

Legal Advisors.

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in association with Baker & McKenzie Limited

Doing Business in Saudi Arabia

2017



An Outline of Various Forms of Doing Business in Saudi Arabia

2017

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Various Forms of Doing Business in Saudi Arabia

The legal regime governing foreign investors from countries that are not members of Gulf Cooperation Council ("GCC") is somewhat different from the regime that applies to Saudi individuals and wholly Saudi-owned companies on the one hand and that which applies to nationals of other GCC countries and/or GCC companies wholly-owned by GCC nationals on the other.

A non-GCC foreign investor (which would include any entity established under the laws of a non-GCC country or any entity established in GCC country but wholly or partially owned by non-GCC nationals or entities) wishing to engage in ongoing commercial activities in Saudi Arabia will ordinarily require a foreign investment license issued by the Saudi Arabian General Investment Authority ("SAGIA") in order to form or participate in the formation of a legal entity in Saudi Arabia. SAGIA will only license the formation of legal entities to pursue commercial activities other than those set out on the so-called "Negative List" published by the Supreme Economic Council, which lists various activities in which foreign investment is prohibited or restricted. The general rule is that foreign investment is allowed in all fields except those in which such investment is specifically precluded by law.

The following sections cover the various ways in which a foreign firm could establish a local entity.

Limited Liability Company

1. General

The locally incorporated limited liability company is one of the most common forms pursuant to which foreign companies do business in Saudi Arabia. The formation of a limited liability company is fairly involved. SAGIA must approve the formation of a limited liability company in which a foreign party is to have an interest by granting a license authorizing the foreign party's investment in the company. SAGIA, in issuing the license, will also specify the objects which the company will be authorized to pursue. The parties must submit a joint application to SAGIA for this purpose prior to submitting the application it is customary to enter into a joint venture agreement (if the shareholders are unaffiliated with one another) and agree upon the company's Articles of Association. After SAGIA grants the above-mentioned license the Articles of Association must be submitted to the Ministry of Commerce and Investment ("MOCI") for its approval.



2. Features of a Saudi Arabian Limited Liability Company

Some of the most salient features of a limited liability company are:

- (a) A minimum of two (2) and a maximum of fifty (50) shareholders may form the company. In addition, individuals or companies may form single shareholder limited liability companies.¹ A corporate entity may be a shareholder and two affiliated foreign companies may form a Saudi company.
- (b) The shareholders are liable for the debts of the limited liability company only to the extent of their capital shares.
- (c) The minimum capitalization requirements set by SAGIA are SAR² 25 million (US\$6.67 million) for agricultural projects, and SAR 1 million (US\$267,000) for industrial projects, with no minimum capitalization for other projects, comprised of indivisible non negotiable shares of equal value. SAGIA and MOCI have discretion to require larger capitalization. For example, the Ministry generally follows a policy that manufacturing companies should be capitalized at an amount equal to 25% of the total anticipated cost of establishing the plant. Distribution companies are subject to capitalization requirements as set out in Exhibit II.
- (d) Transfers of shares between the shareholders may be subject to such conditions and restrictions as are specified in the Articles of Association, but each shareholder is entitled by statute to a pre-emptive right.
- (e) The company may be managed either by an individual manager or by a board of managers.
- (f) Ten percent (10%) of the net profits of the company must be set aside as a statutory reserve until such reserve equals thirty percent (30%) of the original capital of the company.
- (g) Under the Foreign Investment Regulations, companies incorporated in Saudi Arabia with foreign participation should, in theory at least, be able to enjoy the advantages and incentives available to national companies. However, the Supreme Economic Council has a published "Negative List" of activities whereby certain activities are limited to wholly Saudi owned companies. This list is subject to periodic review and may be amended from time to time at SAGIA's recommendation. A translation of the current negative list is attached as **Exhibit I** hereto. Although most of the activities which are not mentioned on the negative list can be engaged in by companies that are up to 100% foreign-owned or by branches of foreign companies, certain activities (most of which were recently removed from the negative list) may be undertaken only by

¹ As this feature was recently introduced in the new Saudi Companies Law which came in effect 2 May 2016 - we are yet to see SAGIA's application of the feature for foreign companies in practice.

