

Issues and Requests Relating to Foreign Trade and Investment - Saudi Arabia

Category	No	Issue	Issue Details	Requests	References
1 Restrictions on Entry of Foreign Capitals	(1)	<u>Restricted Trade Activity Under Trade Licence</u>	- <u>Trade licence open to foreign capital is restricted, in principle, to invoice based transactions and information collection work, while the marketing specific products or the transaction under the name of vendor's head office amount to violation of Broker Law and Agent Law, and therefore are prohibited. Actually, these kinds of activities might not be included in the trade licence under Broker Act and Agent Act as exclusive right to the Saudis, however they are effective to creation and expansion of invoice based transactions. Therefore, it is requested that Government of SA (SGA) approves such activities as a part of commercial activities based on trade licence.</u>	- It is requested that SGA will expressly provide into law, such as ministerial interpretative decree the lawfulness of foreign funded enterprises (FFE) entering into such business activity.	- <u>Broker Law</u> - <u>Agent Law</u>
2 Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	Prioritised Purchase of Domestic Steel Products	- To protect the domestic industry, GOSA (Government of Saudi Arabia) implements the buy Saudi policy by giving priority to steel bar and wire rod manufactured by HADEED. Especially in GOSA's construction tender, GOSA gives priority to steel bar manufactured by HADEED. Moreover, job owners and consultants directly and indirectly urge constructors to purchase HADEED products.	- It is requested that GOSA repeals buy Saudi policy.	
6 Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Tax Incentives are Insufficient	- No tax incentive is available to foreign investors for establishing an FFE in SA. There is no incentive for starting business locally in SA.	- It is requested that GOSA grants tax holiday of at least 10-years, when foreign capital establishes a new local enterprise.	
8 Investment Recipient Organization	(1)	<u>Abrupt Change of Guidelines on Investment License Renewal Procedures (the Guidelines)</u>	- <u>From time to time, abrupt change takes place on the guidelines both neither prior notices, background explanation, nor reason. It drives foreign funded enterprises (FFE) into great consternation. Should the change in question delay FFEs' renewal of Investment licence, it can materially disrupt FFEs' operation. The renewal procedures at times require submission of documents normally deemed totally unnecessary.</u>	- It is requested that Saudi Arabia General Investment Agency (SAGIA) refines the guidelines underlined with convincing background and reasons together with sufficient grace period, enabling timely preparation of the requisite documents.	- <u>SAGIA Internal Guidelines</u>

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	(2)	<u>Vexatiously Complex Rules and Procedures upon FFEs Entry into Saudi Arabia</u>	- <u>For establishment of foreign funded enterprises (FFE)/offices, it is necessary to acquire Saudi Arabian General Investment Authority's (SAGIA's) licence. It takes a vast amount of person-hours workload due to their complexity in rules and equally complex clerical work.</u>	- <u>It is requested that SAGIA streamlines the rules and regulations "highly visible", capable of achieving "efficiency" in work like one-stop-service by adopting single window, etc.</u>	- <u>Foreign Investment Law, and the Related Laws and Regulations (SAGIA, MOCI, Notary Public, etc.).</u>
	(3)	Procrastinated SAGIA Trade Licence Acquisition	- <u>It has become apparent that it takes as long as 6-months to acquire the Trade Licence at Saudi Arabian General Investment Authority (SAGIA). A Firm had to spend a long time to establish an enterprise in Saudi Arabia.</u> - <u>SAGIA licence, interlocked with the validity period of commercial registration, in effect, is strikingly tinted in the "business licence" colour. While its validity is only for one year, more than 2-months are necessary for its renewal, a nuisance, severely burdening foreign funded enterprises.</u> <u>New regulation of October last year was further amended largely so that enterprises of good standing, meeting certain requirements are entitled to the License, valid for plural years, 2-, 3-, 5-years, while the renewal scheme is simplified so that it takes about a week from the date of filing application online.</u>	- <u>It is requested that SAGIA expedite the Trade Licence Issuance.</u> - <u>While the dramatic improvement is appreciated, further improvement is requested to extend the license good for a longer period.</u> - <u>In addition, while renewal procedures have become simple, SAGIA's inspection remains. Depending upon its frequency, it could grow up into additional burdens.</u>	- <u>SAGIA Announcement of 21 September 2014</u>
