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Back to basics
Outlining the basic statute and its principles

The legal order of the Sultanate of Oman has been codified in the Basic Statute of the state promulgated by Royal Decree No. 101/96 (the Basic Law). This Basic Law defines the Sultanate’s legislative process and also sets out the respective functions of the executive and the judiciary, emphasizing the independence of the latter and the primacy of the rule of law. The Basic Law can be dubbed as the Constitution of Oman as it provides for the rights and duties of citizens and delineates the political, economic and social principles guiding the state’s policy. The Sultanate’s foreign policy is guided by the Political Principles set out in the Basic Statute.
The Political Principles call for:
• Preserving the independence and sovereignty of the Sultanate and safeguarding its entity, security, stability and defending it against any aggression; and
• Reinforcing ties of cooperation and reaffirming friendly relations with all states and peoples on the basis of mutual respect, common interest, and non-interference in internal affairs.
The Sultanate’s current foreign policy and its friendly relations with regional and international players are reflective of these political principles. Oman enjoys excellent relations with all of its neighbours, owing to its policy of non-interference. The economic policies and the laws promulgated in the Sultanate relating to economic affairs are based on the Economic Principles set out in the Basic Statute. They include:
• Freedom of economic activity within the limits of the law and the public interest in a manner that will ensure the well-being of national economy;
• Natural resources shall be the property of the state and no concession or investment in any of the public resources of the country may be granted except by virtue of a law and for a limited period, provided that national interests are safeguarded;
• Private ownership is safeguarded and no person shall be prevented from disposing of his property except within the limits of the Law. Property shall not be expropriated except for the public interest in cases stipulated by the law and provided that the person dispossessed shall be fairly compensated;
• Confiscation of property is forbidden. Specific confiscation as a penalty shall not be imposed except by judicial order, and in cases specified in the law;
• Imposition of public taxes shall be by virtue of a law and no person is exempted from paying taxes except as provided for by the law; and
• It is not permitted to impose a new tax, fee or any right with retrospective effect whatever its type.
The Basic Statute places special significance on the rights of citizens and provides that all citizens are equal before the law and share the same public rights and duties and there shall be no discrimination on the ground of gender, origin, colour, language, religion, sect, domicile or social status. The Basic Statute guarantees personal freedom, making it unlawful to arrest, search, detain or imprison anyone or have his place of residence or freedom of movement or residence restricted except in accordance with the provisions of the law. Torture is prohibited in all forms.
The Sultan of Oman is the head of state. All primary legislation in Oman is promulgated by the Sultan through Royal Decrees and published in the Official Gazette. Subordinate legislations are issued by way of ministerial decisions and implementing regulations which are issued by ministers functioning under the Sultan. Apart from the Basic Law, which is of higher standing, all primary legislation is of equal rank, and can be amended or repealed by subsequent Royal Decrees.
The courts system in Oman is structured, and jurisdiction in commercial matters in the Sultanate is vested in the three-tier Commercial Court. The Supreme Court is the highest judicial body followed by Appellate Courts and then the Courts of First Instance. These courts are empowered to hear civil and commercial matters, labour, tax and rent cases, in addition to arbitration applications. Oman has an Administrative Court, which is an independent judicial body with exclusive powers to review decisions issued by the government.
In motion

The present and future outlook for transport and communications laws

Oman’s march towards economic prosperity is evident from the robust growth in various sectors of the economy such as tourism, industrial development, power generation and mining. Fuelling such economic development and ensuring that prosperity reaches all parts of Oman, the Sultanate's transportation sector continues to remain of significant importance.

Oman has embarked upon an ambitious railways project through the commissioning of feasibility studies, inviting tenders from potential project management companies and identifying locations through which the potential railway will run and the stations to be connected which, together with providing domestic connectivity, could possibly link across the wider GCC region. In due course, the Omani authorities would be required to consider a plethora of legal issues likely to arise during various stages of the contemplated project. By proper consideration of those issues in the context of the overall domestic and regional objectives to be achieved through the railways project, a robust legal framework for the operation of the rail network will need to be introduced.

Upon inception of His Majesty Sultan Qaboos bin Said Al Said’s accession to the throne of Oman, there existed little or no meaningful transport infrastructure in Oman. As a result, a number of infrastructure developments were required to establish a proper transportation sector in Oman.

