

# LEGAL INVESTMENT GUIDE FOR EGYPT

## ARTICLE

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## Legal Investment Guide for Egypt

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## **1. Legal Investment Guide for Egypt**

- 1.1.** Recently, Egypt applied a lot of effort into making progress on Economic reforms and into attracting investors to invest in Egypt by undertaking a major evolution and transition in its investment, business and commercial agreements, laws and regulations.
- 1.2.** The investment climate is improving in Egypt, especially after the number of structural reforms and projects that have been undertaken by the country and one of the biggest investment projects is Egypt Vision 2030, which is launched in February 2016 by the Egyptian Government and unveiled by the Egyptian president Abdel-Fattah Al-Sisi.
- 1.3.** In Addition to the unique location, climate and resources of Egypt, investors' confidence in Egypt increased especially after the pandemic of COVID-19 as it is considered as one of the few emerging market countries that experienced a growth in 2020.
- 1.4.** In this article, we will undertake to give an overview on the changes and progress in Egypt that may affect investors while providing some details of certain laws to help the investors to be aware of the environment in Egypt and encourage investors to take the decision of investing and / or doing business in Egypt.

## **2. The Legal Framework for Investing in Egypt**

- 2.1.** In fact, Egypt promulgated a new Investment Law no. 72 of 2017 amended by law no. 160 of 2023 (the “Investment Law”). This Investment Law, especially the new major amendments to said law that took place on 25<sup>th</sup> July 2023, Facilitated and Streamlined Licensing Procedures and offered certain incentives for Egyptians and foreigners for investment in Egypt as summarized herein below.

### **2.2. Facilitating and Streamlining Licensing Procedures**

- 2.2.1.** The investment sector in Egypt is currently grappling with several challenges, and one of the most prominent ones pertains to the licensing process. In 2017, Egypt enacted Investment Law no. 72, which introduced two new streamlined avenues for investors to acquire the necessary licenses and approvals. These options involve either (1) direct application to the Investors Service Center at GAFI or (2) utilizing the services of private Accreditation Offices.
- 2.2.2.** On May 16, 2023, Egypt took a significant step forward by amending Law no. 72 for 2017. This amendment marked the establishment of a unified electronic platform designed to facilitate the processes related to incorporating, operating, and liquidating

companies and projects. The primary goal of this platform is to enhance procedural efficiency and flexibility for investors.

**2.2.3.** Investors utilizing the GAFI platform have the capability to initiate the process for company incorporation, complete the necessary payment of associated fees, affix their electronic signatures to the relevant incorporation documents, and subsequently obtain the finalized incorporation documents either through the investor service center or via postal delivery.

**2.2.4.** Fast forward to August 2, 2023, and Egypt achieved a significant milestone. The country witnessed the establishment of its very first electronically formed company, made possible through the digital infrastructure provided by GAFI's platform. This marked a pivotal moment in Egypt's efforts to modernize and streamline its investment processes, demonstrating the tangible benefits of the recent legal amendments and technological advancements in the sector.

### **2.3. Investment Guarantees:**

#### **2.3.1. Foreign and Local Investors are advantaged with several guarantees granted by the Investment Law:**

- Equality in dealing with the foreign investors and the local investors.
- Granting residency for foreign investors during the project period.
- The ability of the foreign investor to transfer their profits outside Egypt.
- The Investment Law even identifies preferential treatment for foreign investors in the application of the principle of reciprocity.
- Finally, protecting the Egyptians as well as foreign persons, companies and establishments against nationalization and confiscation.

### **2.4. Investment Incentives**

**2.4.1.** The Investment Law provides a special and additional incentives to be granted to the investor in order to boost investments in Egypt and encourage investors to choose Egypt as their investment destination.

**2.4.2. The Special Incentives** include certain tax deduction for up to seven years from the date of starting the activities, in two categories as follows:

- **Zone (A)** includes investment projects established of net profit in certain geographic areas, which are the most needed for development and recently, the New Administrative Capital was included within these geographic areas. Investment Law

grants a 50% tax reduction from the profits of their investment costs for only 7 years from the day of establishment.

- **Zone (B)** includes specific investment projects established in the rest of the country that also requires development but does not fall under zone (A). Investment Law provides a 30% tax reduction of the profits of their investment costs for only 7 years from the day of establishment.
- Otherwise, companies established in accordance with the Investment Law are subject to the general rules provided in the income tax law no. 91 of 2005.
- In July 2023, Egypt granted investors who intended to invest in one of the industrial activities falling under the existing special incentive program, tax refund between 35% and 55% on the business operations income for 10 years maximum according to the Cabinet decision.
- The investor must meet some conditions to be entitled for the tax refund:
  1. At least 50% of the investment project must be funded by a foreign currency from abroad.
  2. The activity of the investment project must begin within six years following the enforcement date of Law 160/2023 (i.e., July 2023) and the Egyptian Cabinet may extend the six-year period up to a maximum of an additional six years.

**2.4.3. Additional Incentives.** In addition to the Special Incentives that attempt to promote investment in Egypt there are Additional Incentives provided by the Investment Law:

**2.4.3.1.** In this regard, investment Law grants the Cabinet the right to include additional incentives without prejudice to the other incentives applied by the Law in specific cases such as:

- Special customs windows for the exports/imports of the investment project in agreement with the Minister of Finance.
- The Government's payment of the expenses for establishment of the utilities for the investment project.
- The Government's payment for part of the expenses of the technical training to the labor force.
- Refund half the value of the land of the investment industrial project in case of starting production within two years following the handling over the land.

- Exemption from the utilization of the land allocated to the project for 10 years -maximum- starting from the beginning of the project operation, in accordance with the competent minister request.
- Allocation for free lands for some strategic industries and activities.

**2.4.3.2.** The investments and establishments have the right to own the building lands and build real estates that are necessary for practicing their activities and expanding them, whatever is the nationality or place of residence of its partners, shareholders, or the percentage of their participation.

**2.5. The Capital of the Companies,** governed by the provisions of Investment Law, may be in any convertible currency and their financial statements drawn up and published in such currency provided that the subscription to their capital shall be made in the same currency.

**2.5.1.** The capital of such Companies may be altered from Egyptian pound to any convertible currency at the exchange rates applicable on the date of conversion.

**2.5.2.** The full issued capital shall be paid and deposited with one of the banks registered with the Central Bank of Egypt in foreign currency accounts.

**2.6.** Investment Law provides the investors with the facilities relating to the different forms of disposal of public lands and buildings for establishments that are subject to the Investment Law, and those facilities may even include free disposal in some cases.

**2.7.** The investor has the right, without prejudice to the provisions set forth in the laws and decrees pertaining to investment, to establish, expand or develop the investment project, and to finance, possess, manage, use, and dispose of it, and transfer its profits, and has the right to liquidate the project, and transfer the proceeds of such liquidation in whole or in part without prejudice to the rights of third parties.

**2.8. Forums/Mean to Settle Investment Disputes and Conflicts.**

**2.8.1.** The Egyptian Investment Law establishes three ministerial committees that aim at settling the investment disputes between the investors and the State which are:

- Grievance Committee
- Dispute Resolution Committee
- Dispute Settlement Committee

**2.8.2.** They are dependent committees without prejudice to the right of the investors to bring those disputes before the competent courts; and the Investment Law provides that settling the investment disputes in connection with implementation of its provisions



may be carried out in the manner agreed upon with the investor, or according to the provisions of the Egyptian Law on Arbitration in Civil and Commercial Matters promulgated by Law No. 27 of the year 1994 as amended.

- **Grievance Committee:**

- 1) The Grievance Committee is chaired by a Judge and includes the Membership of a Representative of GAFI.
- 2) Investors in Egypt are having the opportunity to appeal any decision issued during the period of doing their business by any administrative entity or body authorized to grant approvals, licenses and permits through said committee.
- 3) The grievance shall be submitted by the investors within 15 days from the day of acknowledging the grieved decision.
- 4) The committee shall issue a final and binding decision that the concerned governmental authority must comply with within 30 days from the date of closing of the submission and hearings.

- **Dispute Resolution Committee:**

- 1) Dispute Resolution Committee is chaired by Minister of Justice and includes the membership of Minister of Finance, Minister of Local Development, Minister of Housing, Utilities and Urban Communities, Minister of Commerce and Industry, Cabinet Secretary, a Vice-premier of the State Council, Chief Executive of GAFI, Representative of the Administrative Control Authority and Representative of Industries Federation.
- 2) The Ministerial Committee on Investment Dispute Resolution considers any request, complaint, or dispute filed or submitted, where the State, one of its bodies, authorities, or enterprises is a party.
- 3) The said committee shall issue reasoned decision within 30 days from the date of closing of the submission and hearings and the said decision shall be submitted to the Cabinet for endorsement, upon which the decision becomes final and binding on the concerned administrative authority and has the same power as the deed of execution.
- 4) Resorting to the said committee to settle the dispute does not affect the investors' right to resort to the Courts or arbitration.

- **Dispute Settlement Committee**

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- 1) Dispute Settlement Committee chaired by Prime Minister and includes the membership of Minister of Justice, Minister of Investment and International Cooperation , Minister of Finance, Minister of Commerce and Industry, Cabinet Secretary, Minister of Public Business Sector, Assistant Minister of Justice for Arbitration and International Disputes, a Vice-premier of the State Council, Representative of the Armed Forces, Representative of the National Security Service, Representative of the Administrative Control Authority.
- 2) The Ministerial Committee on Investment Contracts Dispute Resolution has jurisdiction to examine and settle disputes arising from investment contracts to which the State or an affiliate thereof, public or private, is a party.
- 3) The committee shall investigate and study the disputes arising between investment contracts parties and address the imbalance of those contracts and extend the periods stipulated therein.
- 4) Moreover, if it is necessary the committee undertakes restructuring the financial dues or correcting the pre-contract procedures to achieve the contractual balance.
- 5) The decision shall be submitted to the Cabinet for endorsement, upon which the decision becomes final and binding on the concerned administrative authority and has the same power as the deed of execution.

**2.8.3.** The Investment Law established the Egyptian Arbitration and Mediation Centre, which is an independent Arbitration and Mediation Centre, it shall settle investment disputes that may raise between investors, or between them and the state or one of its general or private subsidiaries, if they agree to settle the dispute by arbitration or mediation before the Centre at any stage.

**2.8.4.** In this regard, Egypt has solved 90% of all investment related disputes where foreigner investors filed arbitrations against Egypt.

**2.8.5. Another important advantage derived from subjection to the Investment Law**

**2.8.5.1.** In our opinion, there still remains a major difference that should be taken into consideration when deciding whether to establish a company under the Investment Law or under the Companies Law, on the assumption that the party has the option of establishing a company under either Laws.

**2.8.5.2.** If a party establishes a company under the Investment Law, then in dealing with the different departments of the Egyptian government it will only be dealing with the Investment Authority i.e. the services center of investors and the Investment Authority is responsible for obtaining the necessary approvals of the different governmental authorities.

**2.8.5.3.** If a party establishes the company under Companies Law, then said party would be responsible for obtaining the necessary permits from each governmental department separately, taking into consideration the number of permits that are normally required when establishing any type of activity in Egypt.

**2.8.5.4.** We believe that this factor favors the establishment of the company under the Investment Law and not under the companies Law.

### **3. The New Economic Zones**

**3.1.** Egypt has expanded investment areas and introduced more investment opportunities to encourage investors to invest in the country by creating new economic special zones in this regard Egypt promulgated Law No. 83 of 2002 as amended by Law No. 27 of 2015 for Economic zones of special nature.

**3.2.** The economic zones and the authorities that manage them are established by a Presidential Decree.

**3.3.** Each Economic Zone has a special customs and taxes administration system that is established by the Minister of Finance.

**3.4.** The aim of each Authority is to encourage investments in the Economic Zone under its responsibility for the establishment of cultivation, industrial and services projects that can compete with comparable ones abroad.

**3.5.** The employment contracts of the employees in the Economic Zones may be terminated and according to terms easier than those prevailing under the Egyptian Labor Law, as well as for the possibility of establishment of a special system for the social insurance of those employees.

**3.6.** The income tax in the Economic Zones is 10% of the net income except for the income derived from the salaries and wages of those working in the Economic Zones, which is 5%.

**3.7.** The investment profits derived from bonds and from loans that are granted to establishments in the Economic Zones are exempt from taxes, sales taxes, duties, other direct or indirect taxes may be imposed on them.

- 3.8.**The machines, raw materials, spare parts, components ...etc. that are necessary for the authorized activities in the Economic Zones may be imported without permits, and are exempted from the customs taxes, the sales taxes and from all other taxes and duties.
- 3.9.**The products of those establishments may be exported without permits, and are subject to the customs taxes, the sales taxes and other taxes and duties only on the imported components of those parts when they enter the local Egyptian market.
- 3.10.** Furthermore, the establishments operating in Economic Zones may not be subject to nationalization, nor may they be subject to sequestration, freeze of assets or to confiscation except by a judicial judgment, and those establishments are entitled to decide on the prices of their products and services without governmental interference.

#### **4. Import and Export Requirements in Egypt**

- 4.1.**Egypt is willing to comply with the international standards for trade-related procedures and customs requirements for the clearance of goods.
- 4.2.**In the attempt to facilitate import and export for investors in Egypt, it inaugurated the new Suez Canal, a new parallel waterway to the first Suez Canal to contribute to world trade growth and to ease the import and export process in Egypt.

#### **4.3.Importation**

- 4.3.1.** Investors who are willing to import for commercial purposes in Egypt, are required to list in the Register of Importers.
- 4.3.2.** Under Egyptian law, up to 51% of share capital of the importer shall be owned by either:
- Egyptian nationals or.
  - Egyptian entities fully owned by Egyptian nationals.
  - The manager overseeing importation needs to be Egyptian.
- 4.3.3.** In contrast, the Investment Law gives all companies and establishments subject to this Law, the right to import by themselves or via third parties without the need to be enlisted in the Register of Importers, expansion or operation, of production necessities, materials, machines, equipment, spare parts, and means of transport which are suitable to the nature of their activities.
- 4.3.4.** The Ministry of Finance in Egypt issued Decree 38/2021 on pre-shipment registration - Advanced Caro Information (ACI).
- 4.3.5.** ACI is an integrated information platform used to coordinate all necessary shipping information between foreign exporters and Egyptian investors (importers) to facilitate

the importation process by modernizing and automating customs administration, simplifying procedures, and reducing clearance times.

#### **4.4.Exportation**

**4.4.1.** Listing in the Register of Exporters is required to take part in exportation from Egypt.

**4.4.2.** There are no restrictions imposed on foreigners or local entities wholly or partly owned by a foreign investor regarding exportation of products from Egypt.

**4.4.3.** Companies and establishments subject to the Investment Law have the right to export their products by themselves or through a third party without a license or requirement to list in the Register of Exporters.