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Vexatiously Complex Pre-Shipment Customs Clearance Inspection Based on the Saudi Specifications	- GOSA is engaged in standardisation of products in each category to facilitate quality inspection. As regards steel products, it promotes standardisation of major items. GOSA conducts customs inspection on bar steel and bar in coil steel under the Saudi specifications. - <u>Upon customs clearance, pre-shipment inspection certificate issued by a third party institution is required (SASO in Saudi, and KUSO in Kuwait). However, it is extremely costly and changes to inspection details frequently occur.</u> (Actions) - GOSA requires conformity to the Saudi Arabian Standards Organization (SASO) Mandatory Certification on the products such as metal works, automotive vehicles, electric/electronic products, included in the List of Items Subject to Mandatory Certification identified under Annex H of WTO document WT/ACC/SAU/61. (Ref: Saudi Arabian Standards Organization (SASO) (http://www.saso.gov.sa/en/pages/default.aspx)) - GOSA requires Certification of Conformity on virtually all consumer goods exported to SA.	- It is requested that GOSA repeals customs inspection or streamlines the procedure. - <u>It is requested that GOJ approaches the countries subject to pre-shipment inspection to request to repeal it as only a few countries in the world is doing that.</u>	- Customs legislations

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	(2)	Engraved marking requirement of Country of Origin on the Body of Each Export Product	<p>GOSA mandates country of origin (COO) marking to be painted on each piece of steel products imported into SA and sold by dealers to end users. Since 1 February 2009, under Saudi Arabia customs' directive, GOSA has tightened its certificate of origin marking requirement, by provision of print or stamp, on the external packaging (cartons, etc.) of all goods destined to Saudi Arabia.</p> <p>Express marking of country of origin (COO) is mandatory for all cargoes only imported into Saudi Arabia and South Korea.</p>	<p>It is requested that GOSA repeals or simplifies the COO marking requirement or streamlines the procedure.</p> <p>While many countries accepts COO labeled on the outer package, only Saudi Arabia and South Korea requires COO marked by die-stamping, or engraving on the product itself. It is requested that GOSA likewise follow suit of the rest of the countries in regard to its COO marking requirement.</p>	
	(3)	Physical Inspection upon Import Customs Clearance by Opening Containers	<p>At the container yard, a substantial rate (about 30%) of containers was opened for inspection. It took much time and substantial cost for shippers; numerous damages were caused upon reloading cargoes back to containers.</p>	<p>It is requested that GOJ approaches GOSA for rectifying the inspection rate to a level in line with other countries, as the inspection rate is excessively too high.</p>	Customs legislations
	(4)	Radiation Inspection	<p>GOSA requires radiation inspection for each vessel from Japan, which causes the quite unnecessary, substantial cost to Japanese affiliated enterprises.</p>	<p>It is requested that GOSA removes the burden for radiation inspection.</p>	Import Law of Saudi Arabia
	(5)	Compulsory Acquisition of Consular Legalisation on Shipping Documents	<p>GOSA requires consular legalisation on documents for trade such as invoices, which causes added costs and a longer lead time.</p>	<p>Only a few countries in the world now require consular legalisation. It is requested that GOJ sounds out the respective subject countries for removal of this requirement.</p>	Customs legislations
	(6)	Unavailability of Shipment by Boat	<p>Due to the risk of loss, personal cargoes in small quantity cannot be shipped by sea in substance.</p>		

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	(7)	Long-term Backlog of Import Customs Clearance at Riyadh's Dry Port	- Extreme congestions prevail on customs clearance at Riyadh's dry port with the arriving cargoes arriving by the inexpensive train transport from Dammam. In effect, a firm experienced a long-term backlog of cargoes pending customs clearance in 2012, when it changed to a new team of customs broker / stevedore (Chinese + local enterprises), due to the change in the workers' sponsorship.	- It is requested that GOSA supervises and directs the customs clearance by new Stevedore enterprises that function in practice, in order to avoid the backlog in import customs clearance.	
