

# Iraq

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RISK & COMPLIANCE REPORT

DATE: February 2017

## Executive Summary - Iraq

<b>Sanctions:</b>	Financial and Arms Embargo
<b>FAFT list of AML Deficient Countries</b>	Yes
<b>Higher Risk Areas:</b>	<p>Non - Compliance with FATF 40 + 9 Recommendations</p> <p>US Dept of State Money Laundering Assessment</p> <p>Supporter of or Safe Haven for International Terrorism</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International &amp; W.G.I.)</p> <p>World Governance Indicators (Average Score)</p> <p>Failed States Index (Political Issues)(Average Score)</p>
<b>Medium Risk Areas:</b>	Weakness in Government Legislation to combat Money Laundering
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>wheat, barley, rice, vegetables, dates, cotton; cattle, sheep, poultry</p> <p><b>Industries:</b></p> <p>petroleum, chemicals, textiles, leather, construction materials, food processing, fertilizer, metal fabrication/processing</p> <p><b>Exports - commodities:</b></p> <p>crude oil 84%, crude materials excluding fuels, food and live animals</p> <p><b>Exports - partners:</b></p> <p>US 21.4%, India 21.1%, China 13.8%, South Korea 11.2%, Canada 4.8%, Italy 4.5%, Spain 4.3% (2012)</p> <p><b>Imports - commodities:</b></p> <p>food, medicine, manufactures</p> <p><b>Imports - partners:</b></p> <p>Turkey 27.8%, Syria 15.9%, China 12.6%, US 5.2%, South Korea 4.8% (2012)</p>	

**Investment Restrictions:**

After decades of oil-driven statist economic policy, followed by years of conflict and instability, the Government of Iraq (GOI) seeks to identify and promote policies to strengthen the country's small private sector, create jobs for its citizens, and spur economic development.

While few SOEs compete with Iraq's private-sector companies, most SOEs now face increasing competition from foreign firms, most of which are privately-owned, as a result of the opening of Iraq's market. Faced with this competition, Iraq's SOEs are losing market share in certain sectors open to competition because their equipment and production technology are obsolete. As a result, an increasing number of Iraqi SOEs are attempting to form strategic partnerships with foreign firms to obtain newer technology, investment, and managerial expertise.

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## Section 1 - Background

Formerly part of the Ottoman Empire, Iraq was occupied by Britain during the course of World War I; in 1920, it was declared a League of Nations mandate under UK administration. In stages over the next dozen years, Iraq attained its independence as a kingdom in 1932. A "republic" was proclaimed in 1958, but in actuality a series of strongmen ruled the country until 2003. The last was SADDAM Husayn. Territorial disputes with Iran led to an inconclusive and costly eight-year war (1980-88). In August 1990, Iraq seized Kuwait but was expelled by US-led, UN coalition forces during the Gulf War of January-February 1991. Following Kuwait's liberation, the UN Security Council (UNSC) required Iraq to scrap all weapons of mass destruction and long-range missiles and to allow UN verification inspections. Continued Iraqi noncompliance with UNSC resolutions over a period of 12 years led to the US-led invasion of Iraq in March 2003 and the ouster of the SADDAM Husayn regime. US forces remained in Iraq under a UNSC mandate through 2009 and under a bilateral security agreement thereafter, helping to provide security and to train and mentor Iraqi security forces. In October 2005, Iraqis approved a constitution in a national referendum and, pursuant to this document, elected a 275-member Council of Representatives (COR) in December 2005. The COR approved most cabinet ministers in May 2006, marking the transition to Iraq's first constitutional government in nearly a half century. In January 2009, Iraq held elections for provincial councils in all governorates except for the three governorates comprising the Kurdistan Regional Government and Kirkuk Governorate. Iraq held a national legislative election in March 2010 - choosing 325 legislators in an expanded COR - and, after nine months of deadlock the COR approved the new government in December 2010. Nearly nine years after the start of the Second Gulf War in Iraq, US military operations there ended in mid-December 2011.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Iraq is on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Latest FATF Statement - 24 February 2017

