorized to issue a certificate of registration to the author of a registered Work.

The author or any owner of rights or neighboring rights with respect to a Work may apply for registration. In its review of the application, the Office ensures that the work has not been previously registered and that the Work is in its final form and not in merely a draft or preparatory stage. The Office may send written notifications to the applicant, requesting such further documents or details as it deems necessary. The Office must issue a reasoned decision if it rejects an application.

b. Importers and distributors. Ministerial Resolution No. 132 of 2004 concerns the registration of importers and distributors of Works. It directs the Office to maintain a register of parties who hold rights to import and distribute artistic and literary Works. If an application is accepted, then the registration particulars will show the type of rights granted, their duration, the number of works, their titles, their language, and the geographical area of exploitation for such rights. Parties whose details are recorded in the register must notify the Office of any change to such details within a period of twenty days of any such change.

In addition to registration, a person wishing to perform import or distribution activity relating to any Work must obtain a license. Furthermore, the specific permission of the Ministry of Information and Culture is required before a Work may be placed in circulation.

c. Collective management. Ministerial Resolution No. 133 of 2004 concerns the collective management of copyrights and neighboring rights. The Resolution sets out the licensing procedure for societies or other bodies that

wish to perform collective management for copyrights or neighboring rights. The license is to be obtained from the Ministry of Information and Culture.

d. Reproduction and translation. Ministerial Resolution No. 134 of 2004 concerns compulsory licenses for copying or translation of Works. Any person may apply for a license for copying or translating a Work to fulfill educational needs or the needs of public libraries or archives. The applicant must first have attempted to obtain the permission of the author and either to have been refused or to have failed to make contact.

Prior to granting a license for copying, five years must have passed since the first publication of the Work, although this time period can be raised or lowered depending on the subject matter of the Work. Following such five year period, a further three months must have passed from the date of contacting the author.

Prior to granting a license for translation, three years must have passed without there being a translated edition into Arabic capable of meeting the needs of education, public libraries or archives. Following such three year period, a further six months must have passed from date of contacting the author.

The license will not be granted if the Work has been withdrawn from circulation by request of the author or if the author, upon being contacted, has put the Work into circulation to meet the needs of education, public libraries or archives. The licensee must mention the name of the author on the copied or translated Work, guarantee accurate copying, and pay fair financial compensation to the author. The license must be issued in the name of the applicant and must not be assigned by the licensee to a third party. The license loses its validity if the author makes the Work available in the U.A.E. to the public at a price close to the price of similar works in the U.A.E.

3. Securities and Commodities Authority:  
Anti-Money Laundering Circular

Further to Federal Law No. 4 of 2002 criminalizing money laundering, the Securities and Commodities Authority

has issued a circular outlining the procedures for identifying and reporting money laundering. The procedures contained within the circular are stated to apply to both securities exchanges licensed in the U.A.E. and brokers working at those exchanges.

The circular defines money laundering as the purchase of securities with funds whose source is not identified accurately, or which emanate from an unknown or disguised source, so that it appears to have originated from an unknown source, where in fact it has not.

The circular requires that identifying information (such as names and addresses) be obtained from new clients as part of the account opening process. The circular contains an indicative but not exhaustive list of the types of information required. All transactions with a value equaling or exceeding Dh 40,000 have to be recorded according to a prescribed form contained in the circular.

Financial markets and brokers will be under a strict obligation to report any unusual transactions using a form provided within the circular. In this respect, the circular obliges securities markets to appoint a compliance officer whose duty it will be to liaise with the Authority in monitoring, recording and reporting suspicious transactions. A failure to report unusual transactions to the Authority will result in penalties under Federal Law No. 4 of 2002. Furthermore, the compliance officer will be responsible for conducting a training program for the staff involved in receiving cash and overseeing accounts.

The circular requires that adequate records of all transactions be maintained through a file keeping system. All correspondence and contracts relating to transactions performed must be made available to Authority examiners and law enforcement authorities and must be retained for this purpose for a period of at least five years.

