

**LEGALINK**  
**INVESTMENT AND BUSINESS START UP IN LEBANON**

**(A) Legal system**

**1. What is the legal system (i.e. common law system, civil law system or both) in your country?**

Lebanon has a civil law system.

**2. What are the major law courts in your country?**

The Lebanese judiciary system is structured in a way that makes it similar to the existing systems in Western countries.

Justice is secured at two levels by the First Degree Courts and Courts of Appeal. A last resort is the Court of Cassation (Supreme Court) sitting in Beirut, comprising of several chambers and one plenary assembly

There are also other courts such as the Labor Tribunal, the Juvenile Court, the State Council, the Investigating Judge, the Real Estate Judge and the Enforcement Court.

**3. What are the sources of laws (such as constitution, statute law and common law) in your country?**

Lebanese laws are composed of the Constitution and statute laws.

**4. What is/are the official language(s) in your country?**

Arabic.

**(B) Foreign investment**

**5. Are there any restrictions faced by a foreign individual or company when they want to invest in your country? Is an approval or permit required if a foreign individual or company wants to enter a certain industry?**

Lebanon enjoys a widely liberal and open legal system for foreign investors; they may freely do business in Lebanon and may own local companies. The government would not seek to participate in the ownership or operation of the entity, and there are no restrictions on capitalization. Foreign investment is not subject to special restrictions except in certain areas.

Restrictions on direct investment:

Pursuant to the Decree no. 11614 of 4 January 1969 amended by Law no. 296 of 3 April 2001 which governs the acquisition of real estate properties in Lebanon by foreigners, foreigners (whether they are legal entities or physical persons), as well as Lebanese legal entities which are deemed and treated pursuant to the Law as foreign legal entities, are not allowed to

acquire real properties in Lebanon unless they are authorized to do so pursuant to a Decree to be issued by the Council of Ministers.

The Law exempts foreign nationals and legal entities, as well as Lebanese companies which are deemed as foreign companies, from the obligation to obtain a Decree from the Council of Ministers, only if they acquire built properties or pieces of land (to be built) which surface do not exceed 3,000 square meters in all the Lebanese territory.

Restrictions on indirect investments:

- a. The majority of the members of the Board of Directors of a Joint Stock Company must be Lebanese.
- b. Under Article 1 of Decree – Law 34 of 5 August 1967 governing commercial agencies in Lebanon, to benefit from the protection of the said Decree-Law, the agent/exclusive distributor who is a natural person should be of Lebanese nationality. If the agent/exclusive distributor is a Lebanese company with foreign partners or shareholders, the following conditions must be met:
  - If the company is a Limited Liability Company, the majority of its partners must be of Lebanese nationality and such Lebanese partners must hold the majority of the company's capital. Also, the company's management should be entrusted to a Lebanese national.
  - If the company is a Joint Stock Company, its shares must be in the form of registered shares and the majority of its capital must be held by Lebanese national. Also, two thirds at least of its Board members must be of Lebanese nationality, and so should be its Chairman, General Manager and any person entrusted with management powers.
- c. Joint Stock Company carrying out shipping agency activities: Half of its capital must be held by Lebanese nationals. For limited liability companies, 51% of the capital must be held by Lebanese nationals.
- d. Companies wishing to publish political magazines (Law of September 14, 1962 regarding printing matters) are subject to the following restrictions:
  - For Limited Liability Companies and partnerships, all partners must be Lebanese nationals.
  - For Joint Stock Companies, all shares must be held by Lebanese nationals or Lebanese companies.
- e. Joint Stock Companies running a public utility must have one third of their capital held by Lebanese nationals.

Investors do not have to make declarations regarding the nature of their investment.

**6. Are there any exchange control or currency regulations in your country?**

There is no foreign exchange control in Lebanon and no restrictions are imposed on the entry and repatriation of funds from profit or capital accounts.

**7. What grants or incentives are available to a foreign individual or company to encourage investment in your country?**

There are no significant incentives for foreign investments.

Touristic, agricultural and industrial enterprises carrying out projects in Lebanon can benefit from State subsidies, through the Central Bank of Lebanon, on the interest of the loans granted by banks operating in Lebanon, according to certain eligibility criteria, as per the Central Bank basic circular no. 80 dated 2 January 2001.

Small and medium sized enterprises (SMEs) operating throughout Lebanon in the industry, agriculture, tourism, traditional crafts and high technology sectors may obtain guarantees to the loans granted by banks operating in Lebanon from Kafalat SAL, a Lebanese financial company established by the Lebanese government. Kafalat SAL is owned by the National Institute for the Guarantee of Deposits (75%) and by fifty Lebanese banks (25%). Kafalat guaranteed loans benefit from interest rate subsidies financed by the Lebanese Treasury and administered by the Central Bank of Lebanon.

Tax incentives are granted by the Investment Development Law no. 360 dated August 16, 2001 as amended. They are restricted to projects in the industry, agriculture, agro-processing, tourism, information technology, communications and media sectors.

The incentives are granted in light of several factors, including the project's duration.

The investor needs to receive an approval to be eligible for these incentives. The process of application involves submitting an application with the necessary supporting documents to the Investment Development Authority in Lebanon "IDAL" who will evaluate the project and decide whether to grant the incentives available.

**(C) Business vehicles**

**8. What is the most common form of business vehicle used by foreign investors in your country?**

**Please provide details on:**

**i. Registration formalities;**

Foreign investors may establish a presence in Lebanon either in the form of a branch, a wholly owned subsidiary, or a representative office.

The representative office cannot have a business activity, but only does market studies and similar non-income generating activities.

The local branch may carry out all the activities of the parent company, except for restricted activities such as commercial agency activities. The branch should have a manager appointed

by the parent company. If the manager is a foreigner, he/she should obtain a work permit and a residency permit.

The most common form of business vehicle is a wholly owned subsidiary. There are two main forms of subsidiaries through which foreign entities may have a presence in Lebanon: joint stock companies (“JSC”) (designated in Lebanon as *Société Anonyme Libanaise*) and limited liability companies (“LLC”) (designated in Lebanon as *Société à Responsabilité Limitée*).

Offshore Companies, regulated by Decree Law no. 46 of 24 June 1983, as amended, may have their headquarters in Lebanon or outside Lebanon, but they operate outside Lebanon. Offshore Companies are registered in the form of JSC.

Only the following activities as listed in Article 1 of the abovementioned Decree may form the object of offshore companies in Lebanon:

- a. Negotiating and signing agreements concerning transactions to be carried out outside of Lebanese territories or involving goods located abroad or in the Lebanese Customs Free Zone. These activities may be transacted with natural persons or artificial legal entities, whether resident in Lebanon or not, including offshore companies registered in Lebanon;
- b. Managing from within Lebanese territories, companies, or entities located abroad, whatever their legal form or purpose, as long as their activities are undertaken in foreign countries. Providing professional, administrative, and organizational services including software programs and personnel training to foreign entities;
- c. Engaging in multilateral commercial transactions outside Lebanon, including ancillary acts, such as negotiating, signing, shipping, and also using the available facilities of the Customs Free Zone to store imported goods for their re-export as well as engaging in the sale and purchase of such goods, provided they are not destined for the Lebanese market;
- d. Engaging in international maritime conveyance on the understanding that the carriage cannot connect two Lebanese seaports, but rather a foreign seaport and Lebanese one or else two foreign seaports;
- e. Holding shares, bonds, or participating in foreign non-resident entities; and lending moneys to such entities, provided the offshore company’s participation exceeds 20 percent of their share capital, and provided these non-resident foreign entities do not have any partaking in Lebanese corporations;
- f. Acquiring agency rights and representing foreign companies in foreign markets;
- g. Opening representative agencies abroad whether under the legal form of subsidiaries or branches;
- h. Launching, investing, managing, and acquiring financial projects located abroad in compliance with the above-mentioned rules in paragraph (b);
- i. Opening credits and borrowing moneys in order to finance the above-mentioned activities through banks and financial institutions, whether resident in Lebanon or abroad; and

- j. Renting offices or acquiring real estate properties in Lebanon as necessary to carry out the business and inasmuch as such activities comply with the regulations governing the acquisition of real estate properties by foreigners.