² SAR = Saudi Riyal



companies having minimum Saudi ownership percentages and/or subject to other restrictions or requirements. Most of the relevant restrictions/requirements are identified in the document attached as **Exhibit II** hereto.

3. Advantages

- (a) A limited liability company can sponsor its employees for residency purposes.
- (b) A limited liability company undertaking an industrial project would, in most cases, qualify for financing from the Saudi Industrial Development Fund at favorable rates.
- (c) A limited liability company may engage in the full range of activities which fall within the approved objects of the company and undertake projects in both the public and private sector. In addition, the company may promote and solicit business throughout the Kingdom.

4. Disadvantages

- (a) The activities of the limited liability company are limited to the objects approved by SAGIA and set forth in its Articles of Association. The objects must be broad enough to allow the company to engage in the activities it wishes to, but if too broad SAGIA is unlikely to approve them. From the viewpoint of a foreign company having a Saudi partner, the objects of the limited liability company should be broad enough to allow the company to engage in the activities it wishes to, but should be narrow enough to allow the foreign company the option of forming another limited liability company or branch having different objects within the same general area of endeavor.
- (b) Unless the other partner is an affiliate, the foreign partner will not have complete control over the management of the company or the treatment of its employees.
- (c) The dissolution process can be fairly involved and, if a partner chooses not to be cooperative, costly. The commitment should therefore be viewed as a long term one and partners very carefully chosen.
- (d) Initial capitalization is required and may be quite large depending upon the objects of the company.
- (e) When a foreign company is participating in a limited liability company with a Saudi partner SAGIA's general policy is not to permit the foreign company become a partner in another company or form a branch with similar or overlapping objects.
- (f) With respect to companies without Saudi participation, see comment (3)(d) below in the section on branches.



Joint Stock Company

1. General

Similar to a Saudi limited liability company, SAGIA must approve the formation of a joint stock company in which a foreign party is to have an interest by granting a license authorizing the foreign party's investment in the company. Then the application for the formation of the joint stock company must be submitted to MOCI along with the proposed articles of association and by-laws of the company, together with an economic feasibility study demonstrating the economic viability of the project. However, MOCI has accepted to waive the requirement for a feasibility study for applicants having obtained approval from other regulators in Saudi Arabia such as a license from the Capital Market Authority ("CMA").

A number of formalities must be effected in order to finalize the incorporation of the Company:

- (a) A constituent general assembly meeting has to be held at which the subscribers must: (i) ascertain that the capital has been subscribed in full and the minimum capital paid-up in full (25% of the total capital); (ii) approve the evaluation report for in-kind shares (iii) finalize the company's by-laws; (iv) appoint the members of the first board of directors and the company's auditors; and (v) approve the founders' report.
- (b) Within fifteen (15) days of the constituent general assembly meeting, documents evidencing the above-mentioned actions must be submitted to MOCI along with a request for it to announce the incorporation of the company.
- (c) publication of MOCI's resolution announcing its incorporation and its registration in the commercial registry.

2. Features of a Saudi Arabian Joint Stock Company

Some of the more salient features of a joint stock company are:

1. A minimum of two (2) shareholders may form a joint stock company - there is no maximum. A corporate entity may be a shareholder and two affiliated foreign companies may form a Saudi company.
2. Single shareholders may form a joint stock company if (i) the share capital of the shareholder is equal to or exceeds five million (SAR 5 million); or (ii) the single shareholder is the government, a "governmental body" or a company wholly owned by the government.
3. The shareholders are liable for the debts of the joint stock company only to the extent of their capital shares.
4. At the present time, the capital of a closed joint stock company must be at least five hundred thousand Saudi Riyals (SAR 500,000).