**SULTANATE OF OMAN**

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1. Employee Representative Committees in Oman:  
Ministerial Decisions Nos. 135 and 136 of 2004

Prior to the promulgation of Royal Decree No. 35 of 2003 (the "Labor Law"), there was no trade union legislation in Oman. Therefore, the express acknowledgement that "employees of any establishment can, among themselves, set up a 'Representative Committee' for the purpose of protecting their interests and defending their legal rights," as stated in Articles 108 and 109 of the Labor Law, despite being very basic in its nature, provided an indication that for the first time such matters were to be comprehensively dealt with under Oman law.

Accordingly, two recent Ministerial Decisions issued by the Ministry of Manpower (the "Ministry") during May 2004 forge the Omani Government's commitment to the driving forward of employee rights, through the setting up of workers' representative committees. Ministerial Decision No. 135 of 2004 ("MD 135/2004") focuses on individual representative committees established between employees and employers within the workplace, while Ministerial Decision No. 136 of 2004 ("MD 136/2004") provides for protection at the macro level, through the setting up of a main representative committee (the "MRC"), designed to act as a mouthpiece for employees at a national level. This article examines the composition of each of these new bodies and their role, powers, regulations and likely effect upon the employment environment within the Sultanate.

a. MD 135/2004: Company Employee Representative Committees. MD 135/2004 provides for the establishment of workers' committees within any body corporate in Oman, through the medium of a committee known as the "general assembly." All employees in continuous employment within the particular company for more than one year are eligible, upon applying for membership, to become part of the general assembly.

Each committee is to have a charter which acts as its constitution. This document must include the committee's name, goals and work systems, voting and meeting procedures, powers, membership conditions and sources of finance. The committee is obligated to ensure that an up-to-date copy of this charter, including any subsequent

amendments, is lodged with the Ministry of Manpower. Importantly, no provision of the charter may contravene any law of the Sultanate.

The general assembly is also responsible for voting in the "administrative authority," which acts as the "executive" of the representative committee. The size of the administrative authority may vary in size from five to nine members, depending on the number of employees in the company, although all administrative authorities must have a president, vice-president, secretary, treasurer and assistant treasurer. Article 5 provides a list of the requirements for a nominee to the administrative authority, which include being a permanent worker at the establishment, being mentally sound, having a knowledge of the Arabic language and not being a member in another representative committee.

The role of the administrative authority is to take responsibility for running the committee's affairs, to care for each worker's interests, to defend their legal rights and to represent them before the concerned authorities. It is envisaged that the administrative authority will be the organ through which employee complaints and concerns will be voiced.

MD 135/2004 provides for considerable power to be retained by the Ministry in relation to company representative committees. Any group of employees wishing to form a committee must first apply to the Directorate General of Labor Welfare ("DGLW") with full details of the potential members in order to seek approval for formation. Once established, the DGLW retains considerable control of such committees, primarily through a supervisory role. The Ministry shall be informed of any general assembly meeting at least one month in advance and the Ministry retains the power to object to candidates for the administrative authority and to object to changes in the charter of the committee. Furthermore, the committee is required to notify the Ministry of full details of banking arrangements and any changes to this information.

b. MD 136/2004: Main Representative Committee. In comparison with MD 135/2004, which details the situation

within individual establishments, MD 136/2004 focuses on representation at a national level. This is achieved, at a general level, through a forum made up of all those persons elected as members of each individual administrative authority (the "General Assembly"). Although initially based in Muscat, MD 136/2004 provides that branches of this body may also be set up in the various Governorates and Wilayats in Oman.

The General Assembly is responsible for electing, by secret ballot, the MRC (equivalent of the "executive" at this national level). This latter body is to consist of eleven members in total made up of members elected from the General Assembly and representatives from the Ministry. The MRC, through the use of its charter, is responsible for caring for workers' interests, defending their legal rights, and providing representation in all work-related matters at the local, regional and international levels.

Again, the Ministry retains significant control over both the General Assembly and the MRC. Primarily, this is achieved through representation in the MRC, although the purpose behind Ministry participation in this forum is thought to be to create an environment whereby Ministry officials and employee representatives are able to discuss matters openly and candidly. Furthermore, strict reporting requirements apply in respect of membership, banking and charter details; notice of every meeting of the General Assembly must be sent to the Ministry of Manpower at least one month prior to the date of it being held, together with the agenda and any supporting documentation.

The Ministry is also entitled to send a representative to observe the proceedings of the General Assembly.