### **5. Commercial Agents and Intermediaries**

**5.1.**Commercial Agent is defined as being “a self-employed intermediary who has a continuing authority to negotiate the sale or purchase of goods on behalf of another person, the principal.”

**5.2.**An intermediary is someone who acts as a communicator between various parties when trying to bring about an agreement. Their activities in this role shouldn't go beyond relaying messages between parties in relation to the opportunity.

**5.3.**For engaging in commercial agencies or intermediaries' activities, the investor is required to enroll in the Register of Commercial Agents and Intermediaries and only Egyptian nationals and fully owned and managed Egyptian companies may be inscribed in this Register.

**5.4.**Foreign companies or enterprises may not establish scientific, technical, advisory, or other services offices unless they have a commercial agent in Egypt.

**5.5.**Therefore, these companies and enterprises or their offices may not engage in / practice any of the Agency or Commercial brokerage business except through a restricted commercial agent or intermediary.

**5.6.**It might be worth noting that the Commercial Law No. 17 for 1999 regulates certain important aspects of the relationship between Commercial Agents and their Principals and makes it somewhat difficult for a foreign company to terminate its exclusive relationships with a local agent if such relationship has been registered in the Register of Commercial Agents and Intermediaries at the Ministry of Foreign Trade and Industry.

## **6. Transfer Of Technology Rules in Egypt**

**6.1.**In the new Era and modern society, technology has become very important, especially in the current knowledge-based economic system, which affects the investments, business, and economy around the world.

**6.2.**This leads to a great deal of importance in technology transfer agreements, and this increases the legal issues that may arise from the transfer of technology processes at the international level as a result of the conflict of interests between the parties of these processes.

**6.3.**The increasing of technological influence, globalization, and power of the highly industrialized states, may have created a reaction on the part of the less industrialized states which have found necessary to codify certain rules relating to the transfer of technology, aiming to achieving the minimum balance between the Suppliers and the Importers of technology.

**6.4.**Egypt adopted and regulated the technology transfer agreements as one of the agreements included in the Commercial Law No. 17/1999 as amended.

**6.5.**Transfer of Technology Contract, in accordance with Egyptian Law, is an agreement in which the supplier of technology (the "Supplier") undertakes exchanging of technical information to the importer of technology (the "Importer") to use it in a special technical way, for the production or development of a specific commodity, the installation or operation of machines or equipment, or for the provision of services.

**6.6.****The most important rules related to the Transfer of Technology in the Commercial Law that concern the investors, can be determined as follows:**

**6.6.1.** Any condition which restricts the freedom of the Importer in its use, development, acquaintance of the product or its advertisement, provided in the Technology Transfer Contract, may be invalidated. This shall apply in particular to the conditions binding the Importer with one of the following requirements:

**6.6.2.** Accepting the improvements introduced by the Supplier and paying their value.

**6.6.3.** Prohibiting the conditions for improvements or modifications to the technology to suit the local conditions or the conditions of the Importer's establishment. As well as, prohibiting the acquisition of another technology similar to or competing with the technology subject of the contract.

- 6.6.4.** Usage of specific trademarks to distinguish the commodities in which the technology was used in their production.
- 6.6.5.** Limiting the volume of production, its price, the method of its distribution or its export.
- 6.6.6.** The suppliers' participation in running the establishment of the Importer or his interference in choosing its permanent employees.
- 6.6.7.** Purchasing of raw materials, equipment, machines, apparatuses, or spare parts for operating the technology, from the Supplier solely, or by the establishments exclusively specified by the latter.
- 6.6.8.** Restricting the sale of the production, or the delegation for its sale exclusively to the Supplier or to the persons, which the Supplier defines.
- 6.6.9.** The foregoing shall apply unless any of these conditions is prescribed in the Technology Transfer Contract, with the aim of protecting the consumers of the producer or safeguarding a serious and legal interest of the technology Supplier.
- 6.6.10.** The Supplier must submit the information to the Importer, data and other technical documents that are necessary for accommodation of the technology, and also the necessary technical services requested by the Importer for operation of the technology, and in particular the expertise and training.
- 6.6.11.** The Supplier must inform the Importer of the improvements that might be introduced to the technology during the validity period of the contract. The Supplier has to transfer these improvements to the Importer if the latter requests them to do so and the Importer shall pay the charges for the technology and for the improvements introduced to it, at the time and place agreed upon.
- 6.6.12.** The Supplier, during the validity of the contract, must provide the Importer -upon the latter's request- with the spare parts produced, and which are required for the machines or equipment used in operating his establishments, and if the Supplier does not produce these parts in their own establishments, the Supplier shall advise the Importer of the sources where they are available.
- 6.6.13.** The Supplier shall guarantee the conformity of the technology and the documents attached to it to the conditions set in the contract. The Supplier shall also guarantee production of the commodity, or performance of the services agreed upon, according to the specifications set in the contract, unless otherwise agreed upon in writing.

**6.6.14.** Egyptian Courts shall have the jurisdiction to decide on the disputes arising from the technology transfer contract referred to in this Commercial Law. Agreement may be reached on settling the dispute amicably or via arbitration to be held in Egypt according to the provisions of the Egyptian Law.

**6.7.** All the disputes that may arise from the Transfer Technology contract shall be decided in accordance with the provisions of the Egyptian Law, and any agreement to the contrary shall be null and void.

## **7. Legal Entities Under Egyptian Law**

**7.1.** All foreign and native investors, startups, and small businesses who are willing to establish and register a company in Egypt, can recognize that there is a great investment environment due to its strategic location between the East and the West and its vast population and abundant resources.

**7.2.** The Egyptian Companies Law (the “Companies Law”) no. 159 of 1981 according to the last amendment on September 15, 2021 and also the Egyptian Investment Law (the “Investment Law”) no. 72 of 2017 identify the types of companies that the investor may establish within the territory of Egypt.

**7.3.** The Companies Law with its Executive Regulations and adaptation with its Executive Regulations and adaptation, helps the investor or any individual who wants to establish a company from the beginning to its dissolution.

**7.4.** The commonly established companies in Egypt under the said laws: -

- Limited Liability Companies (LLC).
- Joint Stock Companies.
- Sole-Person Companies.

**7.5.** It is pertinent to note that the establishment of the aforementioned companies need an administrative license from the Investment Authority.

**7.6.** The investors need to understand certain information and details regulated by the Egyptian Laws, mentioned hereinbelow, concerning Limited Liability Companies, Joint Stock Companies and Sole Person Companies before incorporating any of the said companies.

### **• Limited Liability Companies (LLC)**

A limited liability company (“LLC”) is the most popular type of companies formed in Egypt, due to its distinctive legal system. LLC is a closed legal entity that limits the liability of its partners to their values in the company.



## **1. Scope of Activities**

1.1.LLCs are permitted to engage in any business activities with the exception of some activities in some areas like insurance, banking, saving, investing money for others, and investment management.

## **2. LLC Capital Shares**

2.1.LLC's Capital is determined by the partners in the Memorandum of Association of the company and the minimum share capital required to form an LLC is EGP 1,000. The capital must be divided into equal shares, and the value of each share must be at least EGP 10.

2.2.The issued capital required to form an LLC is not limited to Egyptian Partners but also it can be owned by foreigners. Additionally, increasing the company's capital and issuing negotiable shares or bonds is not permitted through public subscription.

## **3. LLC Members and Managers**

3.1.LLC has a minimum of two founding members and a maximum of fifty whose responsibility is limited by the value of their shares-parts in the Company.

3.2.LLCs are directed by one or more directors (at least one of whom must be Egyptian) and the managers may act individually or jointly in accordance with the terms of the company's Articles of Incorporation.

3.3.If one of the LLC Managers is a foreigner, he must obtain a security clearance, as well as work and residence permits.

3.4.If the LLC has more than one partner, it is allowed to form a board of managers who must be in charge of running the company's business and representing the company before third parties and government authorities.

## **• Joint Stock Companies (JSC)**

A joint-stock company ("JSC") is a legal entity in which can be closed or a listed company, and the shares of the company are divided into equal shares that can be bought and sold by shareholders.

### **1. Scope of Activities**

1.1.JSC can carry out all commercial activities subject to the limitations imposed by applicable laws and regulations except the agency and importing activities.

### **2. JSC's Capital Shares**

2.1.JSCs' Capital is divided into shares of equal value. The share should not be less than one pound and cannot exceed one thousand pounds or the equivalent in foreign

currencies and Foreigners may own and direct 100% of the issued capital of the JSC.

2.2.The issued Capital of the JSC whose shares are not offered for public subscription is EGP 250,000 and the minimum issued capital of the company whose shares are offered for public subscription is EGP 500,000.

2.3.A (10%) share of the issued Capital shall be paid upon incorporation, and it shall be increased to (25%) within three months of the date of incorporation of the company, and the rest must be paid within a maximum of five years from this date.

2.4.JSC may also specify in its Articles of Incorporation an authorized capital, which may not exceed ten times the issued capital.

### **3. Shareholder and Board of Directors Responsibilities**

3.1.The responsibility of the shareholder of the JSC is limited by the value of his shares in the company.

3.2.The members of the board of directors of JSC are appointed and dismissed by the shareholders in an ordinary general assembly of the shareholders.

3.3.The board of directors and the general assemblies of the shareholders must be held in Egypt and the shareholders can vote in person or by proxy to other shareholders.

3.4.Resolutions are passed by a simple majority of the shares represented at the meeting, unless the Articles of Incorporation require a greater majority. In extraordinary assemblies, resolutions are passed by a two-thirds majority, unless the resolution relates to an increase or decrease of capital, dissolution of the company, a change of its purpose, or a merger, in which case the majority required is three-quarters of the shares represented in the meeting.

3.5.Every company must appoint an independent auditor in addition to a lawyer both should be licensed to practice in Egypt.

### **• One Person Company (OPC)**

1. Before 2018 in Egypt a One Person Company (“OPC”) type did not exist for any person who is willing to start a business solely.

2. In 2018, Egypt made one of the significant changes in the New Amendments of the Companies Law, introducing a new type of company to solve the issue of the unlimited liability of a merchant dealing solely as such.

3. OPC in accordance with Law No. 4 of 2018 amending the Companies Law No. 159 of 1981, is a company in which its capital is owned by one person, whether natural or

legal, in a manner that is not inconsistent with its purposes and the founder of the company shall only be obligated within the capital allocated to it.

4. Companies Law set forth certain limited cases where the owner of OPC may be totally liable and held jointly liable with the company, these cases are:
  - If the patrimony of the company and the patrimony of the founder is not separated.
  - Cases of fraudulent liquidation or suspension of its activity before the end of its duration or realization of its purpose.
  - Concluding contracts or deals in the name of the company before its establishment and these contracts or deals are not necessary for establishing the company.
5. OPC shall be registered as well as all commercial companies.
6. The capital of OPC shall be paid in full upon the establishment of the company.
7. In 2022, in order to encourage investment and establish OPC, the Prime Minister issued decision no. 2928 for 2022 in which the minimum capital required for establishment is reduced to be EGP 1,000 only instead of EGP50,000.
8. OPC is prohibited from conducting any of the following actions:
  - Founding another OPC.
  - Undertaking public subscription (whether at the establishment of the company or during capital increase).
  - Splitting the capital of the company into tradable shares.
  - Borrowing through issuing negotiable securities.
  - Undertaking the activities of insurance, banking, savings or receipt of deposits or investments on behalf of third parties.
9. The founder of the OPC runs all corporate aspects relating to the company, such as amending the company's contract, terminating the company as specified in the law and the founder may also increase or decrease the capital of the company.
10. In addition, the founder of OPC is allowed to conclude agreements between himself as an individual and between the company, provided that such agreements do not compromise the financial separation between the founder and the company, and the price of the contract shall be equitable.
11. The New Amendments allow JSC, Partnerships Limited by Shares and LLC to transform themselves into OPC in the event that the respective minimum number of shareholders/partners under the Companies' Law for these companies can no longer be met.

**12.** OPC will be put into liquidation in the following cases:

- losses exceeding half the capital of the company unless the founder resolves to continue the activity of the company.
- Extinction of the juristic person who owns the capital of the company.
- Retainment of the owner of the company or loss of his capacity.
- Death of the founder (unless the company reverts to one heir, or the heirs resolve to the continuity of the company in its same legal form and adjusted its situation during the six months following the decease.

## **8. Branches of Foreign Companies**

**8.1.** Any foreign company may establish a branch in Egypt in any field as it may carry out construction works according to a contract concluded with any Egyptian entity either the Egyptian Government, Public Sector, or Private Company or it may carry out commercial, financial, industrial, and contractual activities.

**8.2.** Foreign Companies shall be listed in the Egyptian Commercial Register and in a special Register in the Egyptian Companies Department.

**8.3.** The branch must, every year, submit to the Companies Department, a copy of its balance sheet, profit and loss account and the auditor's report, along with details related to managers, personnel and salaries as well as its profits and the employees' part in it as stated above.

**8.4.** The branch of a foreign company shall also abide by Egyptian legislation including the laws governing companies, taxation, labor, social insurance, and foreign exchange, and must also employ an Egyptian auditor.

**8.5.** Initial capital of the investments must be made in foreign currency transferred to Egypt through a registered Egyptian bank.

## **9. Foreign Employers**

**9.1.** Companies in Egypt as partnerships limited by shares, limited liability Companies, joint stock Companies as well as branches of foreign companies may not have the ability to employ foreigners representing more than 10% of their workforce, nor may they pay them more than 20% of the total payroll unless they receive an exemption by the concerned minister.

## **10. Representative Offices**

- 10.1.** Under Egyptian Laws, Foreign Companies are allowed to establish Representative Offices without entering into any commercial agency activities and it can be established in a simpler way than establishing a branch or a subsidiary of the Foreign Company in Egypt.
- 10.2.** The purpose of Representative Offices is to study the markets and the potentials of production for the foreign companies in Egypt.
- 10.3.** Representative Offices shall be registered at the Egyptian Companies Department of the General Authority for Investment and Free Zone (“GAFI”).
- 10.4.** The Representative Offices are controlled by the parent company and managed by manager(s) who might be Egyptian(s) or Foreigner(s).
- 10.5.** There are no taxes subjected to the Representative Offices as it does not participate in any commercial activity. However, their employees are subjected to income tax as they receive wages.
- 10.6.** Finally, Representative Offices must restrict their activities in conducting market research and the potential of production for the foreign companies. Any Company violating these restrictions shall establish a branch of the foreign company in Egypt within Six months period from being notified of the violation otherwise GAFI will cancel the Representative Offices’ registration.
- 10.7.** The foreign investors' projects may include up to 10% foreign employees, and up to 20% for investment companies.