	(8)	Uniform Tariff in GCC-6	- For protecting the domestic mills, Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, & UAE (GCC-6) used to levy high tariff rates on items that can be manufactured domestically in GCC-6. However, since 2005 when GCC-6's accession to WTO, the tariff rate has been reduced to the uniform 5%.		
14 Taxation Systems	(1)	Nebulous Procedures under the Tax Treaty	- Now that the tax treaty is in place, a firm enquired with major accounting offices (Deloitte, KPMG, etc.) on practical procedures for filing tax returns (including the tax refund method, etc.) However, it appears no substantive disclosure is available. (Improvement) - Coming into effect in September 2011 of the Bilateral Tax Treaty for Avoidance of Double Taxation between Japan and Saudi Arabia has enabled Japanese enterprises to file tax refund application to the Department of Zakat & Income Tax (DZIT) in Saudi Arabia for double tax paid after January 2012. According to DZIT, Japanese enterprises requesting refund for the double tax paid in Saudi Arabia (the Claimant) may file refund application for the excessive amount of tax paid, attaching the followings: (1) Letter from the recipient (non-resident, corresponding body such as Japanese taxation authority, etc.) of the payment, requesting refund of the excessive tax paid. (2) Certificate issued by the taxation authority in the jurisdiction, certifying that the beneficiary (Japanese affiliated enterprise in Saudi Arabia) is a resident in of the payment in concern and that the payment was made in accordance with the tax law of the country in concern. (3) Copy of the document showing the payment of the withholding tax and its bank's receipt.	- It is requested that GOSA discloses the substantive procedures for filing tax returns in detail (such as requisite documents, time, and place).	
	(2)	Prolonged Tax Return Assessment	- After the end of fiscal term falling by the end of March, a firm must file tax returns not later than the end of July, when the taxation authority's assessment begins. However, the tax return certificate after completion of assessment reaches the firm only in October in each year.	- It is requested that Department of Zakat and income tax (DZIT) expedites its assessment of the tax return.	
	(3)	Withholding Tax Levy	- Pursuant to Japan/Saudi Arabia tax treaty, the withholding tax rates applicable to non-resident without permanent establishment in Saudi Arabia are as follows: -- royalty----5% -- interests, dividends----5% -- technical fees, airfreight, ocean freight, international call---5% -- consideration for other services----15% -- management fee----20%	- It is requested that GOSA reduces withholding tax rate to zero percent, especially strongly requested as regards withholding tax rate on royalty, interests and dividends.	