The earliest developments included the setting up of Seeb International Airport in 1973 to cater to the increased movement of cargo passengers and the construction and development of the Port Sultan Qaboos in 1974 to expand Oman’s maritime and trade links with the outside world. Port Services Corporation SAOC was established in 1976 pursuant to Royal Decree 46/76 for the operation and management of Port Sultan Qaboos whose services include container terminal service, break bulk service, cruise service and anchorage service. Oman’s various regions were also gradually linked through a road network, a hitherto unaccomplished feat in Oman’s history. The year 1993 witnessed the setting up of Oman’s first national carrier, Oman Air, which, in a relatively short period of time, has transformed from a regional airline to a global player, boosting Oman’s tourism and industrial sectors.

As testament to the remarkable progress made under the rule of His Majesty Sultan Qaboos bin Said, as per the data available as of June 2010, Oman boasts an asphalt road network of roughly 11,600 km and a gravel road network of approximately 16,500 km. In addition to the ongoing refurbishment of Muscat International Airport, efforts are under way to build four regional airports in Oman.

Due to its unique positioning on the Gulf of Oman, Oman’s coastline spans some of the busiest waterways in the world. Alongside improving the existing infrastructure and facilities at the Port Sultan Qaboos, Oman’s maritime links have been further developed by setting up ports at Mina Al Fahal, Khasab, Muscat, Qalhat, Sohar and Salalah. Duqm, a new industrial hub being built on Oman’s coast between Muscat and Salalah, will also have a port. The establishment of ports in Oman is part of the government’s drive to increase investment and employment opportunities across the country and to establish its links with maritime trade, as Oman seeks to position itself as one of the region’s leading commercial and industrial centres.

MINISTRY OF TRANSPORT AND COMMUNICATIONS (MOTC): The Ministry of Communications was established pursuant to Royal Decree 26/75 (Issuing the Law Setting Up the Administrative Apparatus of the State) to regulate the Sultanate’s transportation sector. The MOTC’s principal functions include implementation of the asphalt roads network of Oman and regulating Oman’s ports. Pursuant to Royal Decree 37/78 (Determining the Scope of the Ministry of Communications), affairs relating to civil aviation, roads and ports were combined under the jurisdiction of the Ministry of Communications.
As early as 1978, in order to streamline Oman's expanding transportation infrastructure, the need was seen for a separate Ministry of Transport with the overall jurisdiction over Oman's transportation sector and with the responsibility for the preparation of plans and proposals for the growth of Oman's road network, ports and airports. Royal Decree 63/78 (Specifying the Jurisdiction of the Ministry of Transport and Approving its Organisational Chart) was promulgated, which vested jurisdiction over roads, ports and civil aviation in the Ministry of Transport. The Ministry of Transport's functions under this Royal Decree included the following:

- Establishing an asphalt roads network and supervising the execution of road projects;
- Preparation of studies, plans and proposals of roads to be implemented and undertaking planning in coordination with the concerned ministries;
- Preparation of studies, plans and proposals for Oman's future ports in coordination with the concerned ministries and managing and operating the existing ports;
- Issuance of laws and regulations necessary for organising maritime navigation and its safety throughout the Sultanate and coordinating with other countries with regards to the development of marine navigation and marine transport;
- Issuance of laws and regulations necessary for the safety of air navigation throughout the Sultanate and between the Sultanate and other countries; and
- Supervising the management and operation of airports and the preparation of studies, plans and proposals for airports to be established in the Sultanate's various towns, and planning for the priority of construction of the same in coordination with the other ministries.

Oman's transportation sector currently falls directly under the supervision of the MOTC, created pursuant to Royal Decree 47/2001 and whose powers, functions and organisational apparatus were established through Royal Decree 19/2008. The MOTC in its present form has evolved as a result of various legal developments spanning a course of four decades.

As the transportation and communications sectors are intrinsically linked with one another, both sectors have been combined under the jurisdiction of the MOTC. Pursuant to RD 19/2008, the power and functions of the MOTC were stated to be as follows:

- Preparing studies, plans and programmes pertaining to road works, ports, airports, meteorology, navigation and posts, and specifying the future requirements of such works in coordination with the state's concerned bodies of the state and supervising their execution and maintenance;
- Proposing draft laws related to the functions of the MOTC, ensuring their appropriate application and issuing regulations, decisions and rules related to those functions;
- Preparing technical studies for the development of various sectors of the MOTC and evaluating the projects for the implementation of such studies;
- Supporting private sector participation in providing transport and communications services of an outstanding standard and raising the level of service in all the areas of activity of the MOTC;
- Protecting government interests in companies operating in the sphere of transport and communications; and
- Working for the development and promotion of cooperation in the spheres of transport and communications between the Sultanate and other countries, specialised international organisations and agencies and representing the Sultanate at regional and international conferences and meetings related to the functions of the Ministry.