## **11. The Egyptian Income Tax Law**

- 11.1.** The country’s taxation regime can affect the investment that may take place within the country, particularly foreign investment in which foreign investors may find it more adequate to do business in their home country if the taxation in the country of investment is higher than the taxation in their home country.
- 11.2.** Egypt has signed several treaties to prevent Tax duplication with several Countries -as the Hashemite Kingdom of Jordan- which helped Egypt to be considered as one of the most attractive investment destinations.
- 11.3.** The income tax law no. 91 of 2005 (the “Tax Law”) was promulgated in Egypt to regulate the process of income taxation.
- 11.4.** Tax Law imposed on the total net income of natural persons domiciled in Egypt and on those domiciled outside Egypt concerning their incomes that are derived from permanent

establishments in Egypt, nor did the law fail to mention that this total net income is derived from the following sources:

- Salaries and wages of individuals.
- Commercial and industrial activities of individuals.
- Professional and non-Commercial activity.
- Income derived from immovable property.

**11.5.** The Tax Law as amended lowered the maximum income tax rate from 25% to 22.5% and abolished the totality of the corporate and income tax exemptions provided in the Investment Guarantees and Incentives law no. 8 of 1997 in relation to establishments that are incorporated after entry into force of the law.

**11.6.** The Tax Law defines in some detail the meaning of the “permanent establishment” which was not mentioned in the previous income tax law no. 157 of 1981 as amended and increases the income that is exempted from the tax to EGP 5,000 (and EGP 12,000 in general relation to the salaries and wages).

**11.7.** In 2023, upon the president of the Republic of Egypt, Abdel Fattah El-Sisi recommendation, the parliament approved the new amendments to raise the annual income tax exemption from EGP 24,000 to EGP 36,000 while on the other hand the new amendments imposed on people earning more than EGP 1.2 million a year a tax of 27.5%.

**11.8.** We shall mention herein below in some details the rules provided in the law concerning the tax on the income of juristic persons due to its importance for foreigners doing business in Egypt.

## **12. Tax on Juristic Persons Profits**

**12.1.** The investor who is willing to invest in Egypt is subject to taxes which are imposed on the net annual profit of the juristic persons that are domiciled in Egypt from all their profits, whether from Egypt or abroad, and on the profits derived from a permanent establishment in Egypt in relation to juristic persons that are not domiciled in Egypt.

**12.2.** The definition of “Juristic Persons” includes all types of companies, as well as foreign banks and foreign establishments, even if their head offices are situated outside Egypt and their branches are in Egypt, and the income tax on the rate of the net annual profit is normally 22.5% and 40.55% concerning the profits of companies that are prospecting for oil and gas.

**12.3.** The taxable profit of those juristic persons consists of the total revenue after deducting the costs and expenses that are necessary for obtaining the profit, as detailed in the Income Tax Law.

**12.4.** The Income Tax Law exempt the investors from taxes in which Profits of New Projects, funded by the Social Fund for Development within the ratio of the said fund, up to 50% of annual profit, and not exceeding fifty thousand Egyptian pounds, for a period of five years from the date of operation or commencement of production provided that maintaining regular books and accounts.

**12.5. The main tax exemptions provided in the Income Tax Law concerning the profits of juristic persons include the following:**

- Profits of reclamation or cultivation of reclaimed land for a period of ten years starting from the date of exercising the activity.
- Profits of animal, poultry, and fish production for a period of ten years starting from the date of exercising the activity.
- Profits of New Projects, funded by the Social Fund for Development within the ratio of the said fund, up to 50% of annual profit, and not exceeding fifty thousand Egyptian pounds, for a period of five years from the date of operation or commencement of production provided that maintaining regular books and accounts.
- The returns of the juristic persons from their securities, which are issued by the Egyptian Central Bank or the returns from dealing in those securities.

### **13.Social Insurance Contributions**

**13.1.** The employer (the “Investor”) must pay social insurance to the Social Insurance Authority for themselves and on behalf of their Egyptian employees.

**13.2.** Expatriate staff are not eligible for Egyptian social insurance unless their employment Contracts are for not less than a year and on condition of reciprocal treatment for Egyptian working in the concerned foreign State.

**13.3.** The social insurance contributions cover old age, incapacity, death, work accidents insurance, sickness insurance and unemployment insurance.

**13.4.** The total employer's contributions amount to 26% of the salaries and the employee’s contribution amounts to 14% of the salaries.

## 14. The Egyptian Labor Law

- The conclusive Egyptian Investment and Labor Laws are considered as attraction factors for investors to invest in Egypt. As these laws will guarantee the investors' right to preserve their funds and the rights of their employees.
- In this section we highlight the preserved rights of the Employee in accordance with Egyptian Law.
- Egypt promulgated Law no. 12 of 2003 (the "Labor Law") which regulates and introduces a number of major issues related to the employment relationship between the investor (the "Employer") and the Employees, this can be summarized as follows:

### 1. Foreign Employees

1.1. Foreigners who intend to work in Egypt must obtain a work permit from the concerned Minister. Additionally, the concerned Minister may designate certain activities which cannot be exercised by foreigners in Egypt, as well as the maximum number of foreigners allowed to work in one establishment.

### 2. Probation Period

2.1. Labor Law allows the Employer to employ the Employees on probation for up to three months and the employment contract may be either for a fixed or an unlimited period of time.

### 3. Working Hours

3.1. The Employer is subject to the legal maximum working hours mentioned in Labor Law which are determined as eight hours per day or forty-eight hours per week excluding overtime and rest meal periods, and the Employees have the right to get a weekly rest which must not be less than twenty-four hours.

3.2. Employees have the right to twenty-one days of annual paid vacation after working for one year and thirty days after working for ten consecutive years or reaching the age of fifty.

3.3. The minimum overtime premiums are 35% of normal pay for overtime work during daylight, 70% for work at night, and 100% for work on rest days and holidays. In addition, the Employer shall give the Employee another day as compensation during the following week.



#### **4. Leaves**

**4.1.** Generally, with regard to Employee's sick leave, the Employee is entitled to six months of sick leave per year with pay between 75% and 85% of the normal wage.

**4.2.** Recently, in May 2023, the cabinet declared to give the foster mothers the same leaves established by the law that birth mothers have.

#### **5. Employee's Wages**

**5.1.** Egypt's National Wages Council ("NWC") declared an increase of the Minimum wage of the Employee in the Private Sector in 2022, to be EGP 2,700 per month and it became valid on January 1, 2023.

**5.2.** While the president of the Republic of Egypt, Abdel Fattah El-Sisi, issued a decision to increase the Minimum Wage for the employees in the governmental sector and Private sector an extra EGP 1,000 by April 1, 2023.

**5.3.** Labor Law provides an obligatory annual increase of a minimum of 7% in the employees' basic salaries.

#### **6. Employee Dismissal**

**6.1.** The Employer has the right to dismiss the Employee if he/she commits a serious offense as defined by the New Labor Law.

**6.2.** The Employee is allowed to claim damages before the Labor Court in case of the unjustifiable dismissal of the Employee by the Employer, and the damages accorded by the Labor Court in those cases shall not be less than a sum equal to two months of the total wage for each year of service.

**6.3.** The Employee may impose to a range of disciplinary sanctions by the Employer based on the severity of the Employee's actions and these disciplinary actions are:

- Warning.
- Deduction from the salary.
- Deferring the due date of annual increase for a period not exceeding three months.
- Depriving from part of the annual increment not exceeding its half.
- Postponing the promotion on its accrual for a period not exceeding one year.
- Reducing the wage by at most the amount of one increment.
- Demoting to a position in the lower grade directly; without prejudice to the employee's wage.
- Firing from the service according to the provisions of the present law.

**6.4.** If there is a dispute between the employer and the employee relating to the employment relationships, any of them can require to settle this dispute amicably from a Committee composed of , a member representing the competent administrative authority, a member representing the concerned Labor Union, and a member representing the concerned Employer's Syndicate, and if they did not reach any settlement, any of the employer or the employee may request the committee to refer the dispute to the Labor Court.

## **7. Employee Retirement**

**7.1.** The age of retirement must not be less than the age of 60, and the employer may terminate the employment contract when the employee reaches the age of 60, unless he/she was employed for a fixed period that ends after the employee reaches this age.

## **8. Other provisions**

**8.1.** The Labor Law has introduced detailed provisions concerning vocational training, including the creation of a fund for financing this training, which is partially funded by 1% of the net profit of the establishment subject of this Law that employs more than ten employees.

**8.2.** The employees have the right to strike peacefully through their labor unions, in defense of the professional, economic and social interests, and in accordance with this Law. Furthermore, the strike has to be approved by a two-thirds majority of the Board of Directors of the concerned labor union organization. On the other hand, employees in strategic and vital establishments designated by the Prime Minister are not allowed to strike.

**8.3.** The employer -for economic reasons- has the right to terminate the establishment work entirely or partially, or reduce its size or activity, after approval of a Committee whose membership and authority is designated by the Prime Minister, and the employers have to pay to the employees- whose employment contracts are terminated for economic reasons— a sum equal to one month of the employees' total salary for each of the first five years of his/her service and one and a half month for each year of service over and above the first five years.

## **9. Anticipated Labor Law Amendments**

**9.1.** In late 2021, a new draft for the Labor Law was initially approved by the Senate and is expected to be issued soon, entirely replacing the current labor law no. 12 of 2003 (the "Draft Law").

**9.2.**The Draft Law seems to be catching up with the development and modernity in the employment field to adapt to the social and economic changes that Egypt has experienced in the recent period. Moreover, this Draft Law aims to build a balanced relationship between employers and employees.

**9.3.**We will mention some of the main insights under the Draft Law:

- There are new categories of leaves:
  - 15 days for first-year employees.
  - 21 days as of the second year of employment.
  - 30 days for those who have spent 10 years or more with the same employer.
  - 45 days for employees above the age of 50.
- Annual periodic raise at the rate of 3% from the insured salary with an option to request an exemption in case of emergencies.
- Maternity leave is now four months with up to three times during the employee's service.

**9.4.**Neither of its parties may terminate unlimited term agreements unless it is lawful and sufficient reason. In case of termination from the employer side, they would be required to compensate the employee at the rate of two months per year of service and benefits.

## **15. Patents, Trademarks and Copyrights Regulations in Egypt**

**15.1.** Egypt has many advantages as an investment destination for the investors especially after announcing Egypt Vision 2030, which was launched in February 2016 by the Egyptian Government and unveiled by the Egyptian president Abdel-Fattah Al-Sisi, consequently, Egypt recorded a growth in foreign investment in the last few years.

**15.2.** There is no doubt that one of the most important assets of major companies, corporations and investments is the Intellectual Property of Rights (“IPR”).

**15.3.** Therefore, Egypt, for many years, recognized the importance of the protection of IPR and its direct correlation to securing a healthy environment for investments.

**15.4.** Hence, Egypt had promulgated the Intellectual Property Law No. 82 of 2002 (the “IP Law”) amended on the 5<sup>th</sup> of September 2020 to protect the IPR, and its provisions provides extensive protection of IPR, particularly in the following fields:

### **1. Patents**

- 1.1. A patent shall be granted, in accordance with the provisions of the IP Law, to any industrially applicable invention, which is new, involves an inventive step, whether connected with new industrial products, new industrial processes, or a new application of known industrial processes.
- 1.2. Inventors -in accordance with the IP Law- are allowed to obtain patent protection for twenty years from the date of application in Egypt.
- 1.3. Once the patent has been registered, the owner of the patented invention is entitled to prohibit others from the commercial use of such a patent.
- 1.4. It is the patent holder's exclusive right to fully exploit the invention. It is also his obligation to fully exploit it, otherwise the patent holder may be subjected to compulsory licensing.
- 1.5. The patent protection for utility designs is for seven renewable years starting from the date of application in Egypt, and the patent protection for schematic designs of integrated circuits is ten years starting from the date of application in Egypt or the date of first commercial exploitation thereof in Egypt or abroad, whichever date is prior to the other.

## **2. Trademarks**

- 2.1. A trademark is defined, according to IP Law Provisions, as the recognizable sign to distinguish goods, whether products or services, and include in particular names represented in a distinctive manner, signatures, words, letters, numerals, designs, symbols, signposts, stamps, seals, drawings, engravings, a combination of distinctly formed colors and any other combination of these elements if used, or meant to be used, to distinguish the products of a particular industry, agricultural, forest or mining venture or any goods, or to indicate the origin of products or goods, or their quality, category, guarantee, preparation process, or to indicate the provision of any service.
- 2.2. The owner of the trademark is the one who has the right to register and use the trademark and IP Law provides a ten-year protection for the trademark subject to renewals for similar periods.
- 2.3. The one who registers the trademark may be considered the owner of the trademark for the five following years, unless it is proven that a third party had priority of using it.

**2.4.**It is pertinent to note that the person who had preceded the one in whose name the trademark is registered has the right to challenge and declare null and void the registration during those five years.

**2.5.**However, the trademark registration may be challenged and declared null and void without a period restriction if it is coupled with mala fide “Bad Faith”.

**2.6.**Any investor wishes to own a famous Trademark in Egypt and Worldwide may enjoy the protection prescribed in IP Law even if the trademark is not registered in Egypt.

### **3. Industrial Designs and Drawings**

**3.1.** Industrial Designs and Drawings are defined, according to IP Law Provisions, as each arrangement of lines or each holographic/ stereotype shape colored or colorless if it takes a significant appearance and is industrial usable.

**3.2.** The Industrial Designs and Drawings may not be registered in cases of:

- If the owner of the Industrial Designs and Drawings introduced, it to the public or described or displayed its usage before filling the registration application.
- If there are no essential differences with previous industrial design.

**3.3.** Industrial designs and drawings are granted protection for ten years starting from the date of application for registration in Egypt, and the protection is renewable for five years.

**3.4.** The investor who wants to register the industrial design has the right to prevent third parties from making, selling or using the design by any means when such acts are undertaken for commercial purposes.

### **4. Copyright**

**4.1.**Copyright protection includes literary, technical and scientific works such as architectural designs, speeches, musical works, theatrical pieces, maps, photographic and cinematographic works, works for broadcast on television or radio, videotapes, and computer software.

**4.2.**The copyright holder has the right to do and to authorize others to do the following:

- Reproduce copies of his/her work.
- Distribute copies of his/her work by rent, sale, lending, lease, or any other means of distribution.
- Publicly perform or display his/her work.
- Prepare derivative works or translate the original copyrighted work.

**4.3.**The protection extends to fifty years after the death of the author. If the author is a legal entity, then the protection begins on the date of first publication.

**4.4.**The protection for applied arts works is for twenty-five years starting from the date of their publication or the date they are made available to the public for the first time whichever is the latter and broadcasting authorities grants the exploitation protection for twenty years starting from the date of first transmission of the programs.

