



WHITE PAPER

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Organizing Military Industrial Activities in the Kingdom of Saudi Arabia

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GAMI has issued the Regulations on Organizing Military Industrial Activities in the Kingdom of Saudi Arabia ("Regulations"). The Regulations govern the manufacturing, servicing, and trading in the Kingdom of military explosives, firearms, ammunition, military equipment, individual military equipment, and military electronics ("Military Equipment"). This Jones Day *White Paper* offers an overview of the recent regulations issued by GAMI.

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According to The International Institute for Strategic Studies, the Kingdom of Saudi Arabia spent more on defense in 2019 than any other country in the world except the United States and China.¹ Pursuant to the Kingdom's strategic plan to reduce the Kingdom's dependence on oil, diversify its economy, and develop public service sectors² ("Vision2030"), the Kingdom is working hard to develop a domestic defense manufacturing and services industry so that, by 2030, 50% of the Kingdom's spending on military equipment will be spent in the Kingdom. But whether a defense contractor comes to the Kingdom to offer its products and services from offshore or to establish a subsidiary and exploit the advantages offered by Vision2030, it is important for foreign defense contractors to be aware of recent regulations issued by the Saudi Arabian General Authority for Military Industries ("GAMI").

GAMI has issued the Regulations on Organizing Military Industrial Activities in the Kingdom of Saudi Arabia³ ("Regulations"). The Regulations govern the manufacturing, servicing, and trading in the Kingdom of military explosives, firearms, ammunition, military equipment, individual military equipment, and military electronics ("Military Equipment").⁴

CONDITIONS PRECEDENT

Regardless of whether a business seeks to manufacture, service, or trade Military Equipment in the Kingdom, such business ("Applicant") must first be licensed and established in the Kingdom as an establishment,⁵ a limited liability company, or a joint stock company.⁶

MANUFACTURING AND SERVICING

The procedures for obtaining a license to manufacture⁷ Military Equipment ("Manufacturing License") and a license to service Military Equipment ("Service License") are very similar and can be divided into three stages: the Establishment Permit, Other Permits and Licenses, and the License.

The Establishment Permit

The first stage in obtaining a Manufacturing License or a Service License is to apply to GAMI for preliminary approval to establish a manufacturing or servicing facility ("Establishment

Permit"). An application for an Establishment Permit is submitted to GAMI electronically through GAMI's online portal by completing the standard form application⁸ and submitting a variety of supporting documents.

The supporting documents include certain of the applicant's constitutional documents and other documents concerning the Applicant, its management, and its controllers.^{9,10} The supporting documents also include certain commercial information, such as initial production details¹¹ or initial information about the scope of the proposed services.¹²

The Regulations do not mandate a time limit within which an application for an Establishment Permit must be approved or rejected. However, GAMI has advised that replies to applications for Establishment Permits are typically issued within 15 business days from the date of receipt of a complete application. Much of this time is used by the Presidency of State Security to conduct the necessary security clearance of the Applicant.¹³

An Establishment Permit is valid for two years and may be renewed for a specific period at the request of the Applicant.¹⁴ The current application fee for an Establishment Permit is SAR 500 (approximately US\$133).¹⁵

Other Permits and Licenses

With an Establishment Permit, the Applicant may proceed to develop the manufacturing or service facility through which it proposes to manufacture products or provide services ("Facility"). In this regard, the Applicant should note that:

(A) A Facility must be constructed on land within the jurisdiction of:

- (1) The Economic Cities and Special Zones Authority;
- (2) The Royal Commission for Jubail and Yanbu;
- (3) The General Authority for Civil Aviation;
- (4) The Saudi Authority for Industrial Cities and Technology Zones (MODON); or
- (5) Military installations,

(together "Hosts", each being a "Host");¹⁶

(B) A license or other authorization must be obtained from the Host before construction on the Facility begins;

(C) When a Facility is completed, a building completion certificate must be obtained from the Host and a security and safety certificate must be obtained from the High Commission for Industrial Security;^{17 18} and

(D) When a Facility is being established to manufacture Military Equipment, the applicant must obtain an preliminary industrial license from the Ministry of Industry and Mineral Resources;¹⁹

(together, “Other Permits and Licenses”).

The License

After the Establishment Permit has been obtained, the construction of the Facility has been completed, and the Other Permits and Licenses have been secured, the Applicant may submit electronically through GAMI's online portal an application for a Manufacturing License or a Service License (“License”). The application must be supported by the Applicant's Establishment Permit, the Other Permits and Licenses, and the final production details²⁰ or initial information about the scope of the proposed services.²¹

The Regulations do not mandate a time limit within which an application for a License must be approved or rejected. GAMI has advised that replies to applications for Licenses are typically issued within 10 business days from the date of receipt of a complete application.