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				<p><u>- By virtue of Japan-Saudi Arabia tax treaty, tax has been exempted in Saudi Arabia on consideration for service rendered payable to non-resident. Consequently, Saudi Arabian taxation authority requires either of the following for tax exemption:</u> <u>(1)After first collecting withholding tax in Saudi Arabia, receives tax refund by filing the refund request.</u> <u>(2)Filing in advance an application for withholding tax exemption.</u> <u>While the taxation authorities shows the procedures for withholding tax exemption, the requisite documents are profuse, requiring much work to prepare. Moreover, it takes much time for the grant of exemption. It is quite possible that the tax authorities, who give exemption, could question the taxpayer's failure to observe the withholding tax obligations, which could lead to penalty in the end in the worst case.</u></p>	<p><u>- It is requested that GOS streamlines the withholding tax exemption procedures, especially as regards the alternative (2).</u></p>	
16	Employment	(1)	Tightened Saudi Nationals Employment Regulation and Abrupt Changes	<p>- GOSA implements the national policy of to encourage employment of Saudi nationals in the private sector in a certain ratio "Saudization". In many cases migrant foreign workers from India, etc. are assigned to operate factories. It causes operational problems.</p> <p>- Changes are made sometimes in rules and regulations on Saudization, which is of vital importance to foreign funded enterprises, suddenly without any prior notice, to the great inconveniences and confusions of private enterprises. Moreover, the fact remains that the clerical workers at the Ministries and agencies are unable to catch up with these changes.</p> <p><u>- As of now, SGA's guidelines on Saudization are being established under the more realistic conditions for foreign funded enterprises, although there remains at all times an anxiety that the guidelines are established in the direction difficult for FFEs to satisfy the requirement, without sufficient explanation given to FFEs.</u></p> <p><u>- Ministry of labour and Social Development (MLSD) compels foreign funded enterprises' employment of Saudi nationals at certain ratio, corresponding to industry sector and its size (Saudization). Since year before last, MLSD has accelerated tightening of Saudization. While raising the Saudization rate, MLSD includes in the denominator foreign despatched workers, etc.</u> <u>While importance of Saudization is well appreciated, the state of affairs at the labour market does not catch up with the governmental policy, inviting labour shortage as a result, giving vent to delays in construction work, shortage of house maids, etc.</u></p>	<p>- It is requested that GOSA provides an ample grace period in implementing these changes.</p> <p><u>- It is requested that SGA maintains the current realistic guidelines that enable FFEs' satisfaction of Saudization by their respective own self-efforts.</u></p> <p><u>- It is requested that MLSD:</u> <u>-- promotes Saudization matching with the actual state of affairs of the labour market.</u> <u>-- relaxes the speed of strengthening the Saudization.</u></p>	<p>- Labour Law - Customar - Nitaqat Saudization Programme</p>

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			<p>- <u>Compared to foreign workers, wages of Saudi workers are high, while they tend to decline working overtime, night shift, job relocation, etc. All these compensations add up to cost increase from promoting Saudization. These could drive enterprises promoting Saudization squarely with a positive stance into losing their competitive edge in price.</u></p> <p>(Actions)</p> <p>- New Labour Law, Royal Decree No. M/51 23 Sha'ban 1426 (approved by the Cabinet on 27 September 2005), has advanced the Saudization (Saudi nationals), restricting employment of certain categories of business and job types only to Saudis.</p> <p>- New Labour Law (enforced in 2006, under Article 26 (2)) provides "The percentage of Saudi workers employed by the employer shall not be less than 75% of the total number of his workers". Ministry of Labour in December 2008 announced its decision to reduce to 30%, the percentage of Saudi workers employed in private enterprises. The percentage of Saudi workers in the range of 5%-20% will apply on a case-by-case basis to business sectors with relatively few Saudi workers in the past, such as manufacturing, construction, agriculture, and cleaning. If the number of Saudi workers appreciably or continually decreases below the standard, GOSA will take measures against such enterprise, for example, by withdrawing the grant of alien visa issuance/renewal applications, and prohibiting participation in the public tender.</p>	<p>- <u>It is requested that MLSD enhances incentive measures for enterprises promoting positively Saudization.</u></p>	
	(2)	<p>Visa issuance is Complex and Delayed</p>	<p>- Expatriates' business activity gets restricted for two-weeks pending visa issuance at Saudi Arabia Embassy in Egypt (SAEE). During this time, SAEE requires deposit of the original passport.</p> <p>- It takes much time for filing visa application and get it issued, nearly a month. Persons without visa are unable to go on business trip at short notice. As a Manufacturing depot Saudi Arabia could be a difficult location to send quickly staff for trouble shooting, etc.</p> <p>- <u>It takes 2-3 weeks to get entry visa issued. It is impossible to cope with the work, demanding immediate entry.</u></p>	<p>- It is requested that SAEE expedites the visa issuance.</p> <p>- It is requested that GOSA (continues) to deregulate restrictions to enable emergency despatch of personnel for troubleshooting purposes.</p> <p>- <u>It is requested that MLSD takes step to work toward streamlining the entry visa issuance procedures.</u></p>	
	(3)	<p>Difficulty in Acquisition of Work Visa</p>	<p>- It takes several months from the date of filing application to acquisition of work visa, without disclosure of the reason for the delays. The whole process is veiled in gray.</p>	<p>- It is requested that GOSA:</p> <ul style="list-style-type: none"> -- expedites the visa issuance, -- provides a expedited processing, especially to enterprises having achieved 30% or more Saudization. 	