## **5. Botanical Products**

**5.1.**Botanical biological and non-biological products created in Egypt and abroad - which are new, distinctive, homogeneous, durable and that have a distinctive appellation - are granted the protection of the IP Law once they are recorded in the special register for botanical products subject to protection.

**5.2.**The duration of the protection is twenty-five years for trees and grapevines and twenty years for other agricultural products, and the general rule is that the protection runs from the date of obtaining the certificate of the right of the grower.

**5.3.**Finally, besides the promulgation of IP Law which protects the IPR as we mentioned above, Egypt showed its interest in IPR also in 2022by launching the Egypt's Prime Minister Mostafa Madbouly, the country's National Strategy for Intellectual Property.

**5.4.**This Strategy aims to realize governance of institutional structure of IP by establishing a national apparatus for IP as well as boost digital transformation and provide registration services in IT methods.

**5.5.**Egypt held its first-ever IP exhibition to showcase a series of designs and models of innovations in several spheres, including green fuels and eco-friendly products, in addition to innovative models of seeds, vegetable and fruit products, textiles, and electronics.

## **16. The Egyptian Banking and Foreign Exchange Law**

**16.1.** The new Central Bank, Banking System and Foreign Exchange Law no 194 of 2020 (the "Banking Law") as amended, introduced many new Concepts to encourage the investment in Egyptian Territory.

**16.2.** The objective of the Banking Law is to ensure that Egypt's banking system complies with international standards, put in place the necessary legal framework, and enhance Egypt's efforts to promote its financial technology sector.

**16.3.** The Banking Law helps the investor to be aware of the provisions relating to the Egyptian Central Bank (the “Central Bank”), a public Juristic person that is dependent of the President of the Republic, and which has wide ranging rights in relation to the Control of various banks operating in Egypt as detailed herein below.

**16.4. Banking Law gives the investor guidance to operate the banking system in Egypt as There are certain conditions must be fulfilled for initial approval for the Incorporation of Banks:**

**16.4.1.** Incorporation of banks in Egypt shall be in the form of one of two Legal Forms: Joint Stock Company (JSC) and Branch to Foreign Bank.

**16.4.2.** The issued Capital of the bank shall not be less than EGP 5 billion and the Capital earmarked for the operations of branches of Foreign Banks operating in Egypt shall not be less than USD 150 million or their equivalent in free foreign exchange.

**16.4.3.** Efficiency of Financial and Economic Feasibility Study which includes the objective statement of its foundation, the nature of the activities and services, and a market study demonstrating its ability to utilize.

**16.4.4.** Good reputation and financial solvency of the investor, the beneficiary and board of directors.

**16.4.5.** Establishing policies for anti-fraud, bribery, money laundry and terrorism financing.

**16.4.6.** The headquarters of foreign branches would have a certain nationality and would be subject to the supervision of authority at the state where it is located, its approval for the operation in Egypt and it shall apply the principle of joint supervision with the Central Bank of Egypt.

**16.5.** Each Bank has the freedom to decide upon the prices and interests relating to their banking operations.

**16.6.** The Egyptian Central Bank is empowered to lay down the rules that ensure its control and supervision of bank operations in Egypt and the norms under which they operate.

**16.7.** The Central Bank has the right to reject the appointment of the board of directors’ members of banks, and of their top managers. Furthermore, the Central Bank has the right to request the dismissal of any board member of any bank and/or any of its top managers, if an investigation by the Central Bank reveals that the concerned person did not abide by the safety rules relating to the bank’s deposits and assets.

**16.8.** nevertheless,gives the investor the ability to own a percentage of the banks’ Capital, nevertheless this ownership cannot exceed a percentage of 10% of the issued Capital of

a bank or any percentage of its capital resulting in controlling the bank unless it is authorized by the Central Bank.

- 16.9.** The secrecy of bank accounts is one of the most important guarantees that Banks shall provide to their clients, however, it is guaranteed with some exceptions, including the bank's obligation to disclose if it so decided by a judicial or arbitral judgment, or if so, provided in the Anti Money Laundering Law.
- 16.10.** Banking Law deals with the system of mortgages of properties and assets to banks in which the Central Bank may license banks, foreign banks, and International Financial Corporations to mortgage commercial places.
- 16.11.** The termination of the Banks' activities may only occur after obtaining the approval from the Central Bank.
- 16.12.** Banking Law deals with System and Services Payment, and Financial Technology to facilitate banking operations.
- 16.13.** The payment system and services, in accordance with Banking Law, are a set of tools, procedures, and rules for the transfer of funds between Participants (Credit or Financial Institution) in the regulations, relying on an agreement between the system participants and the systems' operators. Funds are transferred through an agreed technical structure.
- 16.14.** The importance of the function of payment systems is illustrated by the fact that it is one of three main rules for the Central Bank functions as defined by the Bank of International Settlement, namely monetary policy, banking supervision and payment systems, where payment systems act as an essential component of financial infrastructure to achieve a significant part of financial stability within the market.
- 16.15.** Banking Law concerns the issue of Egyptian currency and foreign exchange transactions.
- 16.16.** Every natural or juristic person has the right to keep all the foreign exchange that they own or possess and that he may freely conclude local and foreign transactions whether it is through banks or other authorized establishments that are accredited to deal in foreign exchange. Nevertheless, it has to be noted that due to the present difficult economic situation in Egypt, certain restrictions are now imposed on the maximum amounts of foreign currency that are allowed to be transferred abroad.
- 16.17.** Sale and purchase transactions inside Egypt – whether for goods or services – have to be traded in Egyptian pounds, and the rate of exchange of the Egyptian pound vis a vis foreign currency is determined by the market values in the light of the rules relating



to the organization of the foreign exchange markets that are decided by the Prime Minister at the recommendation of the Central Bank.

**16.18.** The investors have the right to bring in and to take out Foreign Currencies on condition of disclosing amounts over ten thousand dollars or its equivalent, when entering or leaving the country.

**16.19.** Finally, the Central Bank may cancel the registration of banks and branches of foreign banks operating in Egypt if they contravene the Banking Law, or if they adopt policies that harm the general economic interest or the interest of their depositors or their shareholders.

## **17. Anti Money Laundering Regulations**

**17.1.** The term money laundering means the operations of transferring money through illegal processes or operations related to these processes so it would appear in their external form legally and legitimately.

**17.2.** Egypt, in this regard, attempted to reduce and protect the country from financial or non-financial institutions' Money Laundering operations by spreading awareness against Money Laundering and issuing Regulations against Money Laundering operations.

**17.3.** In 2022, Egypt hosted a forum on Anti-Money Laundering and Terrorism Financing to address the continuous development of the mechanisms used to commit money laundering crimes in addition to the risks of financial crimes that have surged in light of increasing attempts by criminals and organised criminal groups to penetrate the financial and economic systems to legitimise their criminal proceeds and in light of the attempts by terrorists and terrorist entities to execute their plans without being tracked.

**17.4.** Every investor invests in financial or non-financial entities in Egypt must be aware of the Anti-Money Laundering Law No. 80 of 2002 (the “Money Laundering Law”), which aims at the prohibition of money laundering resulting -inter alia- from the crimes of planting, production, importation, exportation and trading in narcotics, kidnapping, terrorism, importation of arms, ammunition and explosives without license, misappropriation of public funds, embezzlement, breach of trust, fraud, swindle, forgery, theft, prostitution, theft of antiquities, and also organized crime mentioned in international treaties to which Egypt has adhered to, and inspection of whether the money laundering crime or the above mentioned crimes were committed inside Egypt or abroad, on condition that they are punishable in accordance with Egyptian and foreign laws.

**17.5.** The Money Laundering Law provides that a certain independent unit be created at the

Egyptian Central Bank – composed of representatives of the concerned Authorities- (the “Unit”) which has the task of receiving information from the various financial institutions relating to transactions in which money laundering is suspected, and this Unit has to investigate the information and the notifications relating to the suspicion of money laundering crimes and to inform the Public Prosecution of the results.

- 17.6.** Any financial institution owned by an investor is obligated to inform the Unit about the transactions in which money laundering is suspected, and to implement systems that ensure obtaining information about the legal status of their customers and the true beneficiaries whether natural or juristic persons.
- 17.7.** Furthermore, the Said institutions are prohibited from opening accounts or making deposits or accepting money which is from unknown sources or in the names of fictitious persons.
- 17.8.** The Money Laundering Law protects the secrecy of operations relating to the combat of money laundering, and it ensures the judicial cooperation between the Egyptian and foreign judiciaries in this field.
- 17.9.** Any investor entering or leaving the country shall disclose to the Custom Authority any amount of foreign currency or any tradable instruments that he/she carries otherwise the Custom Authority will use its authority and ask the investor about the source of his foreign currency or any tradable instruments holdings.
- 17.10.** The Money Laundering Law finally stipulates that without prejudice to the harsher penalties mentioned in any other law, the penalty for the commission or the attempt to commit the crime of money laundering is imprisonment for up to seven years and a fine amounting to up to twice the money subject of this crime.

## **18. The Egyptian Communications Law**

- 18.1.** Egypt seeks to develop and enhance services in compliance with the technology means and communication field, satisfying the users’ needs with good and appropriate prices, to encourage any investor who is willing to engage in the communication field in Egypt by any means and to reserve their rights.
- 18.2.** The Ministry of Communication and Information Technology has contributed to the growth of the Egyptian economy and facilitated the digital communication transactions and dealings by launching an Information and Communication Technology (“ICT”) strategy to transfer Egypt into a digital community as part of Egypt’s Vision 2030.

- 18.3.** This Strategy supports the development of ICT infrastructure, promoting digital inclusion, achieving financial inclusion, promoting capacity-building and encouraging innovation, fighting corruption, ensuring information security and enhancing Egypt's position at the regional and international levels.
- 18.4.** The investor who intended to invest in telecommunication network and services in Egypt is obliged to the articles of the Egyptian Communication Regulation No. 10 of 2003 (the “Communications Law”)
- 18.5.** The “National Authority for Organization of Communications” (“TRA”) is the governmental Authority that is responsible for enforcing the said Law.
- 18.6.** The Communications Law provides that neither communications network may be established or operated nor communications services to third parties be neither offered, nor international telephone calls be passed without a permit issued by the TRA.
- 18.7.** Any investor who may submit for obtaining a permit shall have the request on the form prepared by the TRA together with the data and documents that it designates, and the request must -in particular- contain the suggested basis for the pricing of the services and the way of its evaluation.
- 18.8.** The fees for the permits and the rules and procedures relating to its payment shall be decided by TRA.
- 18.9.** The Communications Law also provides that the existing partially Government owned “Egyptian Company for Communications” (Egypt Telecom) is exclusively entitled up till 31 December 2005 to establish, operate and exploit the international correspondence networks between Egypt and any other State through the international crossing points by maritime, land, microwave links, industrial tele-stars for fixed services, and also to pass international calls and to offer telephone, fax, telex and telegraph services through those networks. It is expected that the Egyptian government - in due course - will authorize other companies to undertake said services in Egypt.

## **19. Egyptian Oil and Gas Concessions**

- 19.1.** In modern economies, it is unforeseen for any country to develop or even to survive without sources of energy. Energy can be generated by different means. Therefore, it can be generated by non-renewable energy such as Oil and Gas.
- 19.2.** Egypt is considered a significant oil and gas producer in Africa as it owns a huge national treasure of oil and gas, and it is considered the second largest producer of gas, and it has the largest crude refining capacity.

- 19.3.** Consequently, Egypt is seeking to enlarge the investment projects related to oil and gas, it concluded agreements with several companies around the world to increase its productivity and usage of oil and gas, and as progressive step, Egypt established platforms to facilitate the investors' acknowledgment of the tenders related to oil and gas projects in Egypt.
- 19.4.** There are many achievements in the field of oil and gas in Egypt and one of these achievements is obtained under the patronage and attendance of His Excellency Abdel Fattah El Sisi, President of the Arab Republic of Egypt, the Egypt Petroleum Show ("EGYPS") was established and held.
- 19.5.** EGYPS is considered the most important North Africa and the Mediterranean's oil and gas exhibition and conference and a key platform in the energy calendar bringing together government representatives, Global CEOs, NOCs, International Service Providers, consultants, financiers and others to address the evolving opportunities in global energy markets.
- 19.6.** EGYPS helps the investors, and anyone interested, to be aware of what is happening in the oil and gas market.
- 19.7.** Egyptian legislation initiated different forms of agreements regarding oil and gas projects, and one of these agreements is the concession agreement.
- 19.8.** In this section, we will address the Concession Agreements and its privileges and the rules regulating it to help any investor intended to enter into a Concession Agreement to be aware of the rules regulating the agreement .
- 19.9.** The legislator-initiated rules in order to determine and regulate the frame of the concession agreement unless the parties agreed otherwise. Oil and gas concessions are granted in accordance with Egyptian Law No. 66 for 1953 concerning Mines and Quarries as amended by Law No. 86 for 1959 and its Executive Regulations.
- 19.10.** The Mines and Quarries Law is promulgated by the Peoples' Assembly allowing the concerned Minister to conclude the required Concession Agreement for the exploration and exploitation of oil and gas between the Arab Republic of Egypt on one side and the Egyptian General Petroleum Corporation ("EGPC") and the foreign Company (i.e. the Contractor) on the other side, in a specific area and according to the conditions that are attached to this Law, and the rules and procedures that are contained in those conditions that have the force of Law and prevail over other Egyptian Legislation including the above mentioned Law No. 66 for 1953 as amended.

- 19.11.** Usually, the Concession Agreement contains the definitions, the grant of rights and the government's royalty during the development period, the initial exploration period and its extension, and the applicable rules in case of a commercial discovery.
- 19.12.** The general rule is, the Contractor is subject to the Egyptian Income Tax laws, and that the Contractor's income is calculated in accordance with the rules contained in the Concession Agreement.
- 19.13.** EGPC and the Contractor are having the right to form a private sector operating company in Egypt following the commercial discovery and this operating company is subject to the Egyptian Laws and Regulations to the extent that such Laws and Regulations are not inconsistent with the provisions of the Concession Agreement or the charter of the operating company.
- 19.14.** The Contractor may agree, among the concession Agreement provisions, on the rules concerning the recovery of his costs and expenses in respect of all exploration, development and related operations under the Concession Agreement, and the production sharing and valuation.
- 19.15.** On the other hand, the Contractor, under the Concession Agreement, has to pay to EGPC, the customs exemptions, the privileges of the governments representatives in relation to the supervision of the correct execution of the Concession Agreement, and in addition it contains a stabilization clause to protect the Contractor in case of changes in existing Legislation or Regulations which take place after the execution of the Concession Agreement and which significantly affect the economic interests of this Agreement to the detriment of the Contractor.
- 19.16.** The Egyptian Government has the right to requisite all or part of the production in cases of national emergencies, and the applicable procedures and rules in such cases, as well as in cases of breach of the Concession Agreement.
- 19.17.** If any dispute, controversy or claim arising out of or relating to the Concession Agreement or the breach, termination or invalidity thereof, between the Government and the parties shall be referred to the jurisdiction of the appropriate Egyptian Courts, and shall be finally settled by such Courts, and that any dispute, controversy or claim arising out of or relating to the Concession Agreement, or breach, termination or invalidity thereof between EGPC and the Contractor shall be settled by arbitration, and in this case Egyptian Law shall apply to the dispute except that in the event of any conflict between Egyptian Laws and the Concession Agreement the provisions of the Concession Agreement shall prevail.