5. Ten percent (10%) of the net profits of the company must be set aside as a statutory reserve until such reserve equals thirty percent (30%) of the original capital of the company.
6. The Companies Law provides that a joint stock company may issue (i) preferred shares and (ii) bonds. However, preferred shares have to date not been issued in the Kingdom.
7. A joint stock company is administered by a board of directors appointed by the regular general meeting, and that board must have at least three (3) members and no more than eleven (11).
8. The board must appoint from among its members a chairman and a vice chairman. The chairman may not hold any executive position in the company. The board must also appoint a company secretary, who need not be a board member.
9. The shareholders' meeting must be convened at the summons of the board of directors in the manner prescribed in the by-laws of the company. The shareholders' regular meeting must take place at least once a year within six (6) months following the end of the company's financial year. The board of directors must call this meeting if so requested by the company's auditor, by the audit committee or by shareholders representing at least five percent (5%) of the capital. Other general meetings may be convened whenever the need arises.
10. A joint stock company must prepare and keep a shareholder register from the date it is granted the certificate of business registration and issue share certificates to its shareholders.
11. The extraordinary general assembly may resolve to increase or reduce the company's capital if it exceeds the company's needs or if the company incurs losses. In the latter case, the capital may be reduced below the minimum specified by the Companies Law.

3. Advantages

Like the limited liability company:

- (a) A joint stock company can sponsor its employees for residency purposes.
- (b) A joint stock company undertaking an industrial project would, in most cases, qualify for financing from the Saudi Industrial Development Fund at favorable rates.
- (c) A joint stock company may engage in the full range of activities which fall within the approved objects of the company and undertake projects in both the public and private sector. In addition, the company may promote and solicit business throughout the Kingdom.



In addition:

- (d) There is much more flexibility in the transfer of shares following the two year lock-up period as compared to a limited liability company (this may be an advantage for large projects but a disadvantage for a joint venture between two shareholders).
- (e) A joint stock company may have easier access to capital through issuance of shares and bonds (*sukuk*).

4. Disadvantages

Like a limited liability company:

- (a) The activities of the joint stock company are limited to the objects approved by SAGIA and set forth in its Articles of Association.
- (b) Unless the other partner(s) is/are an affiliate, the foreign partner will not have complete control over the management of the company or the treatment of its employees.
- (c) The dissolution process can be fairly involved and, if a partner chooses not to be cooperative, costly. The commitment should therefore be viewed as a long term one and partners very carefully chosen.
- (d) Initial capitalization is required and may be quite large depending upon the objects of the company.
- (e) When a foreign company is participating in a joint stock company with a Saudi partner SAGIA's general policy is not to permit the foreign company become a partner in another company or form a branch with similar or overlapping objects.
- (f) In addition:
- (g) The Founding shareholders are subject to a lock-up period of two financial years before they can dispose their shares.
- (h) There is more regulatory oversight on joint stock companies than there is for limited liability companies.
- (i) A joint stock company must have a board of directors and has much less flexibility in terms of management structure.
- (j) The MOCI attends all general assemblies.

Branch

1. General

- (a) The Companies Law and the Foreign Investment Regulations permit a foreign company to establish a branch in Saudi Arabia, subject to approval by SAGIA. In order to obtain a license to form a branch, a foreign company must submit an application to SAGIA. The formation



process is generally similar to that of a limited liability company except that there are no Articles of Association to be approved. However, the Minister of Commerce and Investment, under the Companies Law, must issue a decision approving the formation of the branch. The capital requirements are the same as that of a limited liability company and dependent on what type of activity the proposed branch will undertake. Also like a limited liability company, ten percent (10%) of the net profits of the branch must be set aside as a statutory reserve until such reserve equals thirty percent (30%) of the original capital of the company.³

2. Advantages

- (a) The formation process is generally simpler than for a company. For example, no Articles of Association have to be approved. However it can sometimes take a bit longer to form than a company if the manager is not a Saudi national or a foreign national who is already a Saudi resident because a foreign manager who is not already a Saudi resident must obtain a residence permit as part of the formation process. In the case of a company it may or may not be necessary to obtain a residence permit during the formation process, depending on the company's ownership and management structure.
- (b) A branch may engage in the full range of activities which fall within its approved objects and undertake projects in both the public and private sector. In addition, the branch may promote and solicit business throughout Saudi Arabia.