Notwithstanding that the primary responsibility for the implementation of Oman's transportation sector has been vested in the MOTC, however, due to the sheer breadth of Oman's transportation network and in view of a host of interconnected legal issues arising in connection with the transportation sector, a number of Omani ministries responsible for the regulation of, for example, security, licensing, lands, environment, culture and heritage, etc. are all required to perform associated functions and play an active role in the development and operation of the transportation sector alongside the MOTC.

**THE CIVIL AVIATION LAWS:** The Omani Civil Aviation Law was enacted pursuant to Royal Decree 93/2004 (CAL). The authority responsibility for the management of civil aviation affairs is the Directorate General of Safety and Aviation Services (DGSA), formerly known as the Directorate General of Civil Aviation and Meteorology of the MOTC.

The salient features of CAL are as follows:

- CAL applies to civil aircraft within the territory of Oman, civil aircraft registered in Oman (irrespective of whether they are outside the territorial confines of Oman insofar as this is not inconsistent with the laws of the foreign state) and to civil airports within Oman and their operations.
• CAL recognises international civil aviation conventions signed by Oman as part of CAL and provides that in the event of a discrepancy, provisions of those international conventions will become applicable. In addition to other conventions, Oman became a member of the Chicago Convention of 1944 on International Civil Aviation, the 1948 Geneva Convention on the International Recognition of Rights in Aircraft, the 2001 Cape Town Convention of International Interests in Mobile Equipment and the Associated Protocol on Matters Specific to Aircraft Equipment;

• CAL provides for the functions of the DGSAS:
  • Supervising the affairs of civil aviation;
  • Setting up civil airports, specifying their nature, operating and managing them, and granting licences for their management and investment;
  • Establishing, operating and managing navigational aids, meteorological services and air traffic in the Sultanate, and establishing, operating, maintaining and modernising meteorological stations for the service and safety of air navigation;
  • Ascertaining the financial and technical potential of air carriers or air operators in respect of aviation operations;
  • Issuing and approving aviation permits and technical permits and registering pertaining to all the civil aviation works and services;
  • Formulating the rules for the registration of aircraft and specifying their nationality and registration marks;
  • Issuing instructions, bulletins and orders pertaining to civil airports in a manner consistent with national and international laws and regulations, and ascertaining the competence and specialisation of airport operators in their management so as to ensure the secure operation of airports; and
  • Ensuring aviation safety and ascertaining that the safety of the citizens, their property and public property is not exposed to any risks resulting from an irregularity in aviation traffic management or air control in the territory of the Sultanate.

• Airports, installations, buildings, wires, equipment, appurtenances, telecommunication stations and lighthouses belonging to the DGSAS are treated as public utilities. The Civil Aviation Authority is required to impose air easement rights on the land in the surrounding and neighbouring areas of the airports and all the air service installations and navigation facilities against the payment of fair compensation;

• CAL requires the DGSAS to: maintain the National Register for Recordation of Aircraft (National Register) and issue registration certificates after completion of the prescribed registration procedure. All aircraft registered in the National Register are required to hold the nationality of Oman and carry Oman’s nationality and registration marks. Aircrafts chartered for the purpose of purchase or chartered for a period exceeding one year are required to be registered pursuant to the CAL;

• CAL requires disposal of aircrafts registered in the National Register by sale, mortgage, lease, etc. to be subject to approval of the DGSAS and is to be recorded in the National Register;

• CAL recognises aircraft leases and mortgages over aircrafts provided the required approvals and consents of the DGSAS have been obtained; and

• CAL also provides robust provisions in relation to civil aviation safety and security, and provides penalties for violations of CAL.

CAL has been supplemented by the Civil Aviation Regulations (the Regulations) which imparts certainty in the implementation of CAL. Noteworthy Regulations include Regulation 47, which provides rules with regards to the recording of aircraft titles and security documents, and Regulation 49, which contains rules relating to recording aircraft title and security documents such as conveyances and titles to or interests in aircraft (including leases and mortgages).