	(4)	<p>Inefficient Immigration Procedures</p>	<p>- It is common to see alien residents in Saudi (Japanese and other aliens, not on business trip), having to wait in queue for one or two-hours at the immigration. Recently, Japanese on business trip had to wait actually for more than 4-hours in queue. There is no sign of improvement on the complaint filed with GOSA via the Japanese Embassy in Saudi. Immigration personnel's' behaviours are outrageous, fighting for the rubber stamp, etc. with their colleagues. They would abruptly leave the</p>	<p>- It is requested that GOSA:</p> <ul style="list-style-type: none"> -- increases the number of immigration wickets to the maximum extent possible, -- motivates immigration personnel to maximise efficiency in all sincerity, and 	

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			post, and would not get back for a long-time. Especially striking delays take place in Damman airport.	-- executes prioritised immigration process for foreign businesspersons.		
	(5)	Difficulty in Securing Quality Saudi Workers	- It is requested that difficult to employ quality Saudi workers who demand double wage payment compared to non-Saudi workers. Incentive measures should be provided for enterprises with more than 30% of Saudi employees, such as deregulating employment of non-Saudis.	- It is requested that GOJ contributes to fostering Saudi human resources through provision of education and vocational training of Saudi nationals for the development of economic and industrial cooperation between Saudi Arabia and Japan.	Labour Law. Article 26-Nitaqat, Saudi Arabia's Indigenisation Programme	
			<p>(Actions)</p> <p>- Amended Labour Law, focused on workers' protection was promulgated and released in Gazette and MLSA website dated 24 April 2015. Its implementation is aimed at starting day of 21 October 2015, and facilitating implementation of the Nitaqat program.</p>			
	(6)	Restrictions on Employment of Female Workers	- <u>In employment of female workers, rules and restrictions are abundant, including without limitation, female exclusive work room, musallah (place of worship), kitchen, water closet, etc., which hinders employment of female workers with positive stance.</u>	- <u>It is requested that MLSA deregulates restrictions on issues and things not prerequisite under religion. In real life, at public places, male and female coexist. Too stringent segregation between male and female at office – isn't it simply going too far?</u>	- Labor Law - Municipality Regulations	
	(7)	Rough Handling of Passports	- Passports get a poor, rough handling at SAEE. They get labels sealed here and there, both on the front and back of the covers, regardless, with plenty of staplers.	- It is requested that SAEE instructs its employees for a more careful handling of Passports.		
	(8)	<u>Restricted Women's Entry</u>	- <u>Due to restricted women's entry, it is difficult to despatch women cosmetic sales specialist to Saudi Arabia.</u>	- <u>It is requested that GSA repeals restrictions on women's entry into Saudi Arabia.</u>		
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Absorption of Cost for Disposal of Counterfeit Goods	- A member firm's subsidiary (MFS) conducting annihilation of counterfeit goods is faced with the problem of the various costs incurred for the confiscated counterfeit goods, i.e., storage, transportation, and disposal costs.	- It is requested that GOSA: -- reinforces implementing rules of intellectual property rights -- tightens clamp down at Customs, -- introduces simple, import injunction measures, and -- alleviate financial burdens upon authorized importers related to confiscated goods.	- The Anti-Counterfeiting Trade Agreement (ACTA), October 2010

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23 Inefficient Administrative Procedures, Regimes and Practices	(1)	Difficulty in Acquisition of Authentication on Official Documents	- Official documents addressed to Turkey, Iraq, UAE, Saudi Arabia, etc. require authentication at Chamber of Commerce & Industries, Notary Public, Saudi Arabia Embassy in Japan (SAEJ), etc. Procedures at SAEJ are extremely inconvenient, taking a long time from application to receipt (as its authentication is not issued on the spot of filing application), with the application accepted only during the morning hours and the authentication issued only during the afternoon hours.	- It is requested that GOSA and GOJ review the scheme and employment of the authentication requirement.	