A License is valid for a period of three years. Licenses may be renewed for a similar period upon the request of the Applicant, *provided that* GAMI confirms that the Applicant continues to comply with all applicable laws and regulations.²²

The current licensing fee for a License is SAR 2,850 (approximately US\$760).²³

TRADING

Conditions Precedent

In addition to the conditions precedent discussed in the previous section that apply to any Applicant that wishes to manufacture, service, or trade Military Equipment in the Kingdom, an Applicant that wishes to trade in Military Equipment in the Kingdom must be:

(A) An affiliate²⁴ of a foreign business that manufactures or provides services for Military Equipment; or

(B) A registered commercial agent²⁵ of a foreign business that manufactures or provides services for Military Equipment.²⁶

Trading License

Unlike the process of applying for a Manufacturing License or a Service License, the process of applying for a license to trade in Military Equipment in the Kingdom (“Trading License”) involves only a single stage.

A qualified Applicant can apply to GAMI for a Trading License simply by completing GAMI's standard form application and submitting it electronically through GAMI's online portal. The application for a Trading License must be accompanied by a variety of supporting documents,²⁷ including certain of the applicant's constitutional documents and other documents concerning the Applicant, its management, and its controllers. Where the Applicant is a registered commercial agent, the supporting documents must also include a letter from the foreign manufacturer or foreign service provider confirming that the Applicant is such foreign principal's registered commercial agent in the Kingdom.

The Regulations do not mandate a time limit within which an application for a Trading License must be approved or rejected. However, GAMI has advised that replies to applications for Trading Licenses are typically issued within 14 business days from the date of receipt of a complete application. Much of this time is used by the Presidency of State Security to conduct the necessary security clearance of the Applicant.²⁸

A Trading License is valid for a period of three years. Trading Licenses may be renewed for a similar period upon the request of the Applicant, *provided that* GAMI confirms that the Applicant continues to comply with all applicable laws and regulations.²⁹

The current application fee for a Trading License is SAR 500 (approximately US\$133) and, if a Trading License is issued, the current licensing fee is SAR 2,850 (approximately US\$760).³⁰

Government Procurement

It should be noted that, subject to limited exceptions,³¹ only a business with a License or a Trading License may respond

to Saudi government tenders for the manufacture, service, or supply of Military Equipment.³²

RESTRICTIONS

Restrictions on Licensees

The Regulations impose a variety of restrictions on any holder of a License or a Trading License (“Licensee”), including the following:

(A) Change in Ownership

Unless the Licensee is a public joint stock company, a Licensee must obtain the prior written approval of GAMI for any change—legal or actual, direct or indirect—in the ownership or control³³ of any shares in:

- (1) The Licensee; and/or
- (2) Any company or entity to which the Licensee is affiliated.³⁴

(B) Change to Commercial Registration Certificate

A Licensee must obtain the prior written approval of GAMI for any change to the information recorded on the Licensee’s commercial registration certificate, including the Licensee’s:

- (1) Duration;
- (2) Capital;
- (3) Registered address;
- (4) Business activities; and/or
- (5) Managers and/or directors and their authority.³⁵

(C) Transport of Military Products

A Licensee must obtain the prior written consent of GAMI before transporting any Military Equipment within the Kingdom.³⁶

Restrictions on Holders of Manufacturing Licenses and Service Licenses

In addition to the restrictions noted in the section above, holders of a Manufacturing License or a Service License are subject to the following additional restrictions:

(A) Change to Production Lines or Services

The holder of a Manufacturing License or a Service License must obtain the prior written consent of GAMI for any change to or suspension of:

- (1) A production line (e.g., to increase production of an existing product, to modify an existing product, or to manufacture a new product);
- (2) A licensed service.³⁷

(B) Purchase Orders

The holder of a Manufacturing License or a Service License must notify GAMI within 30 days of receiving from a foreign party an order to purchase or to provide services for Military Equipment. Such orders may only be fulfilled with GAMI’s prior written approval.³⁸

CONCLUSION

Foreign defense contractors are increasingly seeking to enter or consolidate themselves in the Kingdom to compete in the lucrative Saudi defense market. In this context, a familiarity with the licensing regime governing the manufacture, service, and trade of Military Equipment in the Kingdom is essential. With offices in Riyadh and Jeddah and more than 25 years of experience in the Kingdom, Jones Day is well positioned to assist defense contractors wishing to do business in the Kingdom of Saudi Arabia.

LAWYER CONTACTS

For further information, please contact your principal Firm representative or one of the lawyers listed below. General email messages may be sent using our “Contact Us” form, which can be found at www.jonesday.com/contactus/.