3. Disadvantages

- (a) Since a branch has no separate and independent legal personality, a foreign company operating in Saudi Arabia through a branch could be subject to suit in its home country in connection with a claim arising out of its in-Kingdom activities.
- (b) Like a limited liability company, a branch's activities are limited to the licensed objects which have been approved by SAGIA and may not include activities on the "negative list" (see Exhibit I). Moreover, certain activities recently removed from the negative list may only be undertaken by companies having minimum Saudi ownership percentages and these of course may not be undertaken by branches (see Exhibit II). It should be noted that branches are normally licensed (and expected) to engage in substantive, income-producing work. Branches cannot be formed solely to engage in promotional activities, but have from time-to-time been formed for the purpose of providing liaison and managerial and technical support functions for joint venture companies in which the foreign company (or its affiliates) participate.

³ See footnote 3.



- (c) Also like a limited liability company, a branch must be capitalized at a level set by SAGIA. Unlike a limited liability company, however, there are no other shareholders to share the financial burden of providing the minimum capital for the branch and of setting up a commercial and administrative infrastructure in the Kingdom.
- (d) As a practical matter, it can be difficult to function in Saudi Arabia without a Saudi partner to help handle something as mundane as expediting the issuance of exit and re-entry visas, or as significant as helping one find his way through the upper echelons of a Saudi Ministry. A branch therefore does not guarantee complete freedom of action from the practical (and oftentimes political) necessity of having a close working relationship with one or more Saudis. That relationship could, however, take the form of an agency or consulting relationship.

Technical Scientific Services Office ("TSO")

1. General

Only foreign pharmaceutical companies are legally required to establish a TSO. Non-pharmaceutical companies, however, have been able to form TSOs at the discretion of SAGIA and MOCI, provided that, in the opinion of those authorities, the products of the company are sufficiently complex to justify establishing the TSO. The process of forming a TSO is similar to that of forming a branch, however, it would also require the foreign company to enter into a distributorship agreement with a Saudi distributor which is required to be registered as such with MOCI under the Commercial Agencies Law. Moreover, approval from the Saudi Food and Drug Administration is required in order to establish a TSO in the pharmaceutical or medical device fields.

A TSO serves, in essence, as a liaison between a foreign company, its Saudi distributor and the local market. A TSO cannot engage in commercial activities or earn revenue. Its activities are limited to: (i) providing technical information and assistance regarding the foreign company's products to the distributor and to end users of the products, including analyzing and assisting the distributor to handle technical service problems; (ii) studying the market and preparing reports to the company's head office; and (iii) conducting technical research in connection with the products.

2. Advantages

- (a) Formation process is simpler than for a company and is similar to that of a branch.
- (b) There are no capital requirements.
- (c) The TSO may bring its employees into Saudi Arabia on visas it may obtain, thereby retaining full and complete control over its employees.



3. Disadvantages:

- (a) The TSO could not be involved in any fee earning work and would be expected to act as a liaison office and support center for the locally appointed Saudi distributor.
- (b) A TSO would not have a separate and independent legal personality; therefore, a foreign company operating in Saudi Arabia through a TSO could be subject to suit in its home country in connection with a claim arising out of its in-Kingdom activities.
- (c) A TSO would not have licensed objects like a branch and therefore could not perform services outside of local promotion and support for its agent.
- (d) A TSO is limited to the number of employees. Historically, a TSO was allowed to employ five (5) or less non-Saudi nationals initially and perhaps ten (10) such persons even after a period of time. TSOs have recently been allowed to employ up to fifty (50) non-Saudi nationals subject to approval by Saudi authorities. In the case of a TSO in the pharmaceutical field the manager of the TSO must be a Saudi pharmacist.
- (e) The distributor must write a letter supporting the establishment of the TSO.

Temporary Commercial Registration ("TCR")

1. General

A TCR permits a foreign company to do business in Saudi Arabia in only a very limited sense and has only been available to companies having a government contract. TCRs have not in most cases been available in connection with subcontracts on government projects although some exceptions have been made.

If a foreign company is a prime contractor it must first obtain a Temporary License from SAGIA, before it files an application for a TCR with MOCI. In general the formation process is similar to that of a branch.