At the same time, restrictions exist on the type of acts Lebanese offshore companies can carry on:

- a. Carrying on business or trade within the Lebanese territories;
- b. Engaging in banking or insurance activities (regardless of territory); and
- c. Making profit or earned revenue out of movable or real estate properties located in Lebanon, with the exception of income derived from bank accounts, and earnings derived from treasury bills.

Holdings Companies are exclusively governed by Decree Law no. 45 of 24 June 1983 and its further amendments. Holdings Companies are registered in the form of JSC and shall follow the relevant provisions. The object of the holding company is restricted to some specific activities, limited to:

- a. Acquisition of shares or stocks in existing Lebanese or foreign joint stock companies or limited liability companies, or participation in their creation.
- b. Management of companies in which it owns quotas or shares.
- c. Granting loans to companies in which it owns quotas or shares and standing security for these companies vis-à-vis third parties.
- d. Acquiring ownership of patents, ownership of discoveries, concessions, registered trademarks, and all other reserved rights, as well as the right to license them to companies operating in Lebanon and abroad.
- e. Acquiring chattels and real estate on condition that they are exclusively reserved to the requirements of its activities and in accordance with Lebanese law.

As with offshore companies, the company's capital may be set in foreign currency. All accounts and balance sheets are stated in the same currency as the capital.

A holding company is not allowed to directly acquire more than 40 percent in two companies operating in Lebanon in the same field of activity.

This does not, however, apply to investments outside Lebanon.

The incorporation of a JSC and/or a LLC involves the followings steps:

- Registration at the Commercial Register of incorporation documents (such as the Articles of Association and the Minutes of the General Constitutive Meeting and the Minutes of the First Board of Directors) and issuance of the Incorporation Certificate. The registration formalities before the Commercial Register can be finalized within three business days provided all the required documents are ready.

- Registration of the company and its employees at the Social Security Fund and affiliation of the employees.
- Registration at the Ministry of Labor; and registration of the employees' handbook (only if their number exceeds 15) and the working time schedule.
- Registration at the Chamber of Commerce, Industry and Agriculture for specific purposes such as importation.
- Filing a special application to the Ministry of Finance, where the company states that it has started its activities.
- Registration at the VAT department as applicable.

**ii. Minimum (and maximum) share capital;**

Apart from certain types of companies that are regulated (such as banking, securities and insurance), the LLC must have a minimum capital of LL /5,000,000/ (five million Lebanese pounds), i.e. approximately US\$ /3,334/.

The minimum capital of the JSC is LL /30,000,000/ (thirty million Lebanese pounds), i.e. approximately US\$ /20,000/.

**iii. Whether shares can be issued for non-cash consideration, such as assets or services (and any formalities);**

There are two different kinds of capital contributions provided for by the Lebanese Code of Commerce governing LLCs and JSCs. Such contributions can be either in cash or in kind. When in kind, valuation must follow a special procedure set out in the Code of Commerce and the company's articles of association.

**iv. Any restrictions on foreign shareholders;**

There is no restriction on foreign individuals or companies being shareholders of a company in Lebanon, however, in a Lebanese JSC, the majority of the members of its Board of Directors must be Lebanese.

However, if the investment project is governed by the Investment Development Law no. 360 dated August 16, 2001 as amended (regulating investment promotion of domestic and foreign entities and aiming at encouraging Lebanon's economic and social development as well as enhancing its competitiveness), then the joint stock company may be granted a special exemption from the above requirement by a decision of the Investment Development Authority in Lebanon "IDAL" provided specific requirements are met (Article 17-4 of the above Law).

**v. Management structure and any restrictions on foreign managers;**

The LLC can be run by one or more manager(s) who can act jointly or separately as provided for in the company's Articles of Association. The manager must be a natural person. If the manager is a foreigner, then he/she should hold a work permit and a residency permit. The manager does not necessarily have to be a member of the LLC.

The JSC is managed by a Board of Directors which takes the company's major decisions. The Board is formed of at least three directors who are elected from the shareholders of the Company. So obviously a director must be a shareholder. The Board is headed by a Chairman

(who must be a natural person). The Chairman of the Board may be a foreign person. He/she should then hold a work permit and a residency permit.

The majority of the Board members must be Lebanese (e.g. two out of three, three out of four, etc.). In specific cases, as mentioned in section (B) 5 above, such as if the object of the JSC is to carry out, inter alia, agency activities, then two thirds of its Board members should be Lebanese, as well as its Chairman/General Manager and all persons entrusted with management powers.

As stated above, Board members of a JSC must hold qualification shares to cover their liability in case of mismanagement acts. The number of qualification shares is not specified by law, and could be quite small. This latter requirement coupled with the requirement of Lebanese majority for board members, results in that the capital of a JSC cannot be 100% owned by foreigners. However, by granting a limited number of shares, dilution would ensure that at least 99% of the capital is held by foreign nationals.

#### **vi. Directors' liability;**

In a LLC, manager(s) is personally responsible vis-à-vis the company and third parties for any violation of Decree Law no. 35, statutory provisions, and in the event of mismanagement<sup>1</sup>.

In a JSC, directors are responsible for their actions in accordance with articles 166 and 167 of the Lebanese Code of Commerce. Under the provisions of these two articles, directors are responsible, even towards third parties, for all fraudulent acts and all infringements of the law and the articles of association<sup>2</sup>.

Directors are also responsible to shareholders for their mismanagement actions<sup>3</sup>.

In all cases, directors are jointly and severally liable for the company's bankruptcy.

Managers of an LLC<sup>4</sup> and directors of a JSC may be subject to criminal liability, especially in cases of fraud or when there is a questionable distribution of dividends or a fictitious set of false balance sheets or for attempting to cause a fictitious majority, or if they withdraw the contributions deposited at the bank before the formalities of incorporation. Similarly criminal liability may be alleged for breach of trust, misuse of corporate assets, and bankruptcy.

#### **vii. Parent company liability; and**

Under Lebanese law, a subsidiary is treated as a separate legal entity and thus its parent company is not liable for the debts of its subsidiary. The legal liability of a parent company is limited to the amount of share capital it has contributed to the subsidiary.

#### **viii. Reporting requirements (including filing of accounts).**

- a. Should the Articles of Association be amended, it will be necessary to record such modification and to file it before the Notary Public and the Registry of Commerce of the company's headquarters in a number of situations, including:

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<sup>1</sup> Article 19 of Decree Law no. 35.

<sup>2</sup> Article 166 of Lebanese Code of Commerce (LCC).

<sup>3</sup> Article 167 of LCC.

<sup>4</sup> Article 35 of Decree Law no. 35.

- Change to the Articles of Association, such as the duration of the company;
- Modification in the company's purpose;
- Increase or decrease in the share capital;
- Change of the registered office;
- Change in the participation of associates (in case of an SARL); and
- Change of name.