**ANALYSIS:** The overall effect of the enactment of CAL and the Regulations is to provide uniform rules on the civil aviation sector, ranging from safety and security requirements upon operators of aircrafts to rules to be observed with regards to the enforcement of security interests over aircrafts.

With regard to the latter, CAL and the Regulations provide rules regarding registration of security interests over aircrafts arising pursuant to various forms of aircraft financing transactions such as secured lending, operating lease and finance leasing. From the perspective of foreign lenders providing financing for the purchase or leasing of commercial aircrafts, CAL and the Regulations offer an additional layering of local law protection to such lenders.

From an international perspective, CAL and the Regulations recognise the validity and binding force of international conventions to which Oman is a party. With regards to the transfer of rights and interests over aircrafts it is not unusual to find international lenders, owners and lessors of aircrafts engaging local
counsel to undertake searches in Oman to ascertain the international conventions to which Oman is a party and the extent to which Oman has accepted obligations under international conventions such as the Cape Town Convention and the associated Protocol.

It is reassuring for international lenders and financiers to know that the general principle is recognised in Oman, namely that an international interest (as defined under the Cape Town Convention) will be recognised by the CAL and the Regulations – i.e. there are no reservations or declarations by Oman in relation to the international interest – and such interest would be deemed to be part of CAL and enforceable in Omani territory.

**THE MARITIME LAW:** Oman's Maritime Law was promulgated pursuant to Royal Decree No. 5/81 as amended (OML). The Directorate General of Ports and Marine Affairs (DGPMMA) of the MOTC is responsible for the implementation of the OML. The OML:

- Is applicable to all types of maritime shipping whether or not the same are engaged in by a natural or juristic person and whether or not the purpose of such activity is profit;
- Provides that in the event that the OML does not contain a provision, general principles of Omani law concerned with maritime shipping or regional or international agreements or customary international usage would become applicable;
- Provides that foreign vessels may transit Omani territorial waters provided they adhere to Omani laws and the international maritime conventions to which Oman is a party. The effect of this provision is twofold: vessels may enter Omani territorial waters provided they adhere to the requirements of OML (Omani laws that are applicable depending upon the circumstances) and the principles and rules set out in international treaties and conventions to which Oman is a party;
- Defines a vessel as any establishment operating normally or equipped to operate for maritime shipping and would include all appurtenances and subsidiary parts necessary for the utilisation of the establishment;
- Requires a vessel to be given an Omani nationality if it is owned by an Omani national or an Omani company in accordance with the laws of Oman and requires for the registration of such vessel in the Shipping Register together with the submission of the application and the required particulars;
- Provides that prior to engaging in towing or piloting operations in Omani ports or coastal navigation between ports, foreign vessels are required to have obtained approval from the DGPMMA. In addition, foreign vessels are required to carry documents required by their national laws and proof of compliance with international agreements relating to safety of persons at sea and shipping lanes. The DGPMMA has the right of inspection and control over foreign vessels located within Omani territorial waters and this right extends to ensuring that the preceding requirements have been met. Whilst exercising control over foreign vessels, OML requires DGPMMA to avoid delays in the commercial operations conducted by the vessel. A decision preventing a foreign vessel's departure from Oman has to specify reasons for the decision and the master of the vessel has to be forthwith notified of the same. The master or captain has the right to appeal the decision within 10 days to the minister of MOTC. The minister must decide the matter within 10 days, failing which the master or captain's appeal would be upheld and the matter decided in his favour;
- Provides that transactions whose purpose is the establishment, transference or termination of the right of ownership of a vessel or associated rights has to be made by way of an official letter or pursuant to a final judgment. If such transactions take place outside of Oman, they have to be witnessed before an Omani consul. In order for such transactions and judgments to be effective between the contracting parties or between third parties, they are required to comply with OML;
- Recognises the validity of marine mortgages provided they have been established pursuant to a contract and specify the vessel or parts thereof in relation to which it is made and the sum of money secured through it. In order for mortgages over vessels to be valid, an official copy of the mortgage must be submitted to the Omani authorities in the prescribed form. Marine mortgages shall rank directly behind statutory debts as defined by the OML and other applicable laws of Oman. Mortgagors of vessels have the right to have recourse against persons in possession of vessels or parts thereof;
- Contains detailed rules relating to maritime contracts of carriage of goods which include requirements for a valid contract of carriage; requirements in relation to the bills of lading; rules on the damage or destruction of goods and questions of the ensuring liability; and circumstances of liability and outsourcing liability of the master and carrier of goods;
to consider whether the OML should be amended to bring it in line with the economic developments that have occurred since its promulgation in 1980. The following areas may require consideration by the Omani authorities:

- In order to ensure uniformity and consistency in the application of the OML, whether to set up maritime tribunals, with specialised knowledge of maritime usages, technical issues and international maritime conventions, to adjudicate over maritime disputes;
- Whether the existing framework under the OML with regards to creation and perfection of security interests over vessels, currently limited to marine mortgages, should be expanded to cover other forms of security arrangements. These would include (i) maritime rights agreements whereby owners of existing, future or contingent rights in a vessel or portion thereof creates a charge or encumbrance therein in favour of a third party to secure an existing, future or contingent obligation; (ii) mixed security agreements which are characterised by security interests over property in addition to maritime mortgages; and (iii) fleet security agreements which are characterised by security interests and maritime rights agreements in relation to more than one vessel. With regards to such security arrangements, rules would also need to be formulated covering rights of bearers and holders of security interests, assignment and transfer of security interest and associated rights;
- While the OML provides robust rules with regards to the safety and security of persons and goods being shipped, it does not expressly set out the safety standards to be adhered with regards to load line requirements for vessels and merchant ships, including the requirements under the International Convention on Load Lines of 1966, of which Oman has become a member. To this effect, the OML may need to specify the vessels subject to load line requirements, those exempted from such requirements, and the procedures to be followed with regards to the issuance of load line certificates;
- With regards to collisions at sea, as Oman is a signatory to the International Convention Preventing Collisions at Sea of 1960, the OML should mirror the obligations under the Convention with regards to the operation, navigation and maintenance of vessels at sea;
- The existing framework under the OML with regard to the apportionment of liability for property damage, pecuniary loss or personal injury resulting from collisions at sea should be supplemented by specific obligations under international conventions with regards to maritime accidents/collisions at sea. To this effect, to ensure the uniform application of the law, the term maritime accident and/or collision should be comprehensively defined and the existing framework should be expanded to provide rules on reporting and documenting of collisions, the retention of reports and the procedures for maritime casualty investigations.
PRIVATE PARTICIPATION: Oman has been receptive to private sector participation in ports operation, maintenance and development. In relation to the Salalah port, the Sultanate’s leading container and trans-shipment hub, strategic privatisation partnerships over the years have resulted in private sector participation.

The Salalah Port Services Company SAOG is the port authority responsible for the management and operation of the Salalah Port and is a joint venture between the government of Oman, which owns a 20% share in the company, whilst AP Moller - Maersk Group has 30% of the shareholding. 21% is held by institutional investors and 29% by pension funds and private investors.

At the Sohar Port, Oman’s landmark port, which provides easy access to the Gulf countries and the Indian subcontinent, the management has been vested in Sohar Industrial Port Company SAOC (SIPC), a 50/50 joint venture between the government of Oman and the Port of Rotterdam. Pursuant to the Concession Agreement between the government of the Sultanate of Oman and the Royal Decree 80/2002, SIPC was granted the exclusive right to develop, maintain and operate the Sohar Industrial Port and to perform all facilitating and coordinating functions concerned with the safe and efficient movements of vessels, cargos and passengers, collect port dues assessed on vessels and to facilitate pilotage, towage and other maritime services executed by private companies within the port. Pursuant to RD 80/2002, the MOTC is required, in consultation with the concerned Omani ministries, to issue the necessary regulations and decisions to execute RD 80/2002.

THE ROAD REGULATIONS: Several laws are in force in Oman in relation to the transportation of goods and services. The Royal Oman Police is the principal Omani authority responsible for the enforcement of the Traffic Laws of Oman contained in Royal Decree No. 28/93 and the licensing and regulation of vehicles. The Directorate General of Roads and Land Transport at the MOTC (DG Roads) has the responsibility of the designing, planning and implementation of the roads infrastructure and network of the Sultanate of Oman. Under the auspices of the DG Roads, the Highway Design Manual of the Sultanate of Oman has been prepared, which contains rules on the development of road schemes and the stages of development starting with the initiation of schemes, their appraisal and detailed design (the Road Manual). The salient features of the Road Manual are as follows:

- It is based on standards and guidelines prepared by the Gulf Cooperation Council Standards, the American Association of State Highway and Transportation, the UK Department of Transport, and the Transport Research Laboratory;
- It provides for three phases in designing a road, being the feasibility study, the preliminary design and final design.