**19.18.** Finally, Egypt has been successful in attracting foreign investment and arranging partnerships with major international oil and gas companies lately. The success of these partnerships has been due to the continuous support of the government, legislation in Egypt, its strategic location and developed petroleum sector. Therefore, the investor will find an excellent potential to invest in Egypt especially in the field of oil and gas.

## **20. The Egyptian Anti-Monopoly Law**

**20.1.** Investment in Egypt, especially after the launch of Egypt Vision 2030, is increasing readily. All companies which invest in Egypt continuously aim to enhance their competitiveness, and ultimately gain a prominent position in the market, allowing them to maintain their customers and maximize their profits.

**20.2.** Competition drives companies to improve the quality of services and products that they provide to the local and global market, consequently, competition is crucial for companies as it incentivizes them to increase their investments, improve their services, and ultimately to cope with increased demand from the consumer, all whilst maintaining competitive pricing.

**20.3.** This competition may lead to a market monopoly, in which the Monopolies enable companies to dictate their prices since there is no alternative for these goods/services, thus impeding the ability of companies to compete fairly and eventually leading to raised prices for consumers.

**20.4.** In this sense, Egypt issued the Law of Competition Protection and Prohibition of Monopolistic Practices (“Competition Law”) No.3 of 2005, which is implemented through the Egyptian Competition Authority (“ECA”).

**20.5.** Competition Law aims to maintain, encourage and exercise economic activity, in a manner that does not lead to prevention or restriction of commercial competition.

**20.6.** Competition Law shall be applied not only on the actions committed within Egypt but also on the actions that are committed abroad and resulted in prevention, restraint or harm to the competition in Egypt.

**20.7.** Competition Law prohibits the investor who intend to enter into an agreement or contract with a competent person in certain market, that result in the following:

- The increase, decrease or fixing the sale or purchase prices of products subject to the transactions.

- The division of the products markets, or their assignment on the basis of geographical areas, centers of distribution, categories of clients or products or seasons or periods of time.
- Coordination in relation to entry or non-entry in tenders, auctions, direct offers and other offers to supply.
- The restriction of activities in the fields of industry, distribution or marketing or the restriction of distribution of services, or their types, or quantities, or putting conditions, or restrictions on their provision.

**20.8.** Competition Law prohibits those who dominate a certain market from the following:

- Any action that results in the total or partial non-ability to manufacture, produce or distribute a product for a duration/s of time.
- Abstention from conclusion of the sale or purchase deals with any person or refraining from transacting with him/her in a way that results in restricting his/her freedom to enter, remain or leave the market at any time.
- Any action between persons having a vertical relationship that results in the limitation of distribution of only one product on the basis of geographical areas or of distribution centers, or clients, or seasons or durations of time.
- Making the conclusion of a contract or an agreement concerning a product conditional on accepting obligations or products that by their nature or by the commercial use of the products are not connected to it or to the original object of the transaction or the agreement.
- Discrimination in the agreement and contracts of all kinds concluded with his suppliers or clients whose contractual positions are identical whether such discrimination is in the prices, types of products, or in other conditions of transacting.
- Refraining from producing or making available a scarce product even though its production or availability is economically possible.
- Requiring those with whom he deals that they do not allow his competitor the use of their utilities or services, even though such use is economically possible.
- Selling products at a price that is less than their marginal cost or the average variable cost.
- Obliging a supplier to refrain from dealing with a competitor.

- 20.9.** The Council of Ministers may fix the sale price of one or more basic products for a defined period of time, after obtaining the view of the Authority and the Investor shall be subjected to this price.
- 20.10.** Said fixed prices are not considered as an activity that harms competition and the investors are obliged to those decisions.
- 20.11.** Competition Law gives the person who contravenes the said Law, the opportunity to amend his position and remove the contravention immediately.
- 20.12.** Any contravention of Competition Law may only be carried out upon a written request of the Board of Directors of the Authority (the “Board”) to be considered as criminal action concerning the contraventions.
- 20.13.** The Board may agree to consolidate any of those actions against payment of a fine as detailed in the law, and the settlement shall result in the lapse of the criminal action in the particular case.
- 20.14.** If the individual who is under the management of the investor breached any of the Competition Law provisions, both the individual and the investor will receive the same penalties.
- 20.15.** Upon review of the Competition Law provisions it is apparent that it helps in reducing monopoly in the market and providing investors or any person who exercises economic activities a good environment to practice their own activities.

## **21. The Egyptian Consumer Protection Law**

- 21.1.** With the lack of censorship in the enforcement of Consumer Protection Law, many in the Egyptian market have been applying the “No RETURN, NO EXCHANGE” Policy, which represents violation to the consumer rights in which the consumer has no right to return or exchange the purchased goods.
- 21.2.** In 2006, the Egyptian Parliament promulgated the very first Consumer Protection Law No. 67 of 2006 with the purpose of protecting the consumer’s rights and to safeguard their interests, and later, in 2018 the Egyptian Parliament amended these rules due to the technological and global developments that may affect the consumers by Law No. 181 of 2018 to keep up with these developments.
- 21.3.** The amended Consumer Protection Law (“CPL”) provides that either natural or juristic person has the right to exercise the economic activity freely however, none of them may conclude any deal or carry any activity that infringes the basic rights of the consumer, and in particular:



- Health and safety rights during the normal use of the products.
- The right to obtain the correct data and information about the products that he purchases or uses or that are presented to him.
- The right to freedom of choice of products that are of good quality and that conform to their specifications.
- The right to personal dignity, and to respect religious values as well as the customs and traditions.
- The right to join the establishments, counsels, and committees whose purpose is related to consumer protection.
- The right to bring legal action concerning all attempts against the consumer's rights, or that restricts them in an easy fashion and without cost.
- The right to just compensation for the damages that the consumer sustains as a result of purchasing or using the products and receiving the services, all in accordance with this Law and without prejudice to the international treaties and agreements that are applicable in Egypt.

**21.4.** The supplier is obliged under PLC to:

- Provide the consumer with the invoices to prove the transactions or dealings between them regardless of whether the consumer requested one or not.
- Invoices shall include certain elements, particularly but not limited to Tax Registry Number, date of the transaction process, product nature, subscription, price, lifetime warranty periods of products covered by warranty.
- Give the Consumer the right to exchange or return for a full refund the purchased product within 14 days from receiving the items and in case that the product is defective, or it does not conform to specifications, the Consumer has the right to exchange or return the product within 30 days.
- Give the Consumer all the information and data that may help the consumer to enter into the contract as the manufacturer or the importer has to write in Arabic on the products, the data that has to be inscribed in accordance to the Egyptian standard specifications or to any other Law or to the executive regulations of this Law, in an easy to read type that fulfills the aim to writing, the data.
- Describe clearly the information concerning the services that he provides, their price, and their characteristics.

- Provide the consumer with the correct information about the nature and characteristics of the product and refrain from what gives an untrue or false impression to the consumer or causes his confusion or error.

**21.5.** In addition, PLC regulates and organizes the Remote Contracting that may conclude between the Supplier and Consumer, and it may conclude E-Commerce via the internet or any other means.

**21.6.** Finally, the law provides for the penalties that are imposed on those who contravene it, and those penalties may consist of a fine of up to L.E. 100000 without prejudice to the harsher penalties imposed by other laws.

## **22. Dispute Settlement Through Arbitration**

**22.1.** Arbitration is defined as - in accordance with Egyptian law - an agreement by which the two parties agree to submit to arbitration in order to resolve all or certain disputes which have arisen, or which may arise between them in connection with a defined legal relationship, whether contractual or not.

**22.2.** Investors may settle their disputes through Arbitration instead of Litigation to accelerate the settlement process and reduce their losses.

**22.3.** Investment Law gives the Investor the right to use the ad hoc arbitration or institutional arbitration where Art. 90 stipulates the establishment of an arbitration and mediation center called the Egyptian Center for Arbitration and Mediation, which shall have a legal personality. It settles the disputes arising between investors or between them and between the state or one of its affiliates.

**22.4.** Egypt collected all the matters and articles related to Arbitration in one Law and introduced its first specific Arbitration Law in 1994 by adopting the UNCITRAL Model Law with very limited modifications.

**22.5.** This Arbitration Law No. 27 of 1994 - as amended - applies to all arbitrations conducted inside Egypt and to international commercial arbitrations conducted abroad if the parties agree to submit them to the provisions of this Arbitration Law, with the possibility of obtaining assistance from the Judicial Courts to implement any arbitration agreement, to secure the proper functioning of the procedures, as well as for the enforcement of the awards rendered there-under. As for the awards rendered abroad, they are enforceable under the New York Convention of 1958 to which Egypt adhered since 1958 and which applies in its entirety without exceptions.

**22.6.** In this respect, the investor request for enforcement of Arbitral Awards rendered in Egypt becomes admissible only after the expiration of the period required for lodging an annulment plea; i.e.: that the requesting investor has to wait 90 days before submitting the request for enforcement in front of the competent Court which is in principle the Cairo Court of Appeal (the relevant Articles of the Arbitration Law are annexed to this Article).

## **23. Courts Decisions on Arbitration**

**23.1.** The following Courts judgments are relevant in respect of legal actions for annulment of Arbitral Awards that were brought before Egyptian Courts:

**23.2.** The Cairo Court of Appeal's Decision on March 19, 1997, in the Commercial Case No. 64 of the 113th judicial year:

- The Court of Appeal rendered an important judgment in this Case concerning the legality of arbitration in disputes relating to Egyptian Administrative Contracts, and the Court indicated that the agreement to refer disputes relating to administrative contracts to arbitration was perfectly legal for the following reasons:
- Article 1 of the Arbitration Law provides that it applies to "all arbitrations between Public Law or Private Law persons whatever the nature of the legal relationship around which the dispute revolves..." and in view of the fact that this text clearly allows for an agreement to arbitrate, even when one of the parties is a governmental entity and whatever is the nature of the dispute. Therefore, there is no basis for the claim of nullity of the Arbitration Clauses in administrative contracts.
- The Court added here that this is also confirmed by review of the explanatory note of the Arbitration Law, the report of the concerned committee of the Egyptian People's Assembly, and by the discussions relating to the Arbitration Law, all of which confirm that arbitration in administrative contracts is legal under Egyptian Law.
- The objection that Article 10 of the Counsel of State's Law No. 47 of 1977 provides that only the Courts of the Counsel of State are competent to judge the disputes relating to administrative contracts, does not stand because this provision aims at regulating the division of competences between the Counsel of State and the normal courts and not at prevention of arbitration in disputes relating to administrative contracts.

This is specially so if we take into consideration that Article 58 of the Counsel of States Law provides for the obligation of all Ministries, Public Authorities and Public Departments to obtain the opinion of the competent Advice Department of the Counsel of State before concluding an arbitration agreement or the enforcement of an arbitral award valued at more than 5000 Egyptian Pounds".

- Article 3 of the Law promulgating the Arbitration Law provides that: "any provision contrary to the provision of this law is repealed", and this would include Article 10 of the Counsel of States Law No. 47 of 1977.
- There is no basis for relying on Article 172 of the Egyptian Constitution in order to ascertain that arbitration is not allowed for in administrative contracts, because this Article refers to the Counsel of State in its capacity as a part of the judicial authorities and it aims at dividing the competences between the Counsel of State and the civil courts as aforesaid.

In addition, nobody can claim that providing for the competence of the Courts in general to view certain disputes means that arbitration concerning those disputes is prohibited.

- The Court of Appeal also reminded that contrary to the French Civil Law (Article 2060) the Egyptian Civil Law does not contain any Article prohibiting arbitration in relation to governmental entities.

The Court of Appeal noted that even French Law allows for International Arbitration in administrative contracts disputes.

- The Court of Appeal reiterated that the Governmental Authority's claim that the Arbitration Clause in an administrative Contract was null and void despite being signed by this same Governmental Authority, is not only illegal, but is equally contrary to the principle of the necessity to execute the obligations in good faith whether in civil or in administrative contracts.

**23.3.** Finally, the Court of Appeal added that such claim was also contrary to the agreed upon rules relating to International Commercial Arbitration, that the State or the Governmental Authority cannot refrain from applying an Arbitration Clause contained in its own contracts by relying on local legislative constraints and that adoption of the opposite view would also affect the confidence that must prevail in their dealings with other parties and also negatively affect needed foreign investments.

**23.4.** Due to the importance of the issue of the arbitrability of administrative contracts, the Legislator intervened and passed Law No. 9 of 1997 which provides that the concerned minister or whoever may replace him has to approve the arbitration agreement in administrative contracts related to his ministry.

- The Cairo Court of appeal's Decision on December 31, 1997, in the Case No. 62 of the 113 Judicial Year:

The Court of Appeal rendered a judgment which indicated *-inter alia-* that Article 23 of the Arbitration Law provided that: "the Arbitral Clause is deemed to be an agreement that is independent from the other conditions of the contracts and that nullity, rescission or termination of the contract shall not affect the arbitral clause therein provided such clause is valid per se" and the Court decided therefore in the Case under review that nullity, rescission or termination of the Contract does not have any effect on the Arbitral Clause under consideration.

- The Egyptian Court of Cassation rendered an important judgment on March 1, 1999 in Recourse no 10350 of the 65<sup>th</sup> judicial year, which mentioned that the Egyptian law on Procedures – in its chapter relating to the execution of foreign judgments, orders and official documents – provides that foreign treaties between Egypt and foreign States concerning the execution of foreign judgments, orders and official documents shall have to apply, and as Egypt has adhered to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards, therefore, this Convention legally becomes one of the laws of the State and is applicable even if it contradicts the Egyptian law on Arbitration in civil and Commercial Matters.
- The Cairo Court of Appeal's Decision on May 5, 1999, in the Case No. 41 of the 114 judicial year:

One of the reasons for the appeal in this case was that the arbitration award subject of the appeal was null and void because it allowed for an interest over the maximum ceiling imposed by Law - as maximum rate of public order in accordance with Egyptian Law.

The Court of Appeal mentioned in this Case, that Article 39 (4) of the Arbitration Law provides that:

"The Arbitral Panel may, if it has been expressly empowered to act as an *"amiable compositeur"* by agreement between the two parties to the

arbitration, adjudicate the merits of the dispute according to the Rules of Justice and Equity without being bound by the provisions of Law."