It is unclear at this stage whether the Ministry intends to use MD 136/2004 to facilitate the establishment of employee representative committees in relation to each separate employment area, e.g., transport, maritime, teachers, hospital workers, etc., as is the case in countries with more detailed trade union laws. Certainly, the legislation appears to be limited, so far, to the setting up of one principal representative body, although given the current basic nature of law in this area, the situation is likely to develop over time.

c. Conclusions. MD 135/2004 and MD 136/2004 represent an important development in the protection of employee rights in Oman. Express mechanisms have been put into place which provide for an official forum through which employees can voice concerns and seek representation and protection. Most importantly, employees are now expressly legally permitted to take action on both an individual and collective basis. Furthermore, improved opportunities for dialogue with the Ministry, through the use of the MRC, will allow for issues such as minimum wage, working hours and employment conditions to be continually discussed. Although these formative bodies will currently lack the considerable political influence wielded by their equivalents in other countries, this progress can only promote the cause of the employee.

Accordingly, MD 135/2004 and MD 136/2004 appear overall to be a positive step for the protection of employee rights in the Sultanate of Oman, both at company and national level.

#### **UNITED STATES/INTERNATIONAL**

##### 1. Section 301

The United States Trade Representative (the "USTR") has announced the U.S. government's decisions in respect of its annual review under the "Special 301" intellectual property provisions of the Trade Law. Among the countries covered by this newsletter, Bahrain, Egypt, Iran, Kuwait, Pakistan, Qatar, Saudi Arabia, and the United Arab Emirates were referenced in the USTR's announcement.

Egypt, Kuwait and Pakistan were moved from the watch list to the priority watch list. The U.S. government uses the watch list as a means of monitoring progress in implementing commitments with regard to the protection of intellectual property rights and providing market access to U.S. intellectual property products. In contrast, countries are placed on the priority watch list because of a lack of adequate and effective intellectual property protection or market access that is particularly troublesome to the U.S.

Egypt had been moved from the priority watch list to the watch list in 2003, but now the USTR has restored Egypt to the priority watch list. As reasons for elevation of Egypt to the priority watch list, the USTR's announcement referred to recent marketing approvals for locally produced copies of patented pharmaceutical products and to deficiencies in Egypt's copyright enforcement regime, judicial system and trademark enforcement.

Kuwait was elevated to the priority watch list because of its failure to address serious and rampant copyright infringement, failure to amend its copyright law, and failure to implement a 2002 work plan to increase IPR enforcement. The USTR referred to Kuwait's optical disc piracy rate as the worst in the region and also referred to problems with corporate end-user piracy, hard disc loading piracy and cable piracy. The announcement stated that these issues would continue to be addressed under the U.S.-Kuwait Trade and Investment Framework Agreement ("TIFA") that was signed in February 2004.

Pakistan was also elevated to the priority watch list, cited as the fourth largest source of counterfeit and pirated goods seized by the U.S. Customs Service, with the majority of these being apparel items, pharmaceuticals or optical media products. The USTR's announcement also referred to deficiencies in IPR enforcement.

Saudi Arabia was kept on the watch list. The USTR stated that greater enforcement efforts are being made, but that rates of piracy remain high. The announcement also referred to deficiencies in Saudi Arabia's patent registration system, where there is a backlog of thousands of applications.

The other countries that were referenced in the USTR's report remained off both the priority watch list and the watch list. The announcement referred to negotiations currently underway with Bahrain toward conclusion of a bilateral Free Trade Agreement. The announcement also stated that the U.S. and Bahrain negotiated the intellectual property language of the FTA in March 2004. The announcement noted that Iran became party in December 2003 to the Madrid Agreement Concerning the International Registration of Marks and its 1989 Protocol. The announcement referred to a

software licensing agreement signed in June 2003 by the Qatar Finance Ministry designed to ensure all governmental entities, including semi-privatized and state owned corporations, used licensed software. The announcement made reference to a circular issued by the U.A.E. Ministry of Health in September 2003, granting exclusive marketing rights in the U.A.E. for all innovative pharmaceutical products registered in other countries. It also made special reference to difficulties in combating piracy and counterfeiting in free trade zones, such as those in the United Arab Emirates.

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