In October 2013, Iraq made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies. Since October 2016, Iraq has taken steps towards improving its AML/CFT regime. Iraq should continue to implement its action plan to address its remaining deficiencies, including by: (1) continue implementing the legal framework and appropriate procedures for identifying and freezing terrorist assets; (2) ensuring that all financial institutions are subject to adequate customer due diligence requirements; (3) ensuring that all financial institutions are subject to adequate suspicious transaction reporting requirements; and (4) establishing and implementing an adequate AML/CFT supervisory and oversight programme for all financial sectors. The FATF encourages Iraq to continue implementing its action plan to address its remaining AML/CFT deficiencies.

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Iraq was undertaken by the Financial Action Task Force (FATF) in 2013. According to that Evaluation, Iraq was deemed Compliant for 2 and Largely Compliant for 1 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2006):

The Republic of Iraq faces very serious risks of money laundering and terrorist financing amid its period of state-building, transition and rapid economic growth. Domestic crime indicators reveal proceeds and profit from financial crime exist in Iraq. Corruption is a serious problem and will continue to escalate with the high growth rates expected in the financial and economic sectors. Terrorism continues to be a serious threat to Iraq, and sustaining terrorist operations require funding. Greater attention at the decision making levels needs to be given to the investigation (i.e., following the money trail) of, proceeds of crime and terrorist funding.

Although Iraq has had an AML law in place since 2004, implementation is limited due to complex political and other circumstances the country faces. The existing law contains some important elements of an AML system, but improvements are needed in the provisions criminalizing money laundering and terrorist financing, and greater detail is needed to more effectively implement preventive measures. As a middle income country, resources to build an effective AML/CFT system should not be a significant challenge.

Greater clarity in legislative provisions is needed to delineate roles and responsibilities of several ministries and agencies which play important roles in supporting the national AML/CFT system. Appropriate units in the respective ministries and agencies need adequate staffing, resources and training to fulfill the assigned roles, as well as carry out and implement components of the system for which they are responsible.

Stronger political level commitment is needed to enable the financial intelligence unit (FIU) to undertake its functions to become fully operational and independent. The FIU also lacks capacity, and resources, both human and technical.

While money laundering and terrorist financing risks in Iraq are known to be high, the lack of implementation of many provisions under the existing AML law prevents competent authorities, including financial sector supervisors and law enforcement officials from implementing various components necessary to prevent and detect corruption, money laundering, and terrorist financing.

Although some preventive measures covering the financial sector exist in the AML law, provisions on implementation are not sufficiently detailed for effective implementation or compliance monitoring. In sectors where implementation has begun, supervision and compliance monitoring are not effective, and the lack of coverage of AML controls for state-owned financial entities presents serious risks given the large portion of the financial sector that remains in state hands. Implementation of AML controls has not yet begun in the insurance, securities sectors or for dealers in precious metals/stones. Several designated non-financial businesses and professions are also not yet covered by the AML law.

Necessary policies and procedures for domestic and international co-operation are not sufficiently implemented in the daily operations of ministries and agencies. Where inter-agency coordination and international cooperation exist, the process is slow and bureaucratic, which prevents the spontaneous sharing of information and application of other enforcement measures.

It is important for Iraq to strengthen its national AML/CFT system in order to effectively cooperate at the international level where crime proceeds traverse borders. Neither Iraq, nor any other country can trace cross-border movements of crime proceeds without the help of the other affected countries. Therefore, all jurisdictions must work together to put in place strong AML/CFT systems that meet international standards.

Iraq was deemed a Jurisdiction of Primary Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

**Perceived Risks:**

Iraq's economy is primarily cash-based, and its financial sector is severely underdeveloped. Iraq has about 2,000 