Progress on the horizon

The Middle East is set to undergo significant economic and legislative changes in the year 2017. ***the Oath*** records the fraternity's take on the future of the region.

QATAR

Legal developments are set to continue in Qatar, as the country ramps-up its infrastructure development and economy in the lead up to the FIFA 2022 World Cup. Our predictions for 2017 are the following:

» A new arbitration statute for Qatar. A new, more international statute has been under consideration for the past few years, and it appears it will be implemented in 2017. The proposed new statute will adopt the UNCITRAL Model Law, and thus bring Qatar into line with other Gulf countries and international best practices. This will only make Qatar a more arbitration-friendly jurisdiction.

» An increasing use of PPPs. Private sector financing for infrastructure projects is on the rise, and in 2016 Qatar passed a new law to accommodate the PPP model. This should be an attractive step to foreign investors looking to invest in Qatar, and at the same time provide a release valve on public-sector funding for projects.

» A greater take-up of the Qatar International Court. The QIC is staffed by some of the world's leading judges, but to date it has been little used by commercial parties in Qatar. However, with a recent, ground-breaking enforcement of a judgment of the QIC against assets in the State of Qatar, there will be increased interest in making use of the QIC as a time and cost-efficient way of resolving commercial disputes.

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UNITED ARAB EMIRATES

2016 saw the UAE bring a new level of modernisation to the nation's economic infrastructure by passing a long-awaited standalone Federal Bankruptcy Law, and the UAE is likely to forcefully continue its pace of issuing new laws and regulations, mainly in the banking and finance sectors.

Topping the list is the widely expected and long overdue reshuffle of the UAE Central Bank Law of 1980 to give the Central Bank much more teeth and powers in overseeing the banking and financial sectors, particularly in the fin-tech space and other new technologies that are disrupting the banking industry, where it does not currently have all the necessary tools to regulate all the players in this field.

We can also expect a law of pledge of movables, a welcome development, mainly for SMEs that have been badly hit so far by the economic downturn in the region. This should allow them to borrow on of their assets and will also allow banks to lend more easily.

In the same vein, the financial leasing law is expected to be issued and this law will allow both conventional and Islamic financial institutions to lend on the basis of leased assets.

Meanwhile, the Emirates Securities & Commodities Authority (ESCA) is expected to continue issuing a number of regulations, including in relation to marketing and promotion of securities in the UAE. The crowd funding regulation is expected to be issued but it remains to be seen whether it will be the Central Bank or ESCA that takes responsibility for this regulation, and whether we would witness the emergence of a super-powerful Central Bank or a balance between the two entities.

The UAE continues to assert its role as a regional financial hub and the above developments prove that it is edging ever closer in this direction.

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TURKEY

This year in Turkey, one of the most interesting pieces of legislation came from the Ministry of Health, when it published the "Regulation on the Processing of Personal Health Data and Maintenance of Privacy". The Regulation introduced detailed provisions regarding the processing and transfer of personal health data, particularly in relation to the format of consent and the requirement for anonymisation before transfer. While the Regulation primarily contains measures that must be taken by healthcare service providers and other associated persons, there has been uncertainty regarding the scope of application of the Regulation.

The current wording of the provision detailing the scope of application is phrased in a way that includes all data subjects whose health data is processed and any data controller that may be processing personal health data pursuant to a legislative requirement. Particularly the latter category would include many parties that are not under the authority of the Ministry of Health, including all employers who process health data within the context of employee files that they must lawfully maintain. In light of the boundaries of the authority of the Ministry, arguments are being made that the regulation is intended to only to apply to healthcare service providers and other associated person. However, until further guidance is to be provided by the Ministry, uncertainty will remain about the scope and there will be differences in levels of application. The impact of the Regulation once again shows the necessity for the establishment of the Turkish Data Protection Authority, which was supposed to be formed by October 7, 2016. As the DPA has not yet been formed, there is a lack of both ancillary regulations and a body that can be petition for guidance regarding data protection issues.

We expect that these ambiguities will be clarified in 2017 with more guidance on application of the Turkish Data Protection Law as well as the Regulation. It is for sure that the business will be busier with an increase in compliance projects on data protection in general.

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IRAN

Key developments in 2016 have set the stage for Iran this year as it slowly reintegrates with the world economy. Last year, the January implementation of the Joint Comprehensive Plan of Action (JCPOA) between Iran and world powers over its nuclear program signaled the country's re-emergence from years of economic isolation. The biggest factor impacting this trajectory in 2017 will be Iran's relations with the United States.

Under the JCPOA, the United States waived sanctions penalising third country businesses involved in certain sectors of Iran's economy. However, the United States continues a comprehensive unilateral embargo on Iran, barring most trade between the two nations. This causes significant spillover effects on Iran's commerce with other countries. Despite being legally able to transact with Iran, many businesses around the world, including banks, stay away because of U.S.-Iran tensions. Add domestic challenges like corruption and mismanagement, and it is clear why Iran's much anticipated post-JCPOA economic reemergence failed to happen.

Enter Donald Trump, who during his presidential campaign vowed to negotiate a "better" nuclear deal and adopt more hawkish positions on Iran. Post-election, Iran is not even on his initial priority list, and the likelihood of the United States renegotiating an agreement between Iran and six countries is slim if not nonexistent.

It may be safe to say that President-Elect Trump's more recent tone indicates he will likely infuse practicality into his more hardline positions on Iran. Should he embrace the pragmatism many expect of a businessman, he may widen existing exceptions in the sanctions framework, which currently allow U.S. persons to export certain products to Iran, such as medical equipment and agricultural commodities. This would build on Obama and Bush administration precedent. Conservative or liberal, the Trump administration's policies will very clearly impact other countries' interaction with Iran.

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