	(2)	Rigorous Law on Protection of Distributors	- Due to the rigorous law on protection of distributors, it is extremely difficult to rescind, or to change distributorship agreement, etc.	- It is requested that GOSA gets the law amended to facilitate change of distributors.	
	(3)	Abrupt Amendment of Energy Efficiency Regulations	- Due to the shortage in grace period on the amended energy efficiency regulation from the announcement (in April) to implementation (in September), product development cannot meet the deadline. While a member firm is now engaged in development of products corresponding to the amended regulation, it takes much time between starting production and exporting such products--For more than half a year, member firm's subsidiary is unable to import and sell the products.	- It is requested that GOSA releases information on energy efficiency restrictions, etc. in advance, envisaging 2-3 years lead-time.	
	(4)	<u>Inefficiency in Administrative Procedures</u>	- <u>Frequent changes take place on regulations. Moreover, they are frequently ambiguous so that wide interpretative variations occur among administrative officers, so that the method once approved by the former officer gets rejected by another, while yet another officer ferret out minutest errors and omissions with a magnifying glass, halting the procedures in a certain case.</u> - <u>Inefficiency permeates throughout in the ministries and agencies so that GSA requires accompaniment of pre-registered local nationals, acceptance of reservation for appointment possible only by Internet, etc. One good example for improvement occurred at the airport immigration where previously a long line of people waiting in queue used to form all the time. It has been dramatically improved by the GSA's exertion of real effort. There are other big rooms left open for enhancing efficiency/ productivity. It reflects the result of the administration's effort for improvement by grasping the core problems, and giving directions for improvement top-down. It is considered so doing will bring about higher efficiency/productivity. The room capable of improvement is wide and deep.</u>	- <u>It is requested that GSA educates its governmental employees so that they thoroughly understand the implementing rules and regulations.</u> - <u>It is requested that GSA makes efforts for improvement: TOP grasps what the issues are, gives the methods for improvement TOP DOWN. Substantial improvements should be forthcoming.</u>	

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24	Indigested Legislation, Abrupt Changes	(1)	<u>Ambiguous Frequent Changes in Legislative Schemes, Rules and Regulations</u>	- <u>In many cases, changes in legislative schemes, rules and regulations take place abruptly by ministerial decrees. Moreover, announcements are made in haphazard manner so that even legal counsels are kept unaware of changes effected in rules and regulations. For example, Announcements concerning improvement of SAGIA and trade licence were notified by e-mail to enterprises holding licences, while the change in the formula for calculating the Saudization ratio was effected by a partial change in the description on the heavy-thick "manual" in Arabic language disclosed at the website of Ministry of Labour and Social Development (MLSD).</u>	- It is requested that GSA takes step to: -- <u>promulgate the protocol for effecting changes uniformly in regulations, making promulgation in Official Gazette of Saudi Arabia (Umm Al Qura) as conditions for enforcement, and</u> -- <u>making available, after certain grace period, opportunities for exchange of dialogues with industrial organisations.</u>	
26	Others	(1)	Long Queue at Riyadh Airport Immigration Examination	- From time to time it takes a few hours for examination at Riyadh, Saudi Arabia airport immigration, due to the laxness of immigration officers (who suspend their work for a long talk by cellular phone, and move extremely slowly with low efficiency in performing their work).	- It is requested that GOSA expedites the examination at immigration by upbrining the examiners' level through education, training, etc.	
		(2)	<u>Pending Overhaul of Harbour Infrastructure</u>	- <u>Due to the safety problems at the harbour facilities, the risk is high for transport by ocean vessels.</u>	- <u>It is requested that GSA takes step to overhaul the harbour facilities.</u>	