The TCR will enable the foreign company to perform the government contract, but the company may only engage in activities directly related to the performance of that contract. The foreign company may not engage in the general promotion or solicitation of business. Moreover, the term of a TCR is limited to the term of the contract with regard to which it is granted.



2. Advantages

- (a) There is no capitalization requirement.
- (b) The TCR need not (and in fact cannot) be applied for until a contract has actually been obtained.
- (c) A TCR can be obtained for consulting projects.

3. Disadvantages:

- (a) A foreign company may only obtain a TCR after it has obtained a government contract and the license is limited to the scope and duration of the contract only.
- (b) A TCR does not allow a foreign company to establish an actual presence in the Kingdom for the purposes of promoting business, or even simply monitoring and surveying market conditions and business opportunities. The company must therefore rely on business opportunities brought to its attention by third parties or identified by its in-Kingdom personnel.



Exhibit I - Negative List

The following is a list of activities approved by the Supreme Economic Council in which foreign investment is excluded. This list will be reviewed every year with the aim of opening some sectors to foreign investments.

List of Activities Excluded from Foreign Investment

Industrial Sector

1. Oil exploration, drilling and production. Except the services related to mining sector listed at (CPC 5115 + CPC 883) in International Industrial Classification codes.
2. Manufacturing of military equipment, devices and uniforms.
3. Manufacturing of civilian explosives.

Service Sector

1. Catering to military sectors.
2. Security and detective services.
3. Real estate investment in Makkah and Madina.
4. Tourist orientation and guidance services related to Hajj and Umrah.
5. Recruitment and employment services including local recruitment offices.
6. Real estate brokerage.
7. Printing and publishing. Except the following activities:
 - (a) Pre-printing services internationally classified at CPC 88442.
 - (b) Printing presses internationally classified at CPC 88442.
 - (c) Drawing and calligraphy internationally classified at CPC 87501.
 - (d) Photography internationally classified at CPC 875.
 - (e) Radio and television Broadcasting Studios internationally classified at CPC 96114.
 - (f) Foreign media offices and Correspondents internationally classified at CPC 962.
 - (g) Promotion and Advertising internationally classified CPC 871.
 - (h) Public relations internationally classified at CPC 86506.
 - (i) Publication internationally classified at CPC 88442.
 - (j) Press services internationally classified at CPC 88442.
 - (k) Production, selling and renting of computer software internationally classified at CPC 88.

- (l) Media consultancies and studies internationally classified at CPC 853.
 - (m) Typing and Xeroxing internationally classified at (CPC 87505 + CPC 87904).
 - (n) Motion picture and video tape distribution services internationally classified at CPC 96113.
8. Commission agents internationally classified at CPC 621.
 9. Audiovisual and media services.
 10. Land transportation services, excluding the inter-city passenger transport by trains.
 11. Services provided by midwives, nurses, physical therapy services and quasi-doctoral services internationally classified at CPC 93191.
 12. Fisheries.
 13. Blood banks, poison centers and quarantines.



Exhibit II - Restrictions on Certain Activities

Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
<p>I. HORIZONTAL COMMITMENTS</p> <p>All Sectors and Sub-Sectors of Services included in this Offer</p>	<p>(3) (i) Commercial presence for all services listed in this Schedule, other than business services (as listed below)¹ subject to incorporation under the Companies Law either as joint-stock companies or as limited liability companies.</p> <p>(ii) Commercial presence for business services (as listed below)¹ subject to formation of a company, and registration of such a company under the Professional Companies Law.</p>	<p>(3) (i) Foreign service suppliers require approval from the Saudi Arabian General Investment Authority for establishing commercial presence in Saudi Arabia according to the Foreign Investment Law of April 2000 and Article 5:3 of the Regulation of the Foreign Investment Act.</p> <p>(ii) Non Saudi nationals may acquire the right to own real estate in Saudi Arabia by succession. Foreign establishments authorized to carry on their activities in the</p>	<p>All modes of supply: In all respects other than Zakat, taxation measures will be applied in conformity with Articles II and XVII and all other relevant provisions of the GATS.</p>

¹ Professional Services (1A), as in document W/120.

Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
		<p>Kingdom under the Foreign Investment Law may own real estate in accordance with the present laws and regulations governing foreign ownership of real estate.</p> <p>(iii) Non Saudi business entities and foreign natural persons are subject to income tax while Saudi entities and Saudi individuals are subject to Zakat. Future changes in Saudi tax code will not be less favorable to foreign service providers than the existing code.</p> <p>(iv) Foreign service entities and foreign natural persons shall have access to subsidies available in the country. However some subsidies on certain services will be</p>	



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
		available to Saudis only.	
	<p>(4) Unbound, except for measures concerning the entry and temporary stay of natural persons in the following categories:</p> <p>(i) <u>Business Visitors</u></p> <p>A natural person who stays in Saudi Arabia, without acquiring remuneration from within Saudi Arabia and without engaging in making direct sales to the general public or supplying services, for the purposes of participating in business meetings, business contacts including negotiations for the sale of services and/or other similar activities including those to prepare for establishing a commercial presence in Saudi Arabia. Entry and stay shall be for a period of no more than 180 days,</p>	<p>(4) Unbound, except as in the column for limitation on market access</p>	



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
	<p>including multiple entries.</p> <p>(ii) <u>Intra-corporate transferees (ICT)</u></p> <p>Intra-corporate transferees of managers, executives and specialists (as defined below), who have work experience for a period of at least three years in the same field prior to the date of application for entry into the Kingdom, to an affiliate in Saudi Arabia of a juridical person. Entry and stay of such managers, executives and specialists shall be subject to the following conditions:</p> <ul style="list-style-type: none"> - Their number shall be limited to 25% of the total workforce of each service supplier. However, a minimum of three persons will be allowed. Alternatively to the above, the service supplier may have the 		



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
	<p>following option, the number of managers, executives and specialists of each service supplier shall be limited to 15%; and the number of other foreign employees (i.e. other than managers, executives, or specialists) of each service supplier shall be limited to 10%, or vice versa. However, a minimum of two ICT will be allowed as compliant with the 15% threshold.</p> <ul style="list-style-type: none"> - Their entry and stay shall be for a period of two years, renewable for similar periods. - Certain positions in a company may be reserved for Saudi nationals in all categories. These positions are recruitment and 		



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
	<p>personnel, receptionists, cashiers, civil security guards, and transaction (government relations) follow up.</p> <p><u>Definitions:</u></p> <p><u>Managers:</u> Persons within an organization, who primarily direct the organization or a department or sub-division of the organization, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire or fire or recommend hiring, firing or other personnel action (such as promotion or leave authorization) and exercise discretionary authority over day-to-day operation, does not include first-line supervisor unless the employees supervised are professional, nor does include employees who primarily perform tasks necessary for the provision of</p>		



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
	<p>the service.</p> <p><u>Executives</u>: Persons within an organization, who primarily direct the management of the organization, establish the goals and policies of the organization, exercise wide latitude in decision-making and receive only general supervision or direction from higher-level executives, the board of directors or stockholders of the business. Executives would not directly perform tasks related to the actual provision of service or services of the organization.</p> <p><u>Specialists</u>: Persons within an organization who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the organizations services, research, equipment, techniques or management.</p> <p>(iii) <u>Contractual service suppliers</u> Employees of contractual</p>		



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
	<p>service suppliers, i.e. employees of juridical persons with no commercial presence in Saudi Arabia, who have obtained a service contract in Saudi Arabia requiring the presence of their employees in order to fulfil the contract. Entry and stay of such persons shall be for a period of no more than 180 days which would be renewable.</p>		

II. COMMUNICATION SERVICES

<p>A. Courier services (CPC 7512)</p>	<p>(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section</p>	<p>(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section</p>	<ul style="list-style-type: none"> - Foreign express delivery operators will have a treatment no less favorable than that accorded to the Postal Office for its activities in express delivery. - When Consultancy related to the provision of postal services (CPC 7511**) are privatized, they will also be opened for foreign service
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Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
			suppliers.

B. Telecommunication Services

General conditions for this sub-sector: The commitments taken by the Kingdom of Saudi Arabia are based on the scheduling principles provided by the following documents: Notes for scheduling Basic Telecom Services Commitments (S/GBT/W/2/Rev.1) and Market Access Limitations on Spectrum Availability (S/GBT/W/3).