It is necessary to point out that all companies, with the only exception of Offshore Companies in certain conditions, must retain an appointed lawyer in Lebanon from the date of the company's registration and for its duration.

b. The Board of Directors of a JSC must undertake the following:

- Drawing up every six months a brief statement on the assets and liabilities of the Company.
- Drawing up at the end of each financial year the inventory, balance sheet, profit and loss account and the annual report, and put them at the disposal of the auditors according to Article 174 of the Code of Commerce.
- Convening the General Meetings of Shareholders.
- Constituting the legal reserves.

c. The manager in a LLC must undertake the following:

- Drawing up an annual report on the activities of the Company, its assets and liabilities.
- Establishing the annual inventory and balance sheet, a profit and loss account and submitting them to the partners at the registered offices, twenty days at least before the date of the General Meeting of partners.
- Publishing the annual balance sheet and retaining every year ten per cent of net profits in order to form a legal reserve fund equal to fifty per cent of the capital.
- Determining the sums he/she deems appropriate for amortizations.
- Convening the General meeting of Partners within six months as from the date of closing of the financial year's accounts, and establishing the agenda of the meeting and the issues to be discussed therein.

d. An audit report, along with the enclosed Financial Statements must be filed with the Ministry of Finance prior to the 1<sup>st</sup> of September of each year (article 13 of the Income Tax Law no. 144 dated June 12, 1959).

The Financial Statements to be submitted along with the audit report consist of the following documents (article 3 of decree no. 11671 dated December 16, 1998 related the enclosures to the audit report):

- Balance sheet;
- Profit and loss account;
- Cash flow statement;

Notes and disclosures to the Financial Statements

Concerning JSCs, two months following the approval by the Annual Ordinary General Meeting of Shareholders of the company's accounts of the preceding year, the Board of Directors must publish in the Official Gazette, in a business newspaper and in a local daily newspaper, the company's balance sheet for the preceding financial year and a list of names of the Board members and the company's auditors (Article 101 of the Lebanese Code of Commerce).

Holding and Offshore companies are exempt from such obligation (respectively Article 5 paragraph 6 of the Decree-Law no. 45 dated June 24, 1983 for Holding companies, and article 3 paragraph 8 of the Decree-Law no. 46 dated June 24, 1983 for Offshore companies). Holding companies should hold the Annual Ordinary General Meeting of Shareholders within 5 months as of the end of the financial year specified in the Articles of Association.

Concerning LLCs, the publication of financial statements is not required. The Annual Ordinary General Meeting of Partners must be held each year within six months as of the end of the financial year to approve the company's accounts (Article 21 of Decree-Law no. 35 dated August 5, 1967).

The minutes approving the relevant company's annual accounts must be registered at the Register of Commerce.

- e. The relevant tax returns have to be prepared by the legal entity subject to tax, and must be signed by the legal entity's representative and filed to the Ministry of Finance according to predetermined deadlines and according to specific procedures depending in general on the nature of the tax and of the legal entity subject to tax.

#### **(D) Employment**

##### **9. What are the main laws regulating employment relationships in your country?**

The laws that govern the employer/employee relations are mainly the Labor Code of September 23, 1946 and the Social Security Law issued by decree no.13955 of September 26, 1963, in addition to the Work Related Injury Decree-Law no. 136 dated September 16, 1983.

##### **10. Is a written contract of employment required in your country, and if so, must it contain any particular language? Are any agreements and/or implied terms likely to govern the employment relationship?**

According to the Lebanese Labor Code, employment agreements could be either written or verbal, save in the case of foreign employees where the agreement must be in writing and notarized in order to be filed to the Ministry of Labor for the purpose of obtaining the work permit. Obviously, it is preferable to execute written agreements so that the parties' rights would be clearly defined therein. Written employment agreements must be drafted in Arabic and can be bilingual.

There are no standard employment agreements imposed by Lebanese labor law. Parties to an employment agreement can include in their contract any provisions and conditions they choose, provided the employee's rights prescribed by labor laws and regulations are respected and complied with.

A Stamp duty amounting to 3 per thousand of amounts mentioned in the agreement is imposed by the Stamp Duty Law and must be paid to the Ministry of Finance within five business days as of execution of the employment agreement. Payment should be made by each party in relation to its/his/her original signed copy.

The employment agreement must mainly include the name of the parties, the employee's position/job description, the salary, the allowances and the term of employment. Both parties are free to include any other provisions into their agreement provided such provision do not conflict, as mentioned above, with applicable laws and regulations, as well as public policy provisions. Employment agreements may include conditions more advantageous to the employee than those provided for by applicable Labor laws and regulations, but may not provide for conditions less advantageous to the employee (such as providing for a salary lower than the applicable minimum wage or reducing the annual leave provided for by law); otherwise, such provisions would be considered null and void.

**11. Do foreign employees require work permits and/or residency permits if they work in your country? If so, how long does it take to obtain them and how much do they cost?**

Under the provisions of Decree no. 17561 of 18 September 1964, regulating the entry and residence of foreigners in Lebanon, foreigners may not work in Lebanon without a work permit delivered by the Ministry of Labor.

The residence of foreigners is also regulated by the aforementioned decree, in addition to the implementing decree no. 10188 dated 28 July 1962 and the circulars issued by the General Security Directorate.

The process of obtaining work and residency permits requires at least 4 to 6 weeks. The governmental costs and expenses could go up to US\$ 4,000 depending on the nationality and the position of the employee. These costs do not include the professional fees.

It should be indicated that pursuant to the Ministerial Decision no. 94/1 issued by the Minister of Labor on May 24, 2008, certain employees' positions are reserved to Lebanese nationals and therefore no work permits are granted to foreign employees for such positions.

These positions concern administrative and banking occupations and include managerial positions, sales and marketing representatives, business consultants, computers operators and engineers and other jobs, unless the foreign employee's specialization or expertise is not available locally, in which case he/she would be granted a work permit subject to certain conditions (such as publishing a job offer in local newspapers).

In addition, these restrictions do not apply to (i) foreign citizens who have a Lebanese mother or a mother of Lebanese origin or (ii) who have been married to a Lebanese for more than one year or (iii) who are residing in Lebanon since they were born or (iv) who are managers or representatives of a foreign company registered in Lebanon and provided that the State of which the foreigner is a citizen allows Lebanese to carry out the work the foreigner intends to perform in Lebanon.

Moreover, for each foreign employee, the employer must employ three Lebanese nationals. Such condition is not always strictly applied.

**12. Are employees entitled to management representation and/or to be consulted in relation to corporate transactions (such as redundancies and disposals) in your country?**

Employees are not entitled to management representation on the board of Lebanese companies. Employers are not required to consult their employees in relation to corporate transactions such as redundancies and disposals.

**13. Are there any employment protection laws (such as minimum wage law and/or maximum working hours law) in your country?**

The minimum wage is fixed by Decree. The Decree no. 7426 of 25 January 2012, has set the monthly minimum wage as of 1/2/2012, at /675,000/ Lebanese pounds and the minimum daily wage at /30,000/ Lebanese pounds.

The statutory minimum wage rate applies to most employees in Lebanon except interns, work experience students and domestic workers.

According to Article 31 of the Lebanese Labor Code, the maximum working hours for adults (men/women) is 48 hours per week. This does not include break periods. The break period consists of an hour of rest for male employees every six hours of work and for females every five hours.

Employees should benefit of a consecutive break period of nine hours per every 24 hours of work. Also, they must benefit weekly from an uninterrupted break of 36 hours.

Moreover, employers can in certain exceptional circumstances and due to major business requirements, request from their employees to work for a maximum of 10 hours a day, provided the Ministry of Labor is informed within 24 hours.

Overtime hours' salary must exceed by 50% the regular salary. If the employee has to work during the 36 uninterrupted weekly break mentioned above, he/she has the right to rest for a similar period.

Working hours can be increased up to 12 hours a day by decision of the Minister of Economy provided notice is given to Social Affairs Service within 24 hours (with 50% additional payment per each additional hour).

A schedule of working hours should be notified to the Ministry of Labor and displayed at the working place.

The Lebanese Labor Code provides for the following leaves:

Annual Leaves:

Every employee is entitled to a fully paid annual leave of fifteen working days, provided he/she has been employed by the same employer for at least one year. According to convention no. 52 of the *International Labor Organization* on paid annual leaves and which has been ratified by the Lebanese authorities, the annual leave should be increased in proportion with the number of years of employment. The Ministry of Labor applies the increased leave as follows:

<b>Period of Employment:</b>	<b>Annual Leave:</b>
- From one to five years:	- 15 working days.

