

Commercial Agencies Law - Exempted Products List Grows

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This is because the local commercial agents who are responsible for the distribution of these products are registered with the UAE Ministry of Economy under the provisions of the Law and consequently have the benefit of a statutorily protected monopoly over the sale of those goods in certain Emirates' or, in a number of instances, across the UAE. In addition, the Law also affords the local agent the ability to prevent importation of the products by others in the event that there is dispute with the supplier.

Back in 2005, the UAE government recognised the importance of ensuring that certain essential foodstuffs could not be priced unreasonably or prevented from importation as a result of being subject to the provisions of the Law. As a result the UAE federal cabinet addressed this by passing a resolution exempting 15 types of food products, including chicken, rice, flour, cooking oil, fish and meat products, from being subject to the provisions of the Law.

As a further step in liberalising the importation and sale of food products in the UAE, in January of this year, the UAE federal cabinet passed an additional resolution exempting an additional 12 categories of products, including all dairy products, cleaning products, table salt and drinking water from the application of the Law. As a consequence of this latest cabinet decision, not only will agreements that relate to these products no longer be able to be registered with the UAE Ministry of Economy's Commercial Agencies Register but existing registered agreements relating to any of these products will not have their registrations renewed upon expiry.

Whilst the cabinet decisions are certainly a move towards a more moderate approach on the import and sale of food products, practically it would appear that the Ministry of Economy are taking an even more aggressive stance on this. Following recent enquiries made with the Ministry of Economy, it appears that there is currently a blanket ban on the registration of any agreements that relate to food generally, going beyond those which simply relate to the specific items listed in the cabinet decisions. It is unclear as to what is the basis of this current policy and the thinking behind it but it appears that the Ministry's position is uncompromising to the extent that, for instance, we understand that the Ministry would not entertain an application for registration of any restaurant franchises agreements since they would be deemed to be food related.

One can speculate that this approach may well be as a direct reaction to criticism of the Law and more generally protectionism in the UAE economy. However, it is hard to say if this signals a change in attitude of the UAE authorities. Whether this is the beginning of a move back to the more liberal policies that were being adopted prior to the Global Financial Crisis, when the Law was liberalised in 2006, only to be reversed in 2010, remains to be seen.