The feasibility study entails considering aspects of the proposed plan and would include preliminary topographical surveys of the area to update existing mapping, initial appraisal of the soil conditions along each alternative, existing and projected traffic volumes, appraisal of the need for the project, with quantification of the social and economic benefits deriving from implementation of each alternative, the impact of the alternatives on the environment and land ownership implications.

Once a scheme has been approved, designers are required to prepare the preliminary drawings, estimates and other documents to enable the proposals of the construction of the works to be submitted for approval. The works at this stage would include topographical surveys to determine accurate ground levels and other physical features, investigation of available data or information soil investigation, identification of land ownership, and liaison and consultation with all concerned ministries.

The final design stage includes the detailed design of all elements of the works, drawings showing all elements required for the contractor to construct the works, preparation of land ownership plans, preparation of the bill of quantities, and compilation of the conditions of contract and the forms of tender.

It also provides standards and rules in relation to lane and carriageway width, highway capacity, edges of carriageways, sidewalks, verges, central reserves and cross falls.

More importantly, it requires for the gathering of information on land acquisition at the preliminary design stage and for bids the commencement of formal land acquisition procedures until the scheme has been approved. The approval with regards to the land to be acquired is provided by the Ministry of Housing. The Ministry of Housing is also required to approve all plans prior to their submission to the Minister of the Ministry of Housing for Legal Affairs for the issuance of a Royal Decree. Upon preparation of the Royal Decree, the compensation fixed for the land to be acquired is determined in accordance with standard pre-estab-
lished scales for compensation set forth by the Supreme Committee for Town Planning (SCTP). The Road Manual further provides that the compensation has to be agreed upon between the owner of the land and the compensation committee of either the Muscat Municipality, the Office of the Minister of State and the Governor of Dhofar, or the Ministry of Regional Municipalities.

**ANALYSIS:** The Road Manual has introduced uniformity and consistency in road design practices and is emblematic of the high standards followed in Oman with regard to the planning, design, construction and implementation of road projects. The MOTC has been obtaining information and data from the concerned Omani ministries and authorities with a view to updating the Road Manual to bring it in line with the changing demographics of the country. This is a step in the right direction as the designing and implementation of road projects inevitably requires addressing important issues such as land acquisitions and flood and terrain changes.

**DRIVE FOR EXPANSION – THE RAILWAYS PROJECT:**

Reports in the media suggest that further to Oman's drive to expand its transportation infrastructure, a number of agreements have been signed by the MOTC that would see investments being made in Oman's transportation network worth OR355m (S925.8m). It is reported that the single biggest project in terms of cost would be the installation and supply of new equipment at Muscat International, Salalah and other airports.

There have also been reports on Oman's drive to set up a rail link between Sohar and Muscat. Oman's proposed railway network is in line with the wider developments in the GCC region to have in place a rail-based passenger and goods transportation network. The network would link the Sultanate's major industrial centres with each other and will consist of four sections, namely Sohar-Muscat, Muscat-Duqm, Sohar-Burlai and the Sohar-Khamait Mahela.

It has also been reported that efforts for the implementation of the railways network is being spearheaded by SCTP. The SCTP was set up by Royal Decree 27/85 (as amended) and its powers and functions include drawing up general town planning policies in light of the country's development plans; following up the implementation and development of approved planning programmes; devising criteria for valuing properties purchased for public utilities; and removing any material or financial obstacles to the implementation of approved plans.

Pursuant to Royal Decree 102/2006, the SCTP was reconstituted whereby the minister of national economy was appointed as its chairman, with the minister of housing electricity and water being the deputy chair. Other members of the SCTP include the president of the Muscat Municipality and the minister of the MOTC. The reconstitution of the SCTP appears to have been driven by the desire to have effective coordination on all aspects of planning and implementation of urban development projects by having ministers of concerned Omani ministries preside over as members of the SCTP. It has been reported in the press that efforts are underway in Oman to conduct feasibility studies of the proposed railways project under the auspices of the SCTP.