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ENDNOTES

- 1 Lucie Béraud-Sudreau, *Global defence spending: the United States widens the gap*. The International Institute for Strategic Studies – Military Balance Blog (14 February 2020) <https://www.iiss.org/blogs/military-balance/2020/02/global-defence-spending>.
- 2 Vision2030. https://www.vision2030.gov.sa/sites/default/files/report/Saudi_Vision2030_EN_2017.pdf.
- 3 The Regulations on Organizing Military Industrial Activities in the Kingdom of Saudi Arabia, as enacted by Resolution of the Board of Directors of the general Authority for Military Industries No. C/2/6 dated 14/11/1440 H / 17 July 2019.
- 4 The Regulations do not define “military explosives”, “firearms”, “ammunition”, “military equipment”, “individual military equipment”, or “military electronics”. Where an Applicant is uncertain whether a product constitutes or a service is being provided for Military Equipment, guidance should be obtained from GAMI.
- 5 Under Saudi law, an establishment is a form of business organization broadly equivalent to a sole establishment.
- 6 See section 2.4 of the Regulations.
- 7 The Regulations include research and development within the scope of manufacturing. See sections 2.5.2 and 2.5.3 of the Regulations.
- 8 See section 2.2.3 of the Regulations.
- 9 Section 1.1 of the Regulations defines “Controllers” to include the Applicant’s founders, owners, partners and members of board of directors, CEO and/or managing directors and anyone who routinely reports to him/her.
- 10 See sections 2.5.2 and 2.6.2 of the Regulations.
- 11 Pursuant to section 2.5.2 of the Regulations, the initial production details that must be submitted in support of an application for an Establishment Permit for a Manufacturing License include: (i) initial details on the Military Equipment to be manufactured, including the type and a description of such Military Equipment; (ii) the estimated maximum production capacity of each production line; and (iii) the top five (by value and quantity) materials or components to be used in the manufacture of each product.
- 12 Pursuant to section 2.6.2 of the Regulations, the basic information that must be provided about the scope of the proposed services includes: (i) an initial description of the scope of the proposed services, available capabilities, and capacity; and (ii) the top five (by value and quantity) materials or components to be used in the provision of the proposed services.
- 13 An Applicant’s application for an Establishment Permit or a Trading License will be rejected if any of the Applicant’s owners have been convicted of a crime involving immorality or dishonesty or have been subject to a disciplinary suspension from military service. See section 2.4.3 of the Regulations.
- 14 See section 2.9 of the Regulations.
- 15 See section 3.1.1 of the Regulations.
- 16 See section 1.1 of the Regulations.
- 17 See sections 2.5.3 and 2.6.3 of the Regulations.
- 18 The security and safety certificate from the High Commission for Industrial Security confirms that the Facility complies with the security, safety, and fire protection specifications established for the Facility (by reference to the Facility’s proposed activities) by the High Commission for Industrial Security. See sections 2.5.1.3 and 2.6.1.3 of the Regulations.
- 19 After a Manufacturing License has been issued, the Applicant will need to apply for and obtain a final industrial license from the Ministry of Industry and Mineral Resources. Please note that obtaining the final industrial license involves a field inspection of the Facility by the Ministry of Industry and Mineral Resources, in which inspection GAMI may participate.
- 20 Pursuant to section 2.5.3 of the Regulations, the final production details that must be submitted in support of an application for an Establishment Permit for a Manufacturing License include: (i) final details on the Military Equipment to be manufactured, including the type and a description of such Military Equipment; (ii) the final maximum production capacity of each production line; and (iii) the top five (by value and quantity) materials or components to be used in the manufacture of each product.
- 21 Pursuant to section 2.6.3 of the Regulations, the final information that must be provided about the scope of the proposed services includes: (i) a final description of the scope of the proposed services, available capabilities, and capacity; and (ii) the final top five (by value and quantity) materials or components to be used in the provision of the proposed services.
- 22 See section 2.10 of the Regulations.
- 23 See section 3.1.1 of the Regulations.
- 24 The Regulations do not define the term “affiliate.”
- 25 A registered commercial agent is a wholly Saudi owned Saudi business that is registered in the Commercial Agents Register maintained by the Ministry of Commerce and Investment as a commercial agent for certain products of a foreign manufacturer or certain services of a foreign service provider. See the Commercial Agencies Law, as enacted by Royal Decree No. M/5 dated 11/06/1389 H / 25 August 1969, as amended.
- 26 See section 2.7.1.1 of the Regulations.
- 27 See section 2.7.2 of the Regulations.
- 28 An Applicant’s application for an Establishment Permit or a Trading License will be rejected if any of the Applicant’s owners have been convicted of a crime involving immorality or dishonesty or have been subject to a disciplinary suspension from military service. See section 2.4.3 of the Regulations.
- 29 See section 2.10 of the Regulations.
- 30 See section 3.1.1 of the Regulations.
- 31 The holder of an Establishment Permit for a service facility may respond to Saudi government tenders for services for Military Equipment where the services are to be provided on a military installation provided that such holder secures a Service License. See section 1.3.1.3 of the Regulations.
- 32 See section 1.3.1.2 of the Regulations.
- 33 The Regulations do not define the term “control.”
- 34 See section 2.12 of the Regulations.
- 35 See section 2.11 of the Regulations.
- 36 See section 2.13 of the Regulations.
- 37 See sections 2.14.1 and 2.14.2 of the Regulations.
- 38 See sections 1.3.1.8 and 2.15 of the Regulations.

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