- From five to ten years:	- 17 working days.
- From ten to fifteen years:	- 19 working days.
- Above fifteen years:	- 21 working days.

Sick Leaves:

Employees who have been working for the same employer for a period exceeding the probation period (three months), are entitled to a paid sick leave as follows:

<b><i>Period of Employment:</i></b>	<b><i>Payment of the Sick Leave:</i></b>
- From three months to two years:	- 100% of the salary payable for half a month and 50% of the salary payable for another half month.
- From two to four years:	- 100% of the salary payable for one month and 50% of the salary payable for another month.
- From four to six years:	- 100% of the salary payable for one and a half month and 50% of the salary payable for another one and a half month.
- From six to ten years:	- 100% of the salary payable for two months and 50% of the salary payable for another two months.
- Above ten years:	- 100% of the salary payable for two and a half months and 50% of the salary payable for another two and a half months.

Sick leaves are granted pursuant to a medical report. When the sick leave exceeds one month, the employer is entitled to reduce the employee's annual leave to eight days instead of fifteen.

Other Leaves:

Pursuant to Article 38 of the Lebanese Labor Code, the employee who lost his/her father, mother, spouse, one of his/her children, grand-children, any of his ascending relatives is entitled to a two days fully paid leave; but pursuant to applicable rules of the Ministry of Labor, the employee whose father, mother, spouse, one of his/her children, sister, or brother, passes away is entitled to a paid leave of three days.

Also, pursuant to the applicable rules of the Ministry of Labor, in case of death of the employee's uncle, ant, cousin, brother/sister-in-law, father/mother-in-law, he/she shall be entitled to one day paid leave.

The employee who gets married is entitled to a one week paid leave, for one time only (according to applicable regulations of the Ministry of Labor; the labor law does not provide for such matrimonial leave).

Maternity Leave:

Pregnant employees are entitled to a paid leave of seven weeks for delivery, in addition to their annual paid leave.

National Holidays:

The Lebanese Labor Code states for two mandatory national holidays on May 1<sup>st</sup> (Labor Day) and November 22 (Independence Day). However, the Ministry of Labor prescribes the following additional national holidays: Christmas, New Year, El Adha, El Fitr, Good Friday (Western and Eastern) and Mary's Assumption Day. National holidays are fully paid.

The Lebanese Labor Law does not state for any paternity leave. However, such leave can be granted to the employee pursuant to the applicable internal rules of the employer.

Please note that there is no Hajj leave.

**14. Is there any pension system in your country? Is it on a mandatory or voluntary basis? If so, please give details.**

There is no pension system in Lebanon. There is end-of-service indemnity contributions payable by employers to the National Social Security Fund.

The Lebanese Labor Code has set the retirement age for both men and women at 64 years, where the employee's end of services indemnities should be legally settled.

The employee, who has completed his 64 years, is entitled to continue working. If the employer's bylaws allow continuation of work after retirement age, this is possible but in such case the relationship will not be governed by Labor law but by general rules of contracts, and the employee will not be protected by the provisions of the Labor Code.

According to the Article 55 of the Lebanese Labor Code the employee who attains 60 years of age and he has been working with the same employer for 25 years, has the right to ask for the settlement of his end of service indemnity. In such case, the employee is entitled to continue work until he reaches 64 years after receipt of his end of services indemnity, and he will be legally governed by the Labor Law except for the end of services compensations.

The end of services indemnity (payable by the National Social Security Fund) is determined as follows: (the latest monthly salary) x (the number of working years with the latest employer) = total of end of services indemnity. The latest employer must settle the difference between the overall indemnity and the amount available at the National Social Security Fund.

**15. How is the termination of individual employment contracts regulated in your country? Under what circumstances is the dismissal of an employee unlawful?**

Employment agreements can be either for a determined term or an undetermined (indefinite) term. Employment agreements for a determined period of time cannot be terminate prior to the expiry of their term. Otherwise, the terminating party will have to pay to the other an indemnification for the damage caused. If the employment agreement which is made for a determined period of time, has been renewed – or if the employee working under an employment agreement for a determined period of time continues to work – for an uninterrupted period of two years after the expiry of the agreement's term, the said employment agreement will be deemed as an agreement for an indefinite period of time.

The Lebanese Labor Code states for a probation period of three months, during which any of the parties can terminate the employment agreement without notice and without incurring any obligations vis-à-vis the other. The probation period applies even if it is not expressly stated for in the employment agreement.

According to Article 50 of the Lebanese Labor Code, each the employer and the employee are entitled to terminate the employment contract entered for an indefinite period of time, provided one gives the other proper written notice. Therefore, an employer wishing to dismiss a member of staff must give him/her a written notice of termination. The length of notice is specified by law and cannot be reduced. It varies with the length of the duration of employment as follows:

<b><u>Prior notice</u></b>	<b><u>Duration of employment</u></b>
1 month prior notice	Less than 3 years of employment
2 months prior notice	3 to 6 years of employment
3 months prior notice	6 to 12 years of employment
4 months prior notice	More than 12 years of employment

Please note that the termination notice should not be served during leaves mentioned under section 14 above and to pregnant employees otherwise such termination shall be deemed abusive and the employee would be entitled to an abusive termination (unfair dismissal) compensation. This restriction does not apply if the employee is hired by another employer during the said leaves.

According to article 50 of the Lebanese Labor Code if the employer misuses the right to terminate the employment contract, the employee will be entitled to a compensation for unfair dismissal determined in light of several factors such as the nature of employment, age of the employee, period of employment, family statutes, employee's health, etc. provided that such compensation is not less than two months and does not exceed twelve months. In addition, the employee is entitled to all other legal indemnities such as the notice period salary, and all his/her contractual allowances.

If the employee has abusively terminates his/her employment agreement, he/she is due to pay to the employer one to four months compensation for abusive termination. Also, he/she could make a payment in lieu of notice.

The main situations where the employer could be deemed as having abused the right to terminate the employment agreement are the following:

- Termination for an unacceptable reason or for a reason which is not related to the competence of the employee or to his/her conduct at work or to the proper performance of his work.
- Termination due to the affiliation or non-affiliation of the employee to a trade union.
- Termination due to the employee being candidate, or his/her election to a trade union, or his designation for a representative position of employees in the firm.
- Termination due to a claim made by the employee (in good faith) against his/her employer for non-compliance of this latter with labor laws and regulations.
- Termination due to the exercising by the employee of civil and political rights.

Please note that there are certain circumstances where the employer does not need to give the employee any termination notice or pay him/her compensation. Such situations are the following:

- If the employee made a false statement in relation to his/her nationality.
- If the employee hired on probation, has not worked to the satisfaction to the employer in the course of the first three months of services.
- If the employee has been convicted of an act or has been found guilty of a deliberate negligence with intent to cause material damage to the employer. In this case, the employer is required to inform in writing the Social Affairs Service at the Ministry of Labor of this infringement within three days as of the date when the offence is committed.
- If despite repeated warnings being served on him/her in writing, the employee commits three times in the course of a single year major infringements to internal regulations.
- In case of absenteeism for no valid reasons for more than fifteen days per year or more than seven consecutive days. Within twenty-four hours of his/her return to work, the employee is required to motivate his/her absence. In this case, the employer must serve on the employee a written notice (before such days reach the above limit) regarding the number of days during which the employee's absenteeism is considered unjustified.
- If the employee has been sentenced to one year imprisonment or more for an offence he/she has committed, or if he/she is found guilty of an offence committed at work, and if the employee has been convicted for facts or acts sanctioned by the Penal Code.
- If the employee commits an unprovoked assault against the employer or this latter's officers at work.

