

Changing Gears: “...from one prosperity to the other.”

Essam Al Tamimi - Chairman - Private Client Services / Arbitration / Litigation / Family Business
e.tamimi@tamimi.com - Dubai International Financial Centre



I am delighted to introduce this edition of Law Update which has a particular focus on climate and the circular economy. It is clear that our region will be disproportionately hit by the effects of climate change. These changes will require us all to better manage what we do and how we do it. A successful economy cannot exist without a vibrant ecology.

The pace of change has certainly quickened. Not content to wait for COP-26 in November of this year, President Biden convened the Major Economies Forum which has produced a proliferation of initiatives. Given the breadth of initiatives it is invidious to single out any particular measure. However, the creation of a special Agriculture Innovation Mission for Climate, co-lead by the UAE and the United States is noteworthy. As are measures looking at the sustainability of supply chains within the mineral and natural resources sector – the Energy Resource Governance Initiative (made up of countries with significant mining interests) is likely to be particularly relevant to countries in our region looking to diversify from hydro-carbon natural resources.

For this edition we decided to pay special attention to the issue of waste management within our region – and I am especially pleased to see our sister offices in Cairo, Doha, Muscat and Riyadh leading on this. The waste management sector will be a platform for sustainable future growth and also an engine of innovation. Waste is not perhaps an inherently alluring subject matter – but it is fundamental to addressing the challenges of climate change.

Ecology is a selling point. The breath-taking ambition of projects such as those in development in the Red Sea is predicated on a preserving a pristine environment. How businesses, ours included, manage this challenge from a regulatory and legal perspective will be a determinant of their long-term success. The

fact that metrics relating to Environmental, Social and Governance (“ESG”) performance are achieving such prominence with investors is going to increase demands on business to not only do the “right thing” but to have those “right things” credibly audited and reported. We take a look at progress on corporate ESG reporting within the UAE. To complete that picture, we also look at the issue of “green” marketing with which companies target their customers. In future, achieving the market share you think you deserve is going to be a function of how well you behave and how credibly you can explain that. Virtue signalling will not be enough – measurable steps amenable to audit are the future.

So much of our work relates to disputes resolution. Accordingly, we also take a look at international developments in arbitration relating to resolving climate related disputes, a subject which will surely be moving up corporate risk management agendas across the globe. It is also noteworthy that regulatory enforcement is becoming more stringent, perhaps especially in the Kingdom of Saudi Arabia, where a new body has been announced to enforce environmental laws. Giving teeth to the law is important – doing the right thing should confer a competitive advantage, but to realise that advantage requires active enforcement. Businesses who are doing the right things should expect no less.

Deteriorating air quality is a common concern regionally – and we hear from colleagues in Bahrain on this issue. It is certainly something which Saudi Crown Prince Mohammed Bin Salman^[1] takes seriously and looks at holistically as regards its impact on health and economy:

“...my generation and the older one knows is that when we were very young the number of sandstorms were 70 to 80 percent less than what we are suffering from today. This is very dangerous to our children and our lives when several days of the year the dust we inhale impacts our health and costs our healthcare sector a considerable amount of money in the future. Hence, we want to reinstate the environment to what it was before.”

Naturally, there is a great deal to say on renewable energy across the region and we provide a survey of some recent key developments across the region. We’re also excited to report on developments/challenges as regards potential private sector participation in the water sector in Saudi Arabia. On the topic of this most essential resource I am also especially pleased to see a contribution from colleagues in Erbil on the laws around water use and irrigation within the Iraqi Province of Kurdistan. Addressing the climate crisis must include all of the most vulnerable communities in our region – no one can be left behind. Our analysis of the water situation in Kurdistan shows the magnitude of the challenge – and it is perhaps noteworthy that another focus of President Biden’s initiatives is on the security aspects of climate change and the risks this poses to future conflict. Better laws, regulations and enforcement are surely part of any solution which seeks to avoid future disputes.

As a business we have also identified areas where we can make an impact such as: recycling, energy consumption, reduction of business travel and disposal of waste. Many of these initiatives have been embedded across our offices for many years. The pandemic has however accelerated some new measures with a new operating model which encourages remote working where appropriate using virtual conferencing capabilities as much as possible and launching our communication plan to encourage adoption across the region. I hope that our new Dubai premises – which has some impressive green credentials – will also generate a measurable impact on our carbon footprint. Al Tamimi joined the Legal Sustainability Alliance (“LSA”) in 2019 – the only law firm headquartered in the region to do so. Membership of the LSA has certainly challenged our operational team to secure existing carbon reduction measures and plan for further credible steps.

I am hugely impressed by the resilience and commitment shown by colleagues and clients during the COVID-19 situation. However, the climate crisis we confront is many orders of magnitude more serious than the pandemic. A global engineering solution to the challenge of climate change appears to a highly desirable but remote likelihood – a “silver bullet” that enables high-carbon business-as-usual is risky magical thinking. A diverse proliferation of concrete, pragmatic, measurable steps should therefore be our focus. Nurturing these new business opportunities is also a key practical step and we’re pleased to

provide an overview in this edition of venture capital considerations for the green-tech sector.

We will, collectively, have to find fresh reserves of creativity and mutual responsibility to overcome these challenges. We must meet these challenges with confidence, pragmatism and ambition. Leadership must come from everyone – we have a vast array of leadership from across our network – but I’m particularly proud to highlight here the efforts of colleagues in Al Khobar who have not only mainstreamed circular economy and carbon saving practices in their day-to-day work but who are also, as part of their community, engaging in a programme of shoreline clean-up and tree planting.

Moving forwards, I remain optimistic that the global community will find the resolve to achieve the target of keeping the increase in average global temperature within 1.5C of pre-industrial levels and achieve the United Nations sustainable development goals. The outcome of the COP 26 meeting later this year, building on President Biden’s more recent gathering, will direct government and corporate agendas – it will certainly be a key topic for discussion at the Arab Lawyers Forum which we are hosting next year. In the meantime, we must all do our bit as we move (in the words of Prince Mohammed Bin Salman) “from one prosperity to the other.”

[\[1\]](#) Al Arabiya Interview Transcript, first published: 02 April ,2021: 12:00 AM GST