Unlike the civilian aviation, marine and road transport sectors, with respect to which the powers and functions of the MOTC have been clearly spelled out in RD 19/2008, if powers in relation to the development of the railways infrastructure/network are to be vested in the MOTC then RD 19/2008 would need to be amended, as it currently does not provide for the MOTC's involvement and connection with railways. Together with a host of economic and social issues that would arise in due course, the launch of Oman's railways project would also necessitate the consideration of a myriad of legal issues.

One question is, what should be the form and content of Omani legislation? The following areas may need to be considered for inclusion in the future railways legislation of Oman:

- The establishment of a National Railways Authority with defined powers and overall responsibility for implementation of the national railways project including in respect of the following: (i) protecting the interests of users of railway services; (ii) promoting the use of the railways network for the carriage of passengers and goods; (iii) the development of that railway network to the greatest extent economically practicable in line with the Sultanate's domestic and regional policy objectives in the transportation sector; (iv) promoting efficiency and economy on the part of providers of railways services; and (v) promoting measures designed to facilitate passenger journeys that involve the use of more than one passenger service operator;
- Rules for the safety and security of users of railway services including modes of communication, movements of rail vehicles, signals, emergency protection procedures, public crossings, responsibilities of the crew and operators, and standards designed to reduce the incidence of rail accidents. In order to streamline elements of safety and security in the railway sector, the authorities may consider setting up a body tasked with enforcing health and safety measures and in need be, a railway accidents prevention/investigation authority which functions under the National Railways Authority;
- Promotion of the use of the railway network for the transport of passengers and goods, the development of that network to the extent it is economically practicable, and promoting efficiency and economy on the part of persons providing railway services;
- Consideration of a need for the establishment of a railways police authority and the areas of responsibility if any that would be shared between that body and the Royal Oman Police;
- Rules regarding the granting of licences for management/operation of railway assets and the conditions for the grant of those licences; and
- Rules applicable to the franchising of railways.
As the railways network would involve a host of issues within the competence of various Omani ministries, a legislative framework spelling out the scope of cooperation between ministries, particularly with the MOTC, would be required. The Ministry of Environment's expertise would be required with regards to, among other areas, feasibility and impact studies for soil and terrain conditions and the environmental impact of the project; the Ministry of Housing's input would be required in connection with the land ownership and associated issues; and the Ministry of National Economy's assistance would be required to determine the economic and social impact of the proposed network at the national and local levels.

With regard to the planning of the railways project, the legislative framework would need to specify the surveys and studies required for ascertaining the topography of the network areas and soil conditions; the social and economic impact of the network on various regions; and the impact of the railway network on the environment, and alternative methods and routes that may reduce the exposure of the environment to hazardous effects. At the implementation stage, the legislative framework would be required to cover aspects related to tendering for works and services of contractors, the scope of the schedules’ works and services such as railways electrification and signalling works, the provision of buildings, yards, machinery and the provision of works with regards to the repair and strengthening of approaches, bridges, subways, turning maps, ramps and passages. Further, local authorities and contractors would need to be empowered for the purposes of erection of works on or through private property. In order to rationalise aspects of the design, planning and implementation of the railways project, the future railways framework may need to be supplemented through a manual conceptually similar to the Road Manual.

In due course, a plethora of land acquisition issues would need to be addressed as Oman’s railways network is laid across its anticipated length of 2000 km. Oman’s Land Acquisition Law is set out in Royal Decree 64/78 which requires expropriation of lands for the purposes of a public utility and subject to payment of fair compensation in accordance with the law. Bearing in mind the length of the railways network as it steers through public and private property, the SCTP would be having a prominent role in matters pertaining to land acquisitions for the railways project.

In line with Oman's privatisation policy set out in Royal Decree 77/2004, (Privatisation Law) an important consideration in due course would be whether the development of the railways project should take the form of a public-private partnership. The objectives enumerated under the Privatisation Law include increasing the efficient use of resources and attracting technical expertise and modern technology in Oman. As Oman embarks on the railways project, it would need to carefully consider aspects of the project that might require foreign expertise and know-how not readily available in Oman, as well as the methods and means of achieving the most effective utilisation of available resources. It is not unusual to find aspects of the railways managed by entities specifically set up for that purpose in other countries. In the UK, for instance, Union Railways Property manages the UK’s compulsory acquisitions of land and in order to facilitate its smooth functioning, Union Railways Property has created a land information management system. Further, pursuant to the Railways Act 1993 in the UK, separated parts of the railway were transferred to the private sector including the franchise of passenger rail services to certain private companies. In addition, railroad track maintenance and renewal operations have been vested in private companies, with contracts to provide infrastructure services in connection with the rail track. In order for such appetite to develop in Oman, in line with the privatisation policy followed in other sectors, in due course the Omani authorities would need to consider the sectors within the railways that should be privatised, the scope of privatisation, and the overall regulatory framework in conjunction with the public-private partnership.