**16. Are redundancies and mass layoffs regulated in your country? If so, please give details.**

If the employer wishes to terminate employment agreements due to exceptional factors (such as reducing the firm's activities, substituting a production line to another etc.), the said employer should inform the Ministry of Labor one month prior to termination in order to organize the termination phases for the purpose of minimizing, as much as possible, losses to employees.

**(E) Tax**

**17. In relation to employees, what is the basis of taxation (i.e. whether territorial source principle, tax residency principle or other principle is adopted) in your country?**

Lebanon adopts a territorial source principle of taxation in relation to employees.

**18. Under what circumstances are employees subject to taxation in your country?**

An employee working in Lebanon must pay taxes in Lebanon (deductions and payment are made by the employer).

Such tax applies on salaries and related supplements that form an integral part thereof generated in the Lebanese territory (Principle of Territoriality). Such tax is borne by the employee and is withheld from the employee's salary.

The employer must also settle social security contributions irrespective of the source of payment, whether from Lebanon or abroad.

**19. What income tax or social security contributions must be paid by:**

- i. **Employees?**
- ii. **Employers, in relation to their employees?**

Social Security Contributions:

Employers should affiliate their employees to the National Social Security Fund within 15 days as of the start of employment subject to pay fine/penalties.

The social security contributions amount to 23.5% and they are divided as follows:

- Social security contributions for the sickness and maternity branch: contributions amount to 9% up to a salary capped at LL 2,500,000 per months (divided as follows: 7% to be paid by the employer and 2% only paid by the employee to be withheld by the employer from the employee's salary).
- Family allowances branch: contributions amount to 6% up to salary capped at LL 1,500,000 per month (to be paid by the employer).
- End of services branch: contributions amount to 8.5% on all the salary without a cap (to be paid by the employer).

The employers pay all the relevant contributions (save for the above-mentioned 2%) and settle same every quarter if the number of employees is below 10, and monthly if the number of employees exceeds 10.

Foreign employees cannot benefit from allowances of the Social Security Fund unless they hold work and residency permits, and provided their country treats Lebanese employees similarly (rule of reciprocity). As far as we are currently aware, countries which are deemed to implement the reciprocity principle include England, France, Belgium and Italy. Nationals from other foreign countries working in Lebanon should be affiliated to the Social Security Fund and their employer must pay contributions in relation to the sickness and maternity branch and the family allowances branch, even if the employees will not benefit of the Social Security Fund's allowances.

Tax on Employees' Salaries:

The salary is subject to a withholding tax at source. Employees are entitled to annual exemptions based on their family status and deducted from their gross salaries to arrive at their next taxable salaries as follows (Law No. 107 dated July 23, 1999):

- Single : LL 625,000;
- Married: LL 833,333;
- Additional exemption per eligible child (up to 5): LL 500,000.

Salaries, wages and premiums (such as overtime and bonus) are subject to a progressive tax rate varying from 2% to 20% according to the following schedule:

<u>Taxable Income</u>	<u>Rate</u>
0 – LL 6,000,000	2%
LL 6,000,000 – LL 15,000,000	4%

LL 15,000,000 – LL 30,000,000	7%
LL 30,000,000 – LL 60,000,000	11%
LL 60,000,000 – LL 120,000,000	15%
Above LL 120,000,000	20%

The tax on salaries must be withheld by the employer from the employees' salaries and paid to the Ministry of Finance quarterly.

For the calculation of income tax over salaries and social security contributions, salary means the basic salary and other allowances, overtime and bonus.

The tax is calculated and remitted each quarter; Taxpayers (i.e. employers) must file to the Ministry of Finance the payroll Tax Return within 15 days as of the end of each quarter. Taxpayers must also submit for the year an "end of year" statement prior to the 1<sup>st</sup> of March of each year.

Lump sum wages paid to employees to carry out specific and temporary tasks (such as for instance employees hired during high seasons, or hand labors required to perform specific work within a limited period of time) are taxed at the rate of 3% (article 59 of the Income Tax Law). Such tax must be declared and settled to the Ministry of Finance with the payroll Tax Return.

**20. In relation to corporations, what is the basis of taxation (i.e. whether territorial source principle, tax residency principle or other principle is adopted) in your country?**

Lebanon applies a territorial source principle of taxation in relation to corporations.

**21. Under what circumstances are incorporations subject to taxation in your country?**

Corporations are subject to tax on profits generated in Lebanon. However, in practice if a Lebanese corporation carries out activities outside Lebanon (without having a duly registered branch outside Lebanon), it should declare the relevant profits to the Ministry of Finance.

The tax applies to the net income; therefore, expenses and charges are deductible from the gross income, such as costs of goods and merchandise, leases of shops and offices, salaries and wages of employees, interest of loans entered for business purposes, etc.

Tax is levied on the net income generated during the previous year. The net income is the whole turnover of the taxpayer after deducting all charges and expenses determined by the law

**22. What are the main taxes that potentially applicable to a corporation and what are their tax rates?**

**i. Profits Tax:**

The national income tax on profits for corporations (joint stock companies, limited liability companies, including branches of foreign companies, as well as to partnerships limited by shares, for active partners) is 15%.

For sleeping partnerships, the income tax to be paid by the partners is as follows:

<u>Taxable Income</u>	<u>Rate</u>
0 – LL 9,000,000	4%
LL 9,000,000 – LL 24,000,000	7%
LL 24,000,000 – LL 54,000,000	12%
LL 54,000,000 – LL 104,000,000	16%
Above LL 104,000,000	21%

There are special tax exemptions for Offshore and Holding companies, as follows:

Offshore companies are exempted from the tax on profits. They are subject to a LL 1,000,000 lump sum tax. They also benefit from other tax exemptions determined by the relevant regulations that govern such form of companies.

The income tax for Holding companies is as follows:

- 6% on the portion of the Holding company's capital and the reserve funds up to LL 50,000,000.
- 4% on the portion of the company's capital and the reserve funds falling between LL 50,000,000 and LL 80,000,000.
- 2% on the portion exceeding LL 80,000,000, provided the overall tax of a Holding company does not exceed LL 5,000,000.

A Holding company is also subject to specific taxes provided for by the relevant regulations.

#### **ii. Income tax levied over movable assets:**

A Withholding Tax at a rate of 10% is levied on all income derived from capital assets generated in Lebanon, such as dividends, interests, revenues from shares, and directors' fees (article 72 of the Income Tax Law).

Settlement of the tax is made according to different deadlines such as for instance:

- For gains realized on sales of fixed assets, the tax is due within one month as of the transaction date.
- The tax on dividends should be settled within one month as of the date of the resolution taken by the General Meeting of Shareholders/Partners (dividends distributed by Holding and Offshore companies are exempt from the 10% tax).

Concerning the withholding tax on dividends, in some specific cases, the tax over dividends is 5% (instead of 10%): (i) if the Lebanese joint stock company has listed its shares at the Beirut Stock Exchange; such reduction applies as of the year following the first year of listing; (ii) if the Lebanese joint stock company in question allocates 20% at least of its capital to Arab companies which shares are listed in their countries' stock exchanges or to companies which shares are negotiable at the stock exchanges of the OECD countries; (iii) if the Lebanese joint stock company in question issues GDR equivalent to 20% at least of the number of its shares listed at the Beirut Stock Exchange.

- The tax on the fees of the Board of Directors members should be settled within one month as of the date of the relevant General Meeting of Shareholders.

- The tax on the shareholders' attendance fees should be settled prior to June 1st of the following year.
- The tax on interest from loans is due on a quarterly basis and is to be settled within 15 days as of the end of each quarter if above Lebanese Pounds 200,000 (i.e. US \$ 133), otherwise, it is to be settled annually, prior to January 15 of the following year.

The tax is borne by the beneficiary of the return but withheld by the payer of the return.

Legal entities and natural persons that do not have a place of business in Lebanon are subject to a withholding tax if they receive funds as a result of taxable activities or generate profits in/from Lebanon (non-residents tax). The tax is 2.25% for goods and merchandise sold and 7.5% for services rendered (articles 41 and 42 of the income Tax Law).