This commitment is subject to the following general conditions:

- The Kingdom of Saudi Arabia undertakes commitments as contained in the basic telecommunications reference paper, included in Annex.
- Any telecom service supplied in Saudi Arabia on a commercial presence basis (Mode 3) must be supplied by a company registered in Saudi Arabia, the foreign equity of which shall be limited to the percentage levels mentioned below.
- This schedule on basic telecommunication does not include any broadcasting services².
- Cross-border supply is subject to commercial agreement with a legal entity/entities licensed or authorized by CITC in the Kingdom of Saudi Arabia.

1. <u>Basic telecommunication services</u>	(1) None as of the end of 2006	(1) None	
- Public Fixed - facilities-based	(2) None	(2) None	
a. Voice telephone	(3) None, except services offered as public telecommunications	(3) None	

² A broadcasting service is defined as a radio communication service in which the transmissions are intended for direct reception by the general public, including sound transmissions, or television transmissions. However, carrying a signal between broadcasting stations and transmitters is part of telecommunications services.



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
<ul style="list-style-type: none"> services b. Facsimile services c. Voice mail 	<p>services must be provided by a joint stock company. Foreign equity is limited to 49% upon accession, to go to 51% by the end of 2007 and 60% by the end of 2008</p> <p>(4) Unbound, except as indicated in the horizontal section</p>	<p>(4) Unbound, except as indicated in the horizontal section</p>	
<ul style="list-style-type: none"> - Public Fixed - non-facilities-based - Private fixed - facilities-based or non-facilities-based <ul style="list-style-type: none"> a. Voice telephone services b. Facsimile services c. Voice mail 	<p>(1) None as of the end of 2006</p> <p>(2) None</p> <p>(3) None, except foreign equity shall be limited to 49% upon accession, to go to 51% by the end of 2006, and to 70% after 3 years from accession</p> <p>(4) Unbound, except as indicated in the horizontal section</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound, except as indicated in the horizontal section</p>	
<ul style="list-style-type: none"> - Public or Private - facilities-based or non-facilities-based <ul style="list-style-type: none"> a. Packet-switched 	<p>(1) None</p> <p>(2) None</p> <p>(3) None, except foreign equity shall be limited to 49% upon</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p>	



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
<ul style="list-style-type: none"> data transmission services b. Circuit-switched data transmission services c. Telex services d. Telegraph services e. Private leased circuit services - Value-added services <ul style="list-style-type: none"> a. Electronic mail b. On-line information and data base retrieval c. Electronic data interchange (EDI) d. Enhanced/value-added facsimile services, including store and forward, store and retrieve e. Code and protocol conversion 	<p>accession, to go to 51% by the end of 2006, and to 70% after 3 years from accession</p> <p>(4) Unbound, except as indicated in the horizontal section</p>	<p>(4) Unbound, except as indicated in the horizontal section</p>	



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
<ul style="list-style-type: none"> f. On-line information and/or data processing (incl. transaction processing) g. Paging h. Internet services 			
<p>2. <u>Others</u></p> <ul style="list-style-type: none"> Mobile telephone services <ul style="list-style-type: none"> - Public Mobile - facilities-based <ul style="list-style-type: none"> a. Voice b. Facsimile c. Voice mail 	<ul style="list-style-type: none"> (1) None (2) None (3) None, except that mobile voice services offered as a facilities-based public telecommunications service must be provided by a joint stock company. Foreign equity shall be limited to 49% upon accession, to go to 51% by the end of 2005 and 60% by the end 2008. (4) Unbound, except as indicated in the horizontal section 	<ul style="list-style-type: none"> (1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section 	