Since it has been reported that Oman’s railway network would link across destinations in the Gulf region, in due course, Oman would have to consider the benefits of becoming a state party to the Convention Concerning International Carriage by Rail of May 9, 1980 in the version of the Protocol of Modification of June 3, 1999. This Convention provides uniform law on carriage of passengers when the places of departure destination are situated in two different member states. By becoming a party to this Convention, to the extent that the rights provided for in the Convention are made part of Omani law, such rights would be enforceable in Oman. This would be indicative of Oman’s commitment to enforce international laws.

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Required legislation

Mansoor Jamal Malik, Founder and Managing Partner, Al Busaidy, Mansoor Jamal & Company, on moving the legal environment forward

The cornerstone for the sustained growth, development and prosperity of a nation would be the legislative framework of that nation which, when implemented successfully, may also aid in offsetting the effect of a worldwide economic recession. Sultan Qaboos bin Said Al Said has, over the last 40 years, issued legislation designed to provide for economic growth with clarity, certainty and security for local and international investors. Whenever the need has arisen and it has been noted that a specific economic sector requires both legislation for its development and a source of reliable funding for the implementation of projects within it, project-specific legislation has been passed in order to facilitate the financing of such efforts.

From the time of His Majesty's accession to the Omani throne, extensive legislation has been in place to promote the development of business and foreign investment in Oman, including the Commercial Companies Law of Oman RD No. 4/74 and the amendments thereto, the Commercial Registry Law RD No. 3/74, RD No. 1/79 issuing the Law for the Organisation and Encouragement of Industries 1978 and the amendments thereto, the Commercial Code RD 55/90, the Foreign Business Investment Law of Oman RD No. 102/94 and the amendments thereto, the Real Estate Law RD No. 5/1981, and the amendments thereto, and the Law of Income Tax RD No. 47/81, as repealed and replaced by the Tax Law issued by RD No. 28/2009.

The most important legislation adopted, however, has been the Basic Law of RD No.101/1996 (Basic Law), a modern and forward thinking piece of legislation that provides for the constitution of Oman and requires all other legislation of Oman to be consistent with the Basic Law. The Basic Law sets out the social, economic and judicial principles of Oman. It guarantees the freedom to engage in economic activity in Oman so long as it takes place within the limits of the law and the public interest, so as to ensure the continued economic well-being of the Sultanate of Oman while also providing for the security of ownership of private property.

Following the introduction of the Basic Law in 1996 much remained to be done for the establishment of its principles through the introduction of further legislation. The introduction of the Basic Law coincided with the government's drive toward privatization of the power and water desalination sector, which began in 1994. The first of the power projects to be privatized was the Al Manah Power Project, which attracted significant foreign investment both in terms of equity and debt. With the successful financing of the Al Manah Project and in view of the security package made available to the lenders, Oman has seen the development and implementation of a number of other power and water projects, including, but not limited to, the Barka Power and Water Desalination Project, Al Kamil Power Project, Sohar Power Project Phase I, Sur/Sharqiya Desalination Project, Barka Phase II, Barka Phase III and Sohar Power II. All of the above mentioned projects, with the exception of the Barka III and Sohar II Power and Water Projects, have been implemented. The Barka III and Sohar II Power and Water Projects are currently in the process of achieving financial closure, in a legal environment that has a well-defined judicial system composed of the Primary Commercial Court of Oman, the Appeal Court and the Supreme Court.

The Omani Courts operate and conduct their proceedings in accordance with the Civil and Commercial Procedure Law of Oman, contained in RD No. 29/2002. The establishment of the Supreme Court has seen the beginning of the formation of a system of precedents of case law, providing certainty to those requiring advice in the areas of commerce and commercial activity.

While foreign capital investment in Oman continues to grow through a progressive legal regime, it is imperative for the Omani authorities to continue to review changes in the capital markets and corporate laws to determine what, if any, changes are necessary in these changing times and recent global economic meltdown so as to ensure that Oman's legal framework continues to remain attractive for foreign investment.