And the Court of Appeal added that in view of the above there is no contradiction to public order -in this case- if the arbitral panel decides that the interest rate mentioned in its judgment- is consistent with the rules of justice and equity, even if this interest rate is over the maximum allowed for by Law, because this judgment is based upon the agreement of the Parties to apply the Rules of Justice and Equity and not the provisions of the Law.

- The Cairo Court of Appeal rendered a judgment on July 20, 1999, in the Appeal no 7 of the 116<sup>th</sup> judicial year, Arbitration, which mentioned that the standards of motivation in arbitral judgments are totally different from those of the judicial courts' judgments, for the following reasons:
  - The judicial courts are constituted of judges contrary to the arbitral tribunals, which may include non-lawyers' arbitrators. Therefore, it would be difficult to apply to their judgments the standards of motivation applied to the judgments of the judicial courts.
  - The Egyptian Arbitration Law allows the parties of the arbitration to agree that the arbitral judgments be passed without need for their motivation, which is contrary to the judicial courts' judgments which have to be motivated.
  - The Arbitration Law provides that the arbitral judgment has to contain certain data including the motivation if mentioning them is necessary, and this means that the legislator's intention is to limit this motivation to the necessary minimum, whilst the rule is that the judicial judgments are null and void if they are not fully motivated.
  - The arbitral judgments are not subject to appeal contrary to the judicial judgments.
- The Cairo Court of Appeal's Decision of December 24, 2000, in the Case No. 59 of the 117<sup>th</sup> Judicial Year:

The judgment rendered in this Case confirmed that, according to Arbitration Law no. 27 of 1994, the parties of the arbitration have to conduct it in the Arabic language unless the parties agree otherwise or unless the Arbitral panel decides otherwise.

- The Cairo Court in Appeal's decision of March 12, 2001, in the Case No. 49 of the 117<sup>th</sup> judicial year

The judgment of this Case provided that the Arbitrator has to ensure respect of the basic guarantees of litigation that are a necessary precondition of good justice.

- The Cairo Court in Appeal's decision on February 5, 2002, in the case no. 39 of the 117<sup>th</sup> judicial year

The Judgment of this Case emphasized that Arbitration in a summary dispute is not allowed, because the Arbitration must put a final end to the dispute in such a manner as to ensure that it may not be subject to further review before the Courts or before an Arbitral panel.

- The Cairo Court of Appeal rendered a judgment on February 26, 2003, in the recourse no. 23 of the 119<sup>th</sup> judgment year, which stated that the Egyptian judiciary has no jurisdiction to view the actions for nullity of foreign arbitral judgments as long as the parties have not agreed to subject the arbitration to the Egyptian Arbitration in civil and commercial matters law no. 27 of 1994. In other words, if the parties agree to hold the arbitration outside Egypt – without subjecting it to the Egyptian Arbitration law – then this would result in subjecting the arbitration to the law of another State in accordance with its procedures or to the procedures they agree to apply.

The judgment added that Article 3 of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Judgments – which Egypt has adhered to- has obliged the adhering States to recognize the arbitral judgments that are rendered outside their territory and to execute them in accordance with the rules of procedures applicable in their territory.

Article 5/1/5 of this Convention prohibits the refusal to recognize or to execute the above-mentioned arbitral judgments except in certain specific cases. Hence, this Convention linked the foreign arbitral judgments to the legal system of the State where they are rendered and approved the rule of the exclusive jurisdiction of the Courts of this State to view the actions for nullity of those judgments.

Therefore, the Courts of the other states may not reconsider such judgments from the angle of their correctness or nullity, and all that it can do – if recognition of the foreign judgment or its execution is requested – is to refuse it on the basis of its own law or on the basis of the New York Convention as the case may be, without such a refusal having any effect on the value of the judgment subject of the request.

- The Cairo Court of Appeal's decision of March 20, 2003, in the Case No 111 of the 118<sup>th</sup> judicial year.

The Court decided to annul an arbitral judgment, which applied the Civil Code to a dispute concerning banking operations instead of the relevant Banking Law. In other words, the Court decided that the misapplication of the particular governing law is a valid reason for annulment of an arbitral award.

- The Cairo Court of Appeal rendered a judgment on July 27, 2003 in the recourse no. 12 of the 120<sup>th</sup> judicial year, which mentioned that arbitration is an exceptional way of solving disputes, that the agreement of the parties to resort to arbitration is the basis of the authority of the arbitrators to decide on the disputes, therefore, the arbitration agreement has to be restrictively interpreted in relation of the disputes subject of the arbitration, and one of the results of this restrictive interpretation is that the arbitration agreement that limits the authority of the arbitrators to decide upon the disputes relating to the interpretation or to the execution of a contract, does not allow the arbitrators to decide on disputes that are based upon the extra contractual responsibility (i.e. tort) or on the nullity of the contract or on its termination.
- The Cairo Court of Appeal rendered a judgment on the May 26, 2004, in the recourse no. 66 of the 120<sup>th</sup> judicial year, which stated that the action for the nullity of the arbitral judgment is not an appeal, therefore, it does not allow for review of the substance of the dispute. In other words, the judge in the nullity case may not review the arbitral judgment in order to evaluate whether it is opportune, or whether the appreciation of the arbitrators was right, or whether they were right or wrong in understanding the facts and their results or in their interpretation and application of the law, because all of this is part of the competence of the judge of the appeal.

It is enough – unless the parties decide otherwise- that the arbitral judgment contains its motives, meaning that it answers the claims of parties and their main pleas, and thereafter the content of this answer, or whether it is opportune or right is not important in law or fact, because – as aforesaid– the action for nullity is not a recourse for appeal, and the contradictions in the motives of the arbitral judgments are not a case for its nullity, and is not equivalent with the inexistence of motives in the arbitral judgment.



- On June 26, 2005 the North Cairo Court of First instance decided to terminate the tasks of an arbitrator in accordance to Article 20 of the Egyptian law on Arbitration in Civil and Commercial matters, on the basis that the arbitrator who was appointed by the respondent in the arbitration ceased fulfilling his tasks without an acceptable excuse, which is contrary to the need for expediency in rendering judgments in Arbitral cases.
- The issue of the judicial control of the constitutionality of Laws and Regulations is exclusively entrusted in Egypt to its Supreme Constitutional Court.

**23.5.** This Court passed a judgment on November 6, 1999, in the Case No. 84 of the 19 Judicial Year, which directly bears on the subject of the Constitutionality of Article 19 of the Arbitration Law which provides in its Sub-clause 1 that the arbitral panel decides on the request for its own challenge.

**23.6.** The Plaintiff in this Case had previously requested the challenge of an arbitral panel, which was determining a dispute in which the plaintiff was a party and the arbitral panel had rejected his request. The Plaintiff then brought the Case before the Supreme Constitutional Court and alleged that allowing the arbitral panel to decide upon challenge of its members contravenes the necessity of neutrality that is guaranteed by the Constitution for those engaged in the judiciary activity.

**23.7.** Therefore, it is contrary to the basic principle of equality before the Law provided in the Constitution.

**23.8.** The Supreme Constitutional Court in this Case mentioned the judicial nature of arbitration that is based upon a voluntary agreement between its parties, and which results in negation of the right of the judiciary to review the disputes subject to arbitration.

**23.9.** The Supreme Constitutional Court reminded that the right to challenge the arbitrator is linked to the basic rights of litigation that are necessary for all judicial actions and is also closely linked to the right to litigate provided in the Constitution, that necessitates independence and impartiality, in the authority that dispenses justice.

**23.10.** The Supreme Constitutional Court then stressed that Article 69 of the Constitution guarantees the right of defense as a cornerstone of the rule of Law and that subjection of the State to the Law means that its legislation may not encroach upon the rights and guarantees which are considered in democratic states as the basis for the existence of the rule of Law.

- 23.11.** The Supreme Constitutional Court finally stated that the Article subject of the recourse allowed the arbitral panel the right to decide upon its own challenge, that this is contrary to the values of justice and to the principle of impartiality of the judicial act in favor of one category of litigants and to the detriment of another and is therefore unconstitutional for contravening articles 40, 65, 67, 68 and 79 of the Constitution which guarantee equality before the Law, subjection of the State to the Law, the right of defense and the right of litigation.
- 23.12.** Finally, the Supreme Constitutional Court has constantly ruled that the right of the parties to go to arbitration is totally left to their will.
- 23.13.** Furthermore, the Court ruled several times – the most recent decision was on May 11, 2003 – that any Legislative Article that makes mandatory on the parties to go to arbitration is unconstitutional.
- 23.14.** Needless to say, the Cairo Court of Appeal followed the mentioned judgments in its decision of the March 20, 2003, in the Case No. 72 for the 118<sup>th</sup> judicial year.
- 23.15.** The above are some of the important decisions rendered by Egyptian Courts with regard to the Arbitration Law, which we hope, will help understand the evolution that is taking place in Egypt in the field of arbitration.

## **24. Litigation In Egypt in Commercial Matters**

- 24.1.** Egypt has a system of law that is based upon the European continental legal system, except in personal matters, which are subject to the Sharia Law.
- 24.2.** A principal division under Egyptian Law is between Private and Public Law, which is primarily, based upon the difference between private relationships and relations in which the State and Public Juristic persons are parties and in which they act as a sovereign power.
- 24.3.** Therefore, the Egyptian legal system has ordinary civil and commercial Courts which decide the disputes between private persons as well as the disputes which involve the State and the Public Juristic persons when they act as private persons on one hand, and on the other hand, the administrative Courts of the Council of State which view the disputes in which the State and the Public Juristic persons act as a sovereign power, and which include-*inter alia*- disputes relating to the so called Commercial "administrative contracts" in which one of the parties is the State or a Public Juristic person, that is linked to a public service and that includes conditions- in favor of the public party- that are not common in private law relationships.

**24.4.** The ordinary Civil and Commercial Courts include the Courts of urgent matters, the summary Courts, the Courts of first instance, the Courts of appeal and the Court of Cassation, and an important factor that should be noted is that in cases other than those before the Court of Cassation, the Courts often refer the cases to the Experts Department of the Ministry of Justice- which is composed of civil servants- and which is entrusted with the task of presenting to the Courts reports about the questions of facts relating to the cases, and the conclusions of those reports are usually adopted by courts.

**24.5.** Law No 13 of 1986 concerning Civil and Commercial Procedures (the "Law") provides for the rules relating to the International Jurisdiction of the Courts, and the following has to be noted in this respect that:

- Without prejudice to the exclusively territorial jurisdiction provided for in matters related to real estate (cases pertaining to immovable), Article 28 of the Law provides that Egyptian courts have the jurisdiction/ competence to adjudicate the Lawsuits filed against an Egyptian, whether domiciled or not in Egypt.
- Furthermore, Article 30 of the Law provides that Egyptian Courts have jurisdiction/ competence to adjudicate certain categories of lawsuits filed against foreigners non-domiciled or residing in Egypt. Such categories include - *inter alia* - the following:
- Cases concerning an asset situated in Egypt, or an obligation that originated, or that was executed, or that should have been executed in Egypt; or a bankruptcy that was registered in Egypt.
- (II) Cases in which one of the defendants has a domicile or residence inside Egypt, i.e., extending the judicial competence to other defendants of foreign nationalities, not domiciled or residing in Egypt once they are co-defendants in the same lawsuit to a national involved in the same contractual or delictual Liability.
- (III) Furthermore, whenever a lawsuit is filed in front of the Egyptian Courts- that have jurisdiction/ competence to adjudicate it-, those Courts are entitled to extend their jurisdiction/competence to deal with all preliminary matters and interlocutory demands relating to the original case, as well as all submissions linked thereto which are deemed necessary for rendering justice within the course of the pending judicial proceedings.
- Therefore, it is likely that if a plaintiff brings court proceedings in Egypt against (I) an Egyptian defendant and (II) a foreign defendant, the Egyptian Court declares

itself having competence to adjudicate the claim against both defendants, whenever the claim against them is based on identical or closely connected facts.

- The general rule is that a defendant who objects to the Jurisdiction of an Egyptian Court has to raise that objection at the beginning of the proceedings before getting in the merits. Otherwise, he will be considered having waived his objection, implying a voluntary submission to jurisdiction. However, once the objection is raised in due time, the Court may pass judgment concerning this plea at the outset or at the end of the proceedings, as it considers appropriate according to the circumstances of the case.
- A general rule provided in Article 63 of the Law is that the legal action is brought at the request of the plaintiff by a notice of action that is deposited at the concerned court's clerk office.
- This notice of action must contain the following:
  - The full name of the plaintiff, his occupation, domicile, and the full name, profession and domicile of his representative.
  - The full name of the defendant, his occupation and domicile, and his last domicile in case his present domicile is unknown.
  - The date when this legal action is brought.
  - The court before which the legal action is brought.
  - The elected domicile of the plaintiff in the city where the court is situated in case he has no domicile therein.
  - The facts of the case, the requests of the plaintiff and their basis.
- The proceedings commence within days once the Court's clerk sends to the defendant through the Bailiff a copy of the official Notice of Action, informing him about the filing of the judicial requested action and providing him with the name of the plaintiff, his claims, and the date of the Court's session at which the judicial action will start being adjudicated.
- From the defendant's side, he becomes required to deposit his defense memorandum and his supporting documents at the Court's clerk office, at least three days before the date fixed for the Court's first session as indicated in the Bailiff's Notice of Action.

- However, it should be noted that on many occasions defendants prefer not to follow said rule, due to the fact that no sanction is provided for in the above-mentioned Law if the defendant does not follow that rule. Thus, they wait to submit their defense in front of the Court during the proceedings taking place thereafter.
- As a general rule, the Court's proceedings in Egypt are not confidential. All sessions and hearings are held in public, unless the Court decides in exceptional circumstances that the public is not entitled to attend a given case that requires secrecy. As to the documents filed, the other parties appearing in the same case thereof can only obtain copies; and these copies can be photocopied by the Court's clerk without any possibility to displace the file.
- Judges in Egypt do not have the right to refer the parties in pending proceedings to arbitration/mediation.
- On the other hand, Article 12 of the Egyptian Arbitration in Civil and Commercial Matters Law no 27 of 1994 provides that the Court before which an action is brought concerning a disputed matter which is subject to an arbitration agreement shall judge that this action is inadmissible, provided that the defendant raises this objection before submitting any demand or defense on the merits of the case.