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
<ul style="list-style-type: none"> - Private Mobile (facilities-based or non-facilities based) and Public Mobile non-facilities-based d. Voice e. Facsimile f. Voice mail g. Satellite services³: - VSAT - CMPCS - Sale of satellite capacity to legal entities licensed or authorized by CITC to use such capacity in the Kingdom of Saudi Arabia. 	<ul style="list-style-type: none"> (1) None (2) None (3) None, except: <ul style="list-style-type: none"> - Foreign equity shall be limited to 49% upon accession, to go to 51% by end of 2005, and to 70% after 3 years from accession. - The number of licenses for VSAT services may be limited to 5 until 1 January 2006. After that date, there will be no limit on the number of licenses. (4) Unbound, except as indicated in the horizontal section 	<ul style="list-style-type: none"> (1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section 	

³ The GMPCS and VSAT Satellite Operators shall be required until 1 January 2006 to pass traffic via STC network through transit and gateway exchanges, especially in the case of overseas communication from Saudi Arabia.



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
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C. Audiovisual services

- References below to "home video entertainment" include, but are not limited to, video tapes and digitally encoded video.
- Nothing in this commitment shall require Saudi Arabia to provide a means of exhibition or transmission of audiovisual services not offered by the Saudi Government to the public generally.

a. Motion picture and home video entertainment distribution services (CPC 96113) to other industries for public entertainment, television broadcasting, or sale or rental to others ⁴	(1) None (2) None (3) Unbound (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) Unbound (4) Unbound, except as indicated in the horizontal section	
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III. DISTRIBUTION SERVICES

1. <u>Wholesale trade services</u> (CPC 622, 6111, 6113, 6121)	(1) None (2) None (3) None, except:	(1) None (2) None (3) None	
2. <u>Retailing services</u> (CPC 631, 632, 6111, 6113, 6121 and 613)	<ul style="list-style-type: none"> - Foreign equity limited to 51% upon accession and to 75% after 3 		

⁴ For purposes of clarity, this commitment relates only to the distribution, i.e., licensing of motion pictures of videotapes, and does not cover their television broadcast.



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
<p>For purposes of this schedule wholesale and retail trade in country includes engaging private national individuals on a contract basis to sell products and services at retail for which compensation is received both for the sales effort and for sales support services that result in additional sales by other contracted distributors.</p>	<p>years from the date of accession.⁵</p> <ul style="list-style-type: none"> - Minimum foreign investment of Saudi Riyals 20 million by each service supplier. - Minimum size of outlets may be prescribed. - Minimum of 15% Saudi employees to be trained each year. <p>(4) Unbound, except as indicated in the horizontal section</p>	<p>(4) Unbound, except as indicated in the horizontal section</p>	
<p>3. <u>Franchising</u> (CPC 8929)</p>	<p>(1) Unbound (2) None (3) None, except:</p> <ul style="list-style-type: none"> - Foreign equity limited to 51% upon accession and to 75% after 3 years from the date of 	<p>(1) Unbound (2) None (3) None</p>	

⁵ It has recently been announced that foreign companies will be allowed to own up to 100% of trading entities formed to distribute their products, subject to certain conditions which have not yet been fully disclosed



Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
	<p>accession.</p> <ul style="list-style-type: none"> - Foreigner should be authorized in his own country to practice franchising or be a partner in an authorized company for a period no less than five years without interruption. <p>(4) Unbound, except as indicated in the horizontal section</p>	<p>(4) Unbound, except as indicated in the horizontal section</p>	

IV. EDUCATIONAL SERVICES

V. TRANSPORT SERVICES


<p>1. <u>Maritime Transport Services</u></p> <ul style="list-style-type: none"> - Passenger transportation within the city by trains 	<p>(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section</p>	<p>(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:</p> <ul style="list-style-type: none"> - port and waterway operation services (excluding cargo handling)
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Modes of supply: (1) Cross-border supply; (2) Consumption abroad; (3) Commercial presence; (4) Presence of natural persons.

Sector or Sub-sector	Limitation on market access	Limitations on national treatment	Additional commitments
			<ul style="list-style-type: none"> - pilotage and berthing services; - navigation aid services; - vessel salvage and re-floating services; - all other supporting services for water transport.
2. <u>Air Transport Services</u> <ul style="list-style-type: none"> - Maintenance and repair of aircraft - Supporting services for air transport (CPC 746) <ul style="list-style-type: none"> a. Computer reservation system 	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section	





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