

The UAE's Ministry of Economy needs to clarify the rules involving disputes around the deregistration of agents, says **Michael Kortbawi** as he makes some suggestions of his own

Free agents



The recent massive development in the economy of the Gulf region has required development in legislation regulating foreign investments — especially the UAE Commercial Agencies Law along with the UAE Commercial Companies Law.

The UAE was a member of the General Agreement on Tariffs and Trade — the precursor to the World Trade Organisation (WTO) — and subsequently joined the WTO on April 10, 1996. The WTO aims to liberalise trade between countries based on the following principles:

- Most favoured nation — by setting rules against discrimination between trading partners
- Equality — by avoiding discrimination between locals and foreigners
- Free trade — by reforming tax laws and trade restrictions
- Competition — by enhancing a competitive market

the legal system could no longer be disregarded. Immediate measures had to be taken to enhance the credibility within the sector and elevate the level of security offered to both existing and prospective investors to ensure their investments made their way into the UAE markets.

On June 3, 2006, the UAE President enacted Law No 13 of 2006, which amended Law No 18 of 1981 with regard to Commercial Agencies. Subsequently, several ministerial decisions were issued, namely Ministerial Decision No 168 of 2006 relating to the registration of commercial agencies, and Ministerial Decision No 381 of 2006 and Cabinet Decision No 3/3 of 2006 affecting the deregistration of commercial agencies.

Although a lot was achieved through these amendments, the system was still not up to the standard of development within the market.

For the past year, my law firm has assisted clients in deregistering

legal advice we give to our clients regarding termination of agencies. There is no logical justification that we can present to our clients to explain the reasons for which the law is not being applied.

The Ministry of Economy seems to have a standard response for all deregistration requests — the parties should refer the matter to the court. While the matter is in court, the ministry does not take any action towards registration of the agency, yet it freezes the file until the court renders its decision, which, in the best of circumstances, can take two to three years.

This is not a practical approach to resolving commercial agency disputes — in fact it disregards one of the main reasons behind the enactment of the law. We emphasise the need to strengthen the legal framework of commercial agencies and suggest the following:

- The Cabinet/Ministry of Economy should issue a note explaining the law and decisions to provide for a clear and undisputed understating of their contents
- The ministry should take a more proactive approach towards the application of the recent amendments to the law and the deregistration of commercial agencies
- In situations where the deregistration is legally required, the ministry should exercise different precautions to ensure the rights of the agent, among which are the following: stressing the necessity of submitting a bank guarantee equal in value to the estimated compensation the agent would be entitled to under the law; forbidding the agent from registering another agency until the dispute is settled and the compensation paid; and compensating the agent by giving him non-exclusive distribution rights over the product for a certain period after the deregistration of the commercial agency. ■

“Immediate measures had to be taken to elevate the level of security offered to existing and prospective investors”

- Transparency — by ensuring a transparent and stable market with no sudden radical changes related to foreign investment

In April 2006, the WTO's trade policy review pertaining to the UAE highlighted “structural reforms, including the abolition of the restrictive Trade Agency Law, the adoption of competition legislation, and further liberalisation of and multilateral commitments in the services sector, would improve resource allocation and the UAE's economic performance”.

Influenced by that, and taking into consideration that foreign investments in the UAE reached US\$17 billion, the UAE government noted that the required change in

more than 30 agencies from the record of the UAE Ministry of Economy and we are still fighting to deregister around 50 more.

We have always abided by the procedures for deregistration as prescribed by the law and the officers at the Ministry of Economy; however, on many occasions we have faced strong resistance from the ministry in processing the applications. This led us to the conclusion that despite the clarity of the law, the ministry and the UAE market are still not ready for the free market concept, or to face the resistance put up by UAE nationals whose businesses are entirely based on such agencies.

As legal consultants, we no longer have confidence in the

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