Such tax must be settled to the Ministry of Finance with the income tax return filings of the local counterparty. The tax is borne by the beneficiary of the return but paid by the local counterparty that purchased the goods or received the services.

### iii. Built property tax:

Individuals and entities are subject to the built property tax, as well as to the municipal tax (over built properties used as residence and for business).

Built property tax applies to all buildings and their supplements such as land, gardens, other spaces forming part of the plot (Law dated September 17, 1962).

Progressive tax rates apply on the global net revenues of the property generated during the previous year. Net actual returns are the difference between the gross revenues and deductible charges. Gross revenues mean all revenues received directly or indirectly by the landlord, from the lessee or the occupant, in cash or in kind.

The relevant tax return must be filed before the 1<sup>st</sup> of April of every year. Payment must be made before such date at any Lebanese bank against receipt evidencing payment, copy of which must be sent along with the tax return to the Built Property Tax Department at the Ministry of Finance.

The built property tax escalating rate is as follows:

0 – LL 20,000,000		4%
LL 20,000,000 – LL 40,000,000	6%	
LL 40,000,000 – LL 60,000,000	8%	
LL 60,000,000 – LL 100,000,000	11%	
Above LL 100,000,000		14%

The Municipal tax is 8.5% for a commercial property and 6.5% for property used as a residence.

### iv. Stamp Duty:

All deeds of whatever form, and irrespective of the nationality and the residence of the parties, are subject to stamp duty (article 1 of Decree Law no. 67 dated August 5, 1967). Deeds mean all signed documents, such as agreements, undertakings, guarantees, acknowledgments,

discharges, settlements, receipts, property deeds, invoices, shares, etc. (Article 2 of the aforementioned Decree Law).

The tax is of two forms: lump sum and proportional (Article 12 of the Decree Law).

All deeds containing expressly or impliedly an amount of money are subject to proportional stamp duty, save specific exemptions set forth in annexes to the Decree Law). The rate of the proportional tax is 3 per thousand over the amounts mentioned in the relevant deed (Article 18 of the Decree Law).

The deeds that are subject to a lump sum tax are specified in the annexes of the Decree Law, even if they comprise an amount of money; the amount of the lump sum varies depending on the nature of the deed (Article 19 of said law).

The stamp duty is generally paid by affixing the stamps on the deed, if the amount of the stamp duty does not exceed Lebanese Pounds 200,000 (i.e. approximately US \$ 133) (the date must be mentioned on the stamps and the stamps must be cancelled), or otherwise in cash by payment orders issued by the Indirect Taxes Department at the Ministry of Finance. Stamp duty must be paid within 5 business days as of execution of the deed (holidays and Sundays are not counted therein) (Article 7 of the Decree Law).

JSCs should settle (i) within 3 months as of the date of the General Constitutive Meeting of Shareholders, the applicable stamp duty on the shares; (ii) and within one week as of the date of the Extraordinary General Meeting ascertaining the increase of the capital, the applicable stamp duty on said increase (article 49 of the Decree Law).

#### **v. VAT:**

VAT is governed by Law no. 379 of December 14, 2001, in addition to several other implementing Decrees and Decisions.

The VAT rate in Lebanon is 10%. In general, all transactions carried out in the Lebanese territory are subject to VAT, but certain exemptions do apply.

Activities exempted are listed in Article 16 of the VAT law and exempted goods in Article 17.

The tax is borne by the end-consumer, and the different taxpayers involved in the process of VAT payment and collection effectively act as tax collectors on behalf of the Ministry of Finance.

The tax is calculated at the end of each quarter, and is remitted within 20 days as of the end of the quarter. Tax collected is deducted from tax paid during each quarter. Settlement is made at any bank in Lebanon against receipt evidencing payment, copy of which must be sent along with the relevant tax return to the VAT Department at the Ministry of Finance

#### **vi. Transfer Tax:**

A 6% tax is levied on the transfer of real estate.

### **23. Please explain how each of the following is taxed in your country:**

- i. Dividends paid to foreign corporate shareholders?**
- ii. Dividends received from foreign companies?**

**iii. Interest paid to foreign corporate shareholders?**  
**iv. Intellectual property (IP) royalties paid to foreign corporate shareholders?**

The rate of withholding tax on dividends is 10%.

This tax on dividends of a JSC is reduced to 5% in specific cases determined by the Income Tax Law as mentioned in paragraph 22 above.

Dividends distributed in relation to foreign shares and bonds owned by entities or individuals residing in Lebanon are also subject to a 10% withholding tax.

Foreign corporations having branches in Lebanon are subject to a 10% tax over dividends for profits made in Lebanon. Such 10% applies after deducting the 15% income tax.

Offshore and Holding companies are exempted from tax on dividends' distributions.

Interests payments to non-residents are subject to a 10% withholding tax (unless reduced by a tax treaty) except for interests paid on bank deposits, certificate of deposits and bonds which are subject to a withholding tax of 5% (Article 72 of the Income Tax Law and Article 51 of the Law No. 497 dated January 30, 2003).

Royalties paid to a local joint stock company or to a limited liability company form a part of its income and thus fall under the income tax over the company's net profits, as per the currently applicable instructions of the Ministry of Finance.

Royalties paid to a nonresident are subject to a 7.5% withholding tax unless the rate is reduced under a tax treaty (Article 42 of the Income Tax Law).

Profits generated by Holding companies as a result of leasing patents to resident institutions are subject to a 10% tax.

**24. Are there any thin capitalization rules (i.e. restrictions on loans from foreign affiliates) in your country? If so, please give details.**

There are no thin capitalization rules in Lebanon.

**25. Are there any controlled foreign company rules (i.e. the profits of a foreign subsidiary must be imputed to a local parent company) in your country? If so, please give details.**

There are no controlled foreign company rules in Lebanon.

**26. Are there any transfer pricing rules (i.e. restrictions on the pricing of transaction between a local entity and a foreign entity) in your country? If so, please give details.**

There are no transfer pricing rules in Lebanon.

**27. How are imports and exports taxed in your country?**

The import and of goods into and outside Lebanon, including non-food goods, is governed by the Customs Law issued by Decree no. 4461 dated 15 December 2000 and controlled by the Lebanese Customs Administration (LCA). The LCA is responsible for ensuring that all goods

entering and exiting Lebanon comply with relevant laws and regulations, and that all goods are not cleared until all duties and taxes are paid.

Under Article 95 of the Customs Law, all imported and exported goods must be declared in a detailed customs declaration.

Following the declaration of the goods to Customs, the latter verifies its validity, including the inspection of goods; then, the duties are set in compliance with Customs tariffs or the tariff provided for in applicable laws and regulations. Finally, the duties are paid at the Customs' Treasury against a receipt.

There are four kinds of import duties:

a. Custom Duty: The applicable duties are determined according to customs tariffs.

There are 3 kinds of customs tariffs:

- Ad valorem (a percentage of the value of imported goods);
- Fixed; or
- Compound tariff both ad valorem and fixed).

b. Local Consumption Duty: It is applicable to certain types of goods (i.e. tobacco, cars, fuels....).

c. Value Added Tax: 10% of the value.

The value observed to calculate the 10% added tax is the value of imported goods which is approved by the customs authorities plus the customs duty and any other applicable charges or fees on the imported products.

d. Stamp duty: In addition to above mentioned taxes, every declaration is subject to a lump sum stamp duty of Lebanese Pounds 50,000 which in fact represent the value of stamps to be affixed on the declaration and its enclosures notwithstanding the type or number of such enclosures.

There are no applicable export duties.