## **25. Economic Courts Law**

- 25.1.** Egypt attempted to create an adequate and specialized juridical order led by qualified and specialized judges to settle complex economic cases.
- 25.2.** In this regard, the Egyptian legislator adopted the Economic Court law no. 120 of 2008 ("Economic Court Law") amended.
- 25.3.** Said Law established Economic Courts that are mainly composed of first instance chambers and chambers of appeal and that view *-inter alia-* criminal actions resulting from the crimes provided in certain specific economic laws as detailed in this Law.
- 25.4.** Economic Courts are established to achieve a safe environment for the investors and provide maximum protection for economic activity.
- 25.5.** Furthermore, and without prejudice to the cases that are within this jurisdiction of the Council of State - the first instance chambers of the Economic Courts have the jurisdiction to view the civil disputes whose value does not exceed 10 million Egyptian Pounds and that result from application of the following laws.
- The law of Companies Operating in the Field of Receipt of Assets for Investment.
  - The Money Market Law.

- The Guarantees and Incentives of Investment Law.
- The Lease Financing Law.
- The Law concerning the Protection of the National Economy from the Effects of Harmful Actions in International Trade.
- The Commercial Law in relation to transfer of Technology, Commercial Agency, Banking Transactions, Bankruptcy and Settlements for Its Avoidance.
- The Real Estate Financing Law.
- The Protection of Intellectual Property Rights Law.
- The Organization of Communications Law.
- Regulation of Electronic Signature Law and the Establishment of the Authority for the Development of the Information Technology Industry.
- The Protection of Competition and Prevention of Monopolistic Practices Law.
- The Joint Stock Companies, Partnerships limited by shares and Limited Liability Companies Law.
- The Central Banks, Banking institution and Money Law.

**25.6.** And the appeals chambers of the Economic Courts shall view in the first place the cases mentioned hereinabove if their value exceeds ten million Egyptian Pounds or if their value is not estimable.

**25.7.** It should be noted that the general rule in Egyptian Civil Cases is that the judgments of the Courts of First Instance may be appealed before the Courts of Appeal and eventually before the Court of Cassations, and in order to reduce the duration of the judicial review of Civil Cases before the Economic Courts, Economic Court Law provides that the appeals against the Civil Judgments of the chambers of first instance of the Economic Courts may only be appealed before the appeals chambers of those courts, meaning that no challenge for cassation is allowed in such cases, and the only judgements that may only be appealed before the Court of Cassation is the felonies or misdemeanors and the rulings issued from Court of Appeal as a First Instance Court.

**25.8.** Finally, Egypt tries to keep up with the times by establishing for the first time in the Egyptian Judicial System an E-filing Service by allowing the electronic connection of all economic courts, and introducing the e-filing, e-proceeding and the e-notification of cases before the Economic Court Law.

## **Translated By Tarek Riad and Partners**

**Law No. 27 For 1994 As Amended**

**Promulgating the Law concerning**

**Arbitration in Civil and**

**Commercial Matters**

**Articles 52 to 58**

**Part VI**

### **Nullity of the Arbitral Award**

#### **Article (52)**

Arbitral awards rendered in accordance with the provisions of the present Law may not be challenged by any of the means of recourse provided for in the Code of Civil and Commercial Procedures.

An action for the nullity of the arbitration award may be instituted in accordance with the provisions of the following two articles.

#### **Article (53)**

An action for the nullity of the arbitral award cannot be admitted except for the following causes:

- If there is no arbitration agreement, if it was void, voidable or its duration had elapsed.
- If either party to the arbitration agreement was at the time of the conclusion of the arbitration agreement fully or partially incapacitated according to the law governing its legal capacity.
- If either party to arbitration was unable to submit its defense as a result of not being duly notified of the appointment of an arbitrator, of the arbitral proceedings, or for any other reason beyond its control.
- If the arbitral award excluded the application of the Law agreed upon by the parties to govern the subject matter in dispute.
- If the composition of the arbitral panel or the appointment of the arbitrators had been undertaken in violation of the Law or contrary to the parties' agreement.

- If the arbitral award dealt with matters not falling within the scope of the arbitration agreement or exceeding the limits of this agreement. However, in the case when matters falling within the scope of the arbitration can be separated from the part of the award, which contains matters not included within the scope of the arbitration, the nullity affects exclusively the latter parts only.
- If the arbitral award itself or the arbitration procedures affecting the award contain a legal violation that causes nullity.

The court adjudicating the action for nullity; shall *ipso jure* annul the arbitral award if it contains violation of the public order in the Arab Republic of Egypt.

#### **Article (54)**

The action for nullity of the arbitral award must be brought within ninety days following the date the notification of the arbitral award to the party against whom it was rendered.

The admissibility of the action for annulment shall not be prevented by the applicant's renouncement of its right to raise it prior to the making of the arbitral award.

Jurisdiction with regard to an action for the nullity of awards rendered in international commercial arbitrations lies with the court referred to in Article (9) of the present Law. In cases not related to international commercial arbitration, jurisdiction lies with the court of appeal having competence over the tribunal that would have been initially competent to adjudicate the dispute.



## **Part VII**

### **Recognition And Enforcement of Arbitral Awards**

#### **Article (55)**

Arbitral awards rendered in accordance with the provisions of the present Law have the authority of the *res judicata* and shall be enforceable in conformity with the provisions of the present Law.

#### **Article (56)**

Jurisdiction to issue an enforcement order of arbitral awards lies with the President of the court referred to in Article (9) of the present Law or with the member of said Court who has been mandated for this purpose by delegation from said President. The application for enforcement of the arbitral award shall be accompanied by the following:

- The original award or a signed copy thereof.
- A copy of the arbitration agreement.
- An Arabic translation of the award, certified by a competent organism, in case the award was not rendered in Arabic.
- A copy of the *procès-verbal* attesting the deposit of the award pursuant to Article (47) of the present Law.

#### **Article (57)**

The filing of an action for nullity does not suspend the enforcement of the arbitral award. Nevertheless, the Court may order said suspension if the applicant requests it in his application and such request is based upon serious grounds. The Court shall rule on the request for suspension of the enforcement within sixty days from the date of the first hearing fixed in relation thereto. If suspension is ordered, the Court may require providing a given security or monetary guarantee. When the Court orders a suspension of enforcement, it must rule on the action for nullity within six months from the date when the suspension order was rendered.

#### **Article (58)**

- 1.** Application for the enforcement of an arbitral award shall not be admissible before the expiration of the period during which the action for nullity should be filed in the court registry.
- 2.** The application to obtain leave for enforcement of the arbitral award according to the present

Law shall not be granted except after having ascertained the following:

- That it does not contradict a judgment previously rendered by the Egyptian Courts on the subject matter in dispute.
- That it does not violate the public policy in the Arab Republic of Egypt; and
- That it was properly notified to the party against whom it was rendered.

**3.** The order granting leave for enforcement is not subject to any recourse. However, the order refusing to grant enforcement may be subject to a petition lodged, within thirty days from the date thereof, before the competent court referred to in Article 9 of the present Law.

**4. Procedures relating to anti-dumping regulations in Egypt.**

Egypt in order to protect its national economy from the consequences of detrimental practices carried out in international commerce, it promulgated the Anti-Dumping Law No. 161 of 1998 (“Anti-Dumping Law”).

The Egyptian Ministry of Trade and Industry (“The Ministry”) has specific procedures with regard to the filing of complaints relating to dumping products in Egypt, **these procedures generally are as follows:**

**First:** A complaint is submitted by an Egyptian legal entity alleging that a certain foreign product is being exported to the Egyptian market at a price lower than the price of those products in the concerned foreign company (dumped in the Egyptian market), said complaint is submitted to the Anti-dumping, Subsidy and Safeguard Department (the “Investigating Authority”).

**Second:** An internal investigation is undertaken by the Investigating Authority in order to assess whether the complaint is genuine or not. If the Ministry decides that the complaint is genuine, then, an actual investigation is commenced. (these procedures take around 30 days)

**Third:** A declaration by the Investigating Authority that an investigation has started with regard to dumping certain products in Egypt and the Investigating Authority organizes hearings in which the interested party whether Egyptian entities or foreign entities are allowed to present briefs and documents and intervene in those hearings. During said hearing the Investigating Authority tries to ascertain whether there has been dumping or not. The main focus of these hearings is to see whether the foreign product is sold in the concerned country at a much lower price than the price it is exported to Egypt at. (these procedures take around 60 to 90 days)

**Fourth:** The Ministry constitutes an advisory committee which makes a preliminary determination, said committee convenes and makes recommendations to the Minister. Thereafter, the preliminary determination is approved by the Minister and published and sent to the concerned parties. (These procedures take around 30 days)

**Fifth:** Investigation visits are undertaken and a report of said visits is prepared. (These procedures take around 50 days).

**Sixth:** Preparation of a report on the results of the investigations and sending said report to the concerned parties for their comments. After receiving the comments of the concerned parties, a final report is prepared, thereafter, the advisory committee prepares a final determination and makes recommendations to the Minister, who approves a final determination to be published and sent to the concerned parties. (These procedures take around 120 days)

**The investigations may result in three possible decisions by the Ministry:**

**Decision no.1:** no dumping has taken place, or

**Decision no.2:** dumping has taken place but the damage to concern the Egyptian industry is not a result of the dumping but due to certain conditions relating to the concerned industrial sector in Egypt, or

**Decision no.3:** there has been dumping and said dumping has harmed the concerned sector in Egyptian industry.

If the Ministry decides that there has been dumping and there has been harm to the Egyptian industry, in this case, the Ministry will decide that certain duties will be added upon the importation of the dumped products. Normally the increase in duties is at least equivalent to the difference in the price of the foreign product in addition to the shipping cost for the product i.e. the minimum the ministry decides is to levy additional duties that would make the price of the foreign product in Egypt equivalent to the price of the foreign product in foreign country concerned in addition to the cost of shipment and in some cases, the duties are more than said formula.

Finally, the above is generally speaking of the different stages with regard to anti-dumping investigations in Egypt to clarify and facilitate the anti-dumping process to the investor.

Kosheri, Rashed & Riad has a wide experience on the anti-dumping law and World Trade Organization regulations as part of its corporates practice and as a result of Dr. Raid's involvement in his capacity as an advisor to the speaker of the Egyptian parliament at the time

of the approval of the Egyptian parliament of the WTO agreements in addition to the fact that Dr. Riad was also registered as an arbitrator in the WTO disputes settlement system.

## OFFICE RESUME

**General Practice, International Law, Corporate Law, Commercial Agencies, Licensing Contracts, Commercial and Maritime Matters, Joint Ventures, Privatization, Insurance, Foreign Investments, Securities Transactions, Mergers & Acquisitions, Local and International Business Contracts, BOT Projects, Up Stream & Down Stream Gas Agreements, Trademark Registration and Litigation, Banking, Mining and Petroleum Concessions, Real Estate, Telecommunications & Information Technology, Tax, Construction, Labor Law, Intellectual Property, Business Litigation, International and Domestic Arbitrations, World Trade Organization Agreements and Dispute Settlement System.**

- **MEMBERS OF THE FIRM**

**1- Dr. Tarek Fouad A. Riad:**

Admitted to Bar, 1980, Egypt; 1985, New York.

**Education:** Cairo University (LL.B., 1980); Harvard University Law School (LL.M., 1982; S.J.D., 1985).

**Languages:** Arabic, English and French.

**2- Dr. Hatem Gabr:**

Admitted to Bar, 1953, Egypt

**Education:** Cairo University (LL.B., 1952); D.E.S. in Public Law (1953); D.E.S. in Political Economy (1954); Ph.D. (1968)

**Languages:** Arabic, English and French.

**3- Mahmoud Abdel Meguid:**

Admitted to bar, 1984, Egypt.

**Education:** Cairo University (LL.B. 1982).

**Languages:** Arabic and English.

**4- Mahfouz Zaki Mahrous:**

Admitted to bar, 1981, Egypt.

**Education:** Ain Shams University (LL.B. 1981).

**Languages:** Arabic and English.

**5- Hala Tarek Riad**

Admitted to bar, 2020, Egypt.

**Education:** University of York – UK (LL.B. 2016).

**Languages:** Arabic and English and French.

**6- Hussein Ahmed:**

Admitted to bar, 1995, Egypt.

**Education:** Cairo University (LL.B. 1994).

**Languages:** Arabic and English.

**7- Mohamed Khairy:**

Admitted to bar, 2002, Egypt.

**Education:** Ain Shams University (LL.B. 1999).

**Languages:** Arabic and English.

**8- Emad Ahmed Bahaa Eldin**

Admitted to bar, 2007, Egypt.

**Education:** Cairo University (LL.B. 2007).

**Languages:** Arabic and English.

**9- Lobna Hegazy**

Admitted to bar, 2019, Egypt.

**Education:** Ain Shams University – French Dept. (LL.B. 2019).

**Languages:** Arabic and English and French.

**10- Ahmed Tarek**

Admitted to bar, 2020, Egypt.

**Education:** Azhar University (LL.B. 2020).

**Languages:** Arabic and English.

**11- Yara Nabil**

Admitted to bar, 2021, Egypt.

**Education:** Tanta University (LL.B. 2021).

**Languages:** Arabic and English.

**12- Salma Haridy**

Admitted to bar, 2021, Egypt.

**Education:** Ain Shams University (LL.B. 2010).

**Languages:** Arabic and English.

**13- Ahmed Salem (Of-Counsel):**

Admitted to bar, 1985, Egypt.

**Education:** Cairo University (LL.B. 1984).

**Languages:** Arabic and English.

## **Some of the past and present Clients of Tarek Riad and Partners**

- Arab African International Bank
- AT&T
- Asko Deutsche Kaufhaus AG
- AM General
- Akzo Nobel
- Aero Lloyd
- American Motors - chrysler
- ATL Ultrasound
- Arab Monetary Fund
- Al Chark Insurance Company
- Balfour Beatty
- Ball Corporation
- Bank of America (London Branch)
- Bechtel
- Caterpillar
- Colgate-Palmolive Company
- Cyprus Airways
- Champion Technologies, INC.
- CB&I Eastern Anstalt
- Chrysler
- Compañie Générale de Services et d'Applications de Télécommunications
- Codan Insurance
- De Havilland Canada
- Deutsche Bank (Bankers Trust)
- Daimler AG



- Elf Oil Deutschland Gmbh
- Enron International
- Estee Lauder
- EG&G Sealol.
- Ebasco Services Incorporated
- Ecoval N. V
- Enterpose International
- Flag Corporation
- Fiduciary Trust Company International
- Flippo Fochi
- Fortschritt Landmaschinen Export-Import Gmbh
- Four Seasons Hotels & Resorts Guinness PLC Grand Travaux de Marseille
- Grant Tensor Geophysical
- Hoston Industries Incorporated
- Halcrow Transportation Infrastructure
- Henry M. Jackson Foundation
- Hafnia Insurance
- J-Power Systems
- Kraft
- Krüger Engineering A/S
- KIMBERLY-CLARK
- Kohler Co.
- Kone Corporation
- Kajima Corporation
- Kuwait Finance House
- Lockheed Martin

- MAYTAG Co
- MSD (Middle East and Africa)
- Marathon Oil Company
- Misr America International Bank
- Misr Insurance
- Nikken Sekkei
- Nagata Corporation
- New Zeland Dairy Board
- Petroleum Geo-Services ASA
- Philips International B.V.
- P & I Club
- Samsung
- Salomon Smith Barney
- Saudi Telecommunications Company
- Scoa International
- Servier
- Standard Bank
- Sumitomo Electric Industries, Ltd.
- Toyota
- The International Airline of the United Arab Emirates
- Time Warner
- United Group for Highways Development
- Voest - Alpine
- WorldCom
- Yves Saint Lauren

## **Prof. Dr. Tarek Fouad A. Riad**

### **DETAILED CURRICULUM VITAE**

#### **EDUCATION:**

- 1980 LL.B., Faculty of Law, Cairo University.
- 1982 LL.M., Harvard University Law School, the Master Thesis was entitled "Legal Protection of Foreign Investments and related Arbitration Decisions".
- 1985 S.J.D., Harvard University Law School, the Doctoral Thesis which has taken the highest degree was entitled "The Applicable Law in Transnational Arbitration" which deals with the problems occurring as a result of the fact that the State and its departments are public authorities enjoying sovereign powers and in the same time acting as contracting party with a foreign company keen to secure its long-term investments in the Host State, with special emphasis on petroleum agreements.

(It might be worth noting that Dr. Tarek Riad is the only practicing Supreme Court Lawyer in Egypt - after the late Dr. Ibrahim Shehata who was the Senior Vice President of the World Bank in Washington D.C. -, who obtained his S.J.D. from Harvard University Law School).

#### **PROFESSIONAL ACTIVITIES:**

- Member of the Egyptian Bar Association (1980 to present) and admitted to practice in front of the Court of Appeal, Court of Cassation and the Supreme Constitutional Court.
- Member of the Egyptian Council of State (1980 - 1983), where he worked in the Legal Department of the Ministries of Foreign Affairs, Justice and Interior affiliated with the Consultative Section of the Council of State.
- Lecturer in Private International Law Department, Cairo University Law School, Beni Suef Branch (1983 - 1988), where he taught Conflict of Laws, International Judicial competence and nationality for the students of the fourth year.

- Admitted to practice in front of the Courts of the State of New York including the Supreme Court of New York from 1985 to present and Member of the American Bar Association which allows him to plead in front of the Supreme Court in the State of New York and the Federal Courts.
- Member of the American Society of International Law 1982.
- Member of the American Arbitration Association 1982.
- Registered as Arbitrator at the Egyptian National Committee of the International Chamber of Commerce.
- Registered as Arbitrator at the Qatar Chamber of Commerce and Industry.
- Arbitrator at the Abu Dhabi Chamber of Commerce and Industry (Abu Dhabi Center for Conciliation and Arbitration) in commercial matters and drafting business contracts.
- Registered as Arbitrator at the Gulf Cooperation Council (GCC) Commercial Arbitration Center.
- Registered as Arbitrator at the Egyptian Center for Arbitration and Settlement Non-Banking Financial Disputes.
- Managing Partner, Tarek Riad & Partners - Legal Consultants & Attorneys at Law (Previously Kosheri, Rashed & Riad), since 1989. He is charged with providing legal opinions and pleading in front of the Courts in business and commercial cases and arbitrations. Dr. Riad specializes in the fields of international trade law, investment, construction, banking, customs regulations, international loans, investments, mergers, acquisitions and capital market transactions.
- Counsel for numerous multinational corporations such as Caterpillar, Lockheed Martin, Four Seasons, Samsung Gulf Electronics Co. Ltd Egypt, Colgate, AT&T...etc.
- Special Legal Counsel to the Speaker of the Egyptian Parliament for review of International Treaties that include customs arrangement. In addition to providing legal advice on World Trade Organization Agreements, Egyptian Oil and Gas Agreements and Investment Agreements (1992 to 2000).

- Ministry of Economy, Member of the Egyptian Government Companies Law Legislative Committee presided by the Minister of Economy (1997 - 2000).
- Ministry of Economy, Member of the Egyptian Government Committee in charge of reforming the legal regime of the Capital Market Committee presided by the Minister of Economy (1998-2000).
- Registered as Arbitrator and Panelist in the special Roster of the Dispute Settlement Body of the World Trade Organization.
- Associate Member of the Chartered Institute of Arbitrators (London).
- Ministry of Justice, Member of the Legislative Committee responsible for amending the Investment Law (2003).
- Council of Ministers, Member of the Legislative Committee responsible for amending the Companies Law (2003).
- Chairman of two subcommittees at the Economic Committee of the Supreme Policy Council responsible for drafting the Companies Law and the Economic Courts Law (2002-2005).
- Member of the Advisory Committee of the Arab Regional Forum of the International Bar Association (2007 to 2010)
- Member of the Scientific Council of the ICC World Business Law Institute (2005 to 2021).
- Professor of Private International Law and Deputy Director of the Centre René-Jean Dupuy pour le Droit et le Développement, Alexandria, Egypt (1999 to 2003).
- Member of the International Council for Commercial Arbitration (ICCA) (2012 to present).
- Professor of Commercial and Business Law and Head of the Business Law Department at the German University in Cairo (2003 to present).
- In May 2011, Dr. Riad was appointed as a member of the Consultative Council responsible for preparing drafts laws for the Egyptian Council of Ministries until June 2012.

- Alternate member of the ICC International Court of Arbitration (2012 to 2018).
- Member of the Emeritus Council of the ICC Institute (2021 up to date).
- Member of the Board of Trustees and the Chairman of the Executive Committee of the Dubai International Arbitration Centre (DIAC) (2013 to 2019).
- Designated member of ICSID Panel of Arbitrators (from 2017 up to date) and designated member of ICSID Panel of Conciliators (from 2018 up to date).
- Member of The Supreme Arbitration Council of the UAB Mediation and Arbitration Center, established by the Union of Arab Banks, an organization that is established by the Arab League (from March 2023 up to date).
- Member of the Panel of Arbitrators of the Borneo International Centre for Arbitration and Mediation (BICAM) (July 2023 to July 2026).

## **EXPERIENCE:**

- Training course for six months in Crocker National Bank in London in 1976 to study the technical methods for new financial transactions in the International Financial Markets.
- Training course for six months in Wells Fargo Bank in 1977 at San Francisco focused on creating leaders in the field of finance and banking and evaluation of projects in need of economic and technical support in addition to practical training in the technicalities of Banking Operations.
- Associate in one of the famous International Law Firms in New York City "Paul Weiss, Rifkind, Wharton & Garrison" during 1983 and 1984, during which he was charged to work on corporate finance agreements, capital market transactions, investment agreements and establishment of new companies.
- Lecturer, organizer and coordinator of the scientific conferences and training programs financed by the German Arab Chamber of Commerce and Industry since 1989, and some of them in cooperation with the International Chamber of Commerce in Paris. Participants in the training programs are judges, Council of State members, State counsels, legal advisors and counselors of Public and Private Companies concerning the following subjects:

- (1) Arbitration in commercial agency contracts - 1989.
  - (2) The role of the national legislation in encouraging foreign investments and Arbitration - 1990.
  - (3) Arbitration concerning agreements established for joint ventures between nationals and foreign parties - 1991.
  - (4) Negotiating and contracting in the field of the transfer of technology - 1991.
  - (5) Legal aspects of privatization in the Egyptian public sector companies - 1992.
  - (6) Conflict resolution in connection with take-over of companies - 1992.
  - (7) Negotiating and contracting in the field of industrial licenses and trademarks - 1993.
  - (8) Arbitration in the field of disputes concerns contracts of importation, exportation and transportation of goods - 1993.
  - (9) Arbitration in the field of the transfer of technology contracts -1994.
  - (10) Negotiating and contracting in the construction field - 1994.
  - (11) Arbitration in the field of industrial licenses and commercial agencies - 1995.
  - (12) Negotiating and contracting in BOT contracts - 1995.
  - (13) Arbitration in the field of oil and gas contracts - 1996.
  - (14) Arbitration Case No. 21214/ZF
- Lecturer in the training courses held by the International Development Law Institute (IDLI) established in Rome under an international convention - in which Egypt is adhered - during 1995-1996 concerning investments, transfer of technology and international contracts.
  - Lecturer in the training program organized by the International Development Law Institute (IDLI) in cooperation with the Yemeni Government in Sanaa to train governmental officials within the framework of the activities of the Ministry of Planning during May 1997 in the fields of investment and international transactions.
  - Member of the IDLI and the U.S. Government delegation to the Sultanate of Oman within the framework of the American assistance program for Legal Reform during the months of January and April 1999.

- Speaker on “the Practical and Broader issues facing arbitrators in electricity and petroleum agreements” at the third international conference on “International Energy (Electricity and Petroleum) Agreements and Settlement of Related Disputes” organized by the Cairo Regional Centre for International Commercial Arbitration, the Egyptian Ministry of Petroleum, the World Bank and its International Centre for Settlement of Investment Disputes in Alexandria-Egypt on the 14th and 15th of June 1999.
- Lecturer and technical advisor in the training program organized by IDLI in cooperation with the Counsel of State of the Sultanate of Oman in Muscat to train governmental officials including judges in the Sultanate during the month of October 1999 in the fields of legislation, investments, international trade law and negotiations.
- Expert participant in the Seminars held by the United Nations Conference for Trade and Development in Geneva in 2000 and 2001 concerning the methods to resolve conflicts under the World Trade Organization Agreements.
- Lecturer on World Trade Organization Agreements and Dispute Resolutions System at the Conference on Electronic Trade held in Cairo by the Association of Egyptian Bankers and Bank Misr on the 14th of June, 2000.
- Lecturer at the training program held at the National Center for Judicial Studies (Egyptian Ministry of Justice) on the 25th of June, 2000 on World Trade Organization Agreements and Dispute Resolutions System.
- Lecturer and National Coordinator in a three weeks training program organized by IDLI in Cairo in cooperation with Egyptian Ministry of Justice and Centre René-Jean Dupuy for Law & Development, Université Internationale de Langue Française au service du Développement Africain, Alexandrie d’Egypte, (SENGHOR UNIVERSITY) to train Arab and African legal advisors during June 2000 in the field of World Trade Organization Agreements and Dispute Resolutions System.
- Member of the IDLI and the U.S. Government delegation to the Sultanate of Oman within the framework of the American assistance program for Legal Reform during the month of September 2000.

Lecturer and technical advisor in the training program organized by IDLI in cooperation with the Ministry of Commerce and Industry of the Counsel of State of the Sultanate of



- Oman in Muscat to train governmental officials including judges in the Sultanate during the month of March 2001 in the fields of International Conventions and World Trade Organization Agreements.
- Speaker on “drafting of gas agreements” at the fourth international conference on “International Energy (Oil and Gas) Agreements and Settlement of Related Disputes” organized by the Cairo Regional Centre for International Commercial Arbitration, the Egyptian Ministry of Petroleum, the World Bank and its International Centre for Settlement of Investment Disputes in Sharm El Sheikh-Egypt on the 9th and 10th of March 2002.
- Speaker at the fourth ministerial training workshop on “The Rules-Based System of the World Trade Organization” organized by the International Development Law Institute (IDLI) and the Moroccan Ministry of Justice in Marrakech from the 2nd until the 13th of September 2002.
- Lecturer at the training programs held at the National Center for Judicial Studies (Egyptian Ministry of Justice) in 2002, 2003 and 2004 on “Arbitration and Dispute Settlement”.
- Visiting Professor at Ain Shams Law School Arbitration Center in 2004, 2005, 2006, 2007 and 2008 on “Arbitration Agreements”, “Egyptian Contract Law” and “Oil and Gas Arbitrations”.

**EXPERT TESTIMONY:**

Dr. Riad has been appointed as expert on Egyptian Law and Middle Eastern Law in numerous arbitrations in front of DIAC and ICC, including ICC Case no. 18113/ND, and Egyptian oil and gas disputes that emerged after the 2011 Egyptian revolution, which we do not have permission to disclose most of them except ICC Case no. 19519/CA/ASM, and in front of foreign Courts such as the Commercial Court in London (Queen Bench Division) (2009 Folio No. 1393) as well as giving expert testimony in front of US Court including United States District Court Central District of California- Eastern Division (Case no. EDCV11-00684 SVW (AGRX)), United States District Court - Southern District of New York - (Cases no. 98 Civ. 4260 (LAK), 99 Civ. 12405, 00 Civ. 5098 and 1:06-cv-03927(SAS) ECF CASE), and United States District Court Western District of Washington at Seattle (Case no. C07-1816 JLR) U.K.

and Jersey Courts including the High Court of Justice, Queens Bench Divisions, Commercial Court ( 2009 FOLIO No. 1393), and United States District Court - Western District of New York - (Case 1:17-cv-00971-LJV) in matters relating to – inter alia- Egyptian Civil Law and Egyptian Inheritance Laws.

**LANGUAGES:** Arabic, English & French

## **BOOKS AND PUBLICATIONS:**

### **BOOKS:**

- "The Applicable Law in Transnational Arbitrations" (Harvard 1985).
- "Introduction to Egyptian Law" (German University Press 2004).
- "Egyptian Companies Law" (German University Press 2005).

### **PUBLICATIONS:**

- "Protection of Foreign Investment" Egyptian Journal of International Law - 1983.
- "The changing role in the arbitration process" Foreign Investment Law Journal - ICSID Review, Volume 1 - 1986 (Co-author with Dr. Ahmed S. El-Kosheri).
- "The Law governing a New Generation of Petroleum Agreements: Changes in the Arbitration Process" Foreign Investment Law Journal - ICSID Review, Volume 3 - 1988 (Co-author with Dr. Ahmed S. El-Kosheri).
- "Doing Business in Egypt" Yearbook of Islamic and Middle Eastern Law, Volume 5 - 1998-1999.
- "Arbitration & Legal Business Environment in Egypt" Journal of International Arbitration (France), Vol. 17 No. 5 – October 2000.
- "Arbitration in Civil and Commercial Matters in Egypt" Yearbook of Islamic and Middle Eastern Law (Kluwer Law International), Volume 6 - 1999-2000.
- "World Trade Organization Dispute Settlement System" Senghor University - 2000.
- "Commercial Arbitration in Egypt" International Arbitration Law Review, vol. 3 – December 2000.

- “Physician Responsibility in medical practice in Egypt” Egyptian Medical Magazine – November/December 2000.
- “The Investment Legal Environment in Egypt in the new Millennium” Arab Law Quarterly (Kluwer Law International) - May 2001.
- “The Settlement of International Investment Disputes” Handbook on Dispute Settlement (United Nations Conference on Trade and Development.) – 2002.
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