**28. Is there a wide network of double tax treaties in your country? If so, please give details.**

There are applicable tax treaties with Algeria, Armenia, Bahrain, Belarus, Bulgaria, Cuba (not enforced yet), Cyprus, Czech Republic, Egypt, France, Gabon (not enforced yet), Iran, Italy (not enforced yet), Jordan, Kuwait, Malaysia, Malta, Morocco, Pakistan, Poland, Qatar, Romania, Russia, Senegal, Sudan (not enforced yet), Sultanate of Oman, Syria, Tunisia, Turkey, U.A.E. Ukraine and Yemen.

**(F) Competition**

**29. Is there any competition law in your country? If so, please give details.**

**30. Are restrictive agreements and practices regulated by competition law in your country?**

**31. Is unilateral (or single-firm) conduct regulated by competition law in your country?**

**32. Are mergers and acquisitions subject to merger control in your country?**

Lebanon has no general competition law. A draft competition law is currently under discussion at Parliament.

Law enacted by Decree Law no. 73 on 9 September 1983 on Ownership of Products, Materials and Goods and their Trade ("DL 73/83") addresses the monopoly and illegal competition. Article 14 of DL 73/83 states the following: *"Is deemed monopoly: 1- Any agreement or consortium aiming to limit the competition in the production of products, materials and goods or their purchasing, import or liquidation, and resulting in facilitating the artificial increase of its prices or preventing the decrease of such prices. 2- Any agreement or consortium regarding services aiming to limit the competition in providing such services, and resulting in facilitating the artificial increase of their fees or preventing the decrease of such fees. 3- Any act leading to assemble the materials, goods or products or hiding them in order to increase their value or to close its offices or storehouses for illegal purposes in order to gain profits, which is not a normal result of the rule of supply and demand".*

Article 16 of DL 73/83 states the following: *"Is deemed having committed an illegal competition offence, anyone who caused or tried to cause an artificial increase or decrease in the prices of the products, materials and goods or others, or in the documents or public or private shares by carrying out, personally or through a third party, the following: Diffusing false information to the public, displaying goods in the market to change the prices, proposing profits exceeding the legal profits to the sellers or using any other illegal mean for the same purpose".*

**(G) Intellectual property**

**33. Please outline the main intellectual property rights that are capable of protection in your country. In each case, please state:**

- i. What is the nature of the right?**
- ii. How is it protected?**
- iii. How is it enforced?**
- iv. How long is it protected?**

Intellectual property is divided into two categories: Industrial property, which includes inventions patents, trademarks, industrial designs, and geographic indications of source; and copyrights, which include literary and artistic works.

**a. Patents**

**i. What is the nature of the right?**

The Lebanese Patent Law was enacted on August 7, 2000, and entered into force on August 14, 2000.

A patent gives the holder the right to exclude others from making, using, selling, offering to sell, and importing the patented invention. A patent does not necessarily provide the holder any affirmative right to practice a technology since it may fall under a broader patent owned by others. Instead, it provides the right to exclude others from practicing the invention.

**ii. How is it protected?**

The invention is registered at the Lebanese Ministry of Economy and Trade and this registration gives the inventor the exclusive right to exploit the invention subject matter of a patent for twenty years from the date of filing the application, as stipulated in Article 5 of the Lebanese Patent Law.

The registration of a patent is completed within a period of 2 weeks; while the relevant patent certificate is issued within 2 weeks of the registration date.

### **iii. How is it enforced?**

The patent holder is entitled to file a legal action against the infringer and to ask for compensation including material and moral damages and loss of profits.

Enforcement procedures and adequate remedies are available in such a way to permit effective action against any act of infringement including undisclosed information and the sentence is 3 months to 3 years imprisonment and/or a fine of Lebanese pounds 5 million to 50 million (i.e. US\$ 3,333 and US\$ 33,333).

### **iv. How long is it protected?**

The period of protection is 20 twenty years from the date of filing the application.

An annuity fee is payable on the anniversary of the acceptance date. There is a 6-month grace period for late renewal of a patent.

## **b. Trademarks and logos**

### **i. What is the nature of the right?**

A trademark is a sign that distinguishes the goods and services of one trader from those of others. A trademark can be words (including personal names), indications, designs, logos, letters, characters, numerals, figurative elements, colours, shape of goods or their packaging or any combination of these.

### **ii. How is it protected?**

Decision no. 2385/1924 prescribes that no one may claim the ownership of a trademark, unless such trademark has been registered with the Ministry of Economy and Commerce (Intellectual Property Department). If a person claims priority rights in relation to the use of a specific trademark, then he must submit documentary evidence in support of his claim.

Once a trademark application is filed, it is examined as to whether it is contrary to the public order and morals or representing national or foreign decorations. Also, it is examined as to its registrability and existence of prior rights. If similar or identical trademark registrations exist under the same class, a Notice of Similarity has to be signed on behalf of the client as an acknowledgement of taking note of the existence of these conflicting registrations. When the trademark is accepted, the Registrar waits for the decision of the Israeli Boycott Department to check whether the applicant is on the boycott list or not. A trademark is deemed registered upon payment of the registration fees.

The registration of a trademark is completed within a 2-week period; while the relevant registration certificate is issued within 2 weeks of the registration date.

If the registration of a trademark has not raised any objection within five years as of its registration, then no objection can be raised against the person who registered the trademark in relation to the priority right of use, unless it is evidenced that such person was aware at the time of registration that the trademark was used by another party before him. In such event, the first user must prove in writing his priority right, if he succeeds; then, he will be granted the ownership of the trademark and the registration of the trademark by the other party will be stricken off.

Here, it must be indicated that the ownership of a tradename is based on the priority of use. The registration by itself has only a declaratory effect and does not create the right to the tradename, until the above five years deadline has lapsed with no objection by a third party.

In addition, Decision no. 2385/1924 provides that any person who shows, following the above five years, that he has freely and continuously used the tradename prior to its registration by another party, may keep his right of use for 15 years as of the registration date. The rights of such person are protected through the filing of an unfair competition lawsuit.

### **iii. How is it enforced?**

There are three legal courses (i) a criminal legal action for counterfeiting, (ii) a legal action challenging the trademark's registration and requesting its strike off, or (iii) a civil legal action for unfair competition.

#### **1. Criminal legal action for counterfeiting:**

This is the legal course whenever a trademark is registered at the Intellectual Property Department prior to another one and is accusing this latter for counterfeiting the first registered trademark.

#### **2. Legal action challenging a trademark's registration and requesting its strike off:**

Such an action can only be initiated within five years as of the trademark's registration as mentioned above.

#### **3. Civil legal action for unfair competition**

This legal action is provided for by Article 97 of Decision no. 2385 of January 17, 1924 governing Commercial, Industrial and Intellectual Property rights. The civil legal action for illegal competition can be filed before the commercial court. The court's judgment in this regard prohibits the illicit use of the trademark and awards the plaintiff a monetary compensation. It may also prescribe to publish the judgment in one or several newspapers. Such civil legal action supposes several cumulative conditions:

- (i) A competition exists between the two traders carrying out the same trade or industry; and
- (ii) There should be a misconduct by the user (with or without bad faith), i.e. by using illegal and non-ethical means such as without limitation, using an imitated tradename, using a fake trademark, imitating the plaintiff's advertising campaigns, etc.); and

- (iii) Damage should have occurred to the plaintiff. A potential damage could also be taken into consideration. The potential damage results from the confusion that the illicit use of the trademark could create in the customer's mind. However, in some similar court cases, it has been upheld that to claim for compensation, there should be damage and that a potential damage is not enough to award compensation.
- (iv) The owner of the trademark must rightfully and exclusively own it or at least establish the priority of use.

#### **iv. How long is it protected?**

The Intellectual Property Department at the Ministry of Economy and Commerce is accepting the trademark's/logo's registration for 15 years only. Such term can be renewed as per the applicant's request for another 15 years, as many times as needed. Filing a late renewal application is possible through a grace period of 3 months from the date of expiration.

#### **c. Industrial designs**

##### **i. What is the nature of the right?**

An industrial design is the ornamental or aesthetic aspect of a product. Registered designs protect only the aesthetic nature and do not protect any technical features of the product to which it is applied.

##### **ii. How is it protected?**

The invention must be registered at the Lebanese Ministry of Economy and Trade.

The registration of a design is completed within a period of 2 weeks; while the relevant registration certificate is issued within 2 weeks of the registration date.

There is no provision for opposing the registration of a design or an industrial model. The depositor or the applicant shall have the right to ask for advertising all the things he filed or just a part thereof at the time of filing without paying an additional fee. He shall reserve this right during the first 5 years following the filing, but in this case the request for advertising shall necessitate the payment of a fee. As long as the depositor has not asked for advertising the things he filed, the secrecy of the filing shall be fully maintained.

According to article 48 of Decision no. 2385/1924, any inventor of a drawing or a design, or those who have rights thereto, shall alone have the right of usufruct thereto, and to sell, or offer it for sale, and to authorize its sale, provided that such drawing or design is, previously filed and registered at the Lebanese Ministry of Economy and Trade.

Registration does not grant the ownership of a drawing or a design, but it only creates a presumption of ownership in favor of the person who makes the registration; however the real ownership shall only be acquired through the use of the drawing or design.

##### **iii. How is it enforced?**

A modern Copyright Law was enacted on April 3, 1999, by the Lebanese parliament and entered into force on June 6, 1999.

In case of violation of copyrighted works, infringements are prosecuted before the Civil and Penal Courts in Lebanon. Penalties of criminal aspects and civil compensations to the offended party shows to what extent the copyright is protected by this law.

#### **iv. How long is it protected?**

An industrial model is registrable for an initial term of 25 years starting from the registration date. The duration of a registration is extendible only once for a term of 25 years. A design should be distinguishable from those previously known. Advertising a design prior to filing the application, even by way of sale of the relevant products, does not preclude registration.

#### **d. Copyrights**

##### **i. What is the nature of the right?**

Copyright protection in Lebanon is governed by Artistic and Literary Ownership Law No. 75 which was enacted on April 3, 1999 and entered into force on June 6, 1999.

The protection of this law shall apply to every production of the human mind be it written, pictorial, sculptural, manuscript or oral, regardless of its value, importance or purpose and the mode or form of its expression.

The protection of this law shall apply, among other works, to:

- Books, archives, pamphlets, publications, printed material and other scientific and artistic writings;
- Lectures, addresses and other oral works;
- Audiovisual works and photographs;
- Musical compositions with or without words;
- Dramatic or dramatico-musical works;
- Choreographic works and pantomimes;
- Drawings, sculpture, engraving, ornamentation, weaving and lithography;
- Illustrations and drawings related to architecture;
- Computer programs whatever their language and including preliminary works;
- Maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science;
- Any kind of plastic art work whether intended for industry or not.

The following derivative works shall be subject to the provisions of this law and shall be protected as original works without prejudice to the rights in the original work:

- Any kind of plastic art work whether intended for industry or not;
- Translations, adaptations, transformations and arrangements of music;
- Collections of literary or artistic works and compilations of data, whether in machine-readable or other form, provided that they are authorized by the copyright holder or his public or private successors and that by reason of the selection and arrangement of their contents they constitute intellectual creations.

The following shall be excluded from the protection provided by this law:

- Daily news;

- Laws, legislative decrees, decrees and decisions issued by all public authorities and official translations thereof;
- Judicial decisions of all kinds and official translations thereof; \
- Speeches delivered in public assemblies and meetings. The authors of speeches and presentations shall enjoy the sole right of collecting and publishing such lectures and presentations;
- Ideas, data and abstract scientific facts;
- Artistic folkloric works of all kinds.

However, works inspired by folklore shall enjoy protection.

#### **ii. How is it protected?**

A created work is considered protected by copyright as soon as it exists. According to the Berne Convention for the Protection of Literary and Artistic Works, literary and artistic works are protected without any formalities in the countries party to that convention. However, registration of copyright is recommended in Lebanon, as it can serve as prima facie evidence in a court of law with reference to disputes relating to copyright.

It should be noted that Lebanon is a member of the Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention.

The registration of copyright is completed within a 2-week period, while the relevant registration certificate is issued within 2 weeks of the registration date.

#### **iii. How is it enforced?**

Infringements are prosecuted before the Civil Court in Lebanon and infringers will be penalized by a fine or imprisonment.

#### **iv. How long is it protected?**

Protection is available to nationals and foreigners for the lifetime of the author and for a period of 50 years after his death. Should the work be published in the name of a company, the duration of the protection shall be 50 years from the date of publication of the work.

### **(H) Marketing agreements**

**34. Are marketing agreements regulated in your country? If so, please give brief details in respect of the following arrangements:**

- Agency;**
- Distribution; and**
- Franchising**

Unlike the Agency and distributions agreements which are regulated by Decree-Law no. 34 of 5 August 1967 ("Decree-Law 34"), franchising agreements are not regulated in Lebanon.

Decree-Law 34 defines the commercial representative as the agent who in the context of his independent and ordinary profession, without being party to an employment agreement, carries out negotiations to finalize sale, purchase lease or services transactions, and who

carries out such activities, as the case may be, in the name and for the account of a principal or supplier. The trader who carries out for his own account the sale of purchased products, pursuant to an exclusive agency or distributorship agreement is also considered as a commercial representative. Accordingly, Decree-Law 34 applies to commercial agents as well as to exclusive distributors. Decree-Law 34 does not apply to non-exclusive distributors or authorized dealers.

Under Decree-Law 34, the agent/exclusive distributor acts independently in the fulfillment of his agency and accordingly has the right, *inter alia*, to appoint sub-agents whose business relationship will be strictly limited to the agent/exclusive distributor and who shall have no direct contact with the foreign principal.

The main objective of Decree-Law 34 is to protect the agent/exclusive distributor, notably in the event of a termination of an agency or exclusive distributorship, where and notwithstanding any agreement to the contrary, the principal is liable to a termination compensation equivalent to the damage suffered by the agent/exclusive distributor as well as his lost profits, unless termination of the agency/exclusive distribution agreement by the principal is justified.

In order to be enforceable *vis-à-vis* third parties, the exclusive agency/distributorship must be registered in the agent/distributor's file at the appropriate Commercial Register. In addition, the exclusive agency/distributorship must be registered at the Ministry of Economy and Commerce. However, lack of registration does not affect the relationship between the parties concerned (i.e. between the principal and the exclusive agent/distributor).

Save for ordinary commercial terms that can be freely determined by the parties such as the price of products, delivery terms, trade name issues, confidentiality, etc., the parties to an agency/exclusive distribution agreement cannot submit their contract to a foreign law to govern matters specifically regulated by Decree-Law 34 which are considered of public policy, such as provisions governing the termination and non-renewal compensation or the prohibition of choice of foreign courts for the settlement of disputes.

**(I) E-commerce**

**35. Are there any laws regulating e-commerce (such as electronic signatures and distance selling) in your country? If so, please give brief details.**

There are no laws regulating e-commerce in Lebanon.

**(J) Data protection**

**36. Are there any data protection laws in your country? If so, please give brief details.**

Lebanon does not have a general data protection law. There are specific confidentiality provisions relating to financial sector, medical information, legal sector, consumer information and confidential information disclosed to professionals and officials.

**(K) Product liability**

**37. Are there any laws regulating product liability and product safety in your country? If so, please give brief details.**

The main legislation regulating product liability and product safety in Lebanon is the Consumer Protection Law no. 659 issued on 4 February 2005 (CPL) that became effective on May 10, 2005.

The Consumer Protection Directorate at the Ministry of Economy and Commerce established by Article 63 of the CPL is the authority responsible for the protection of consumers' rights.

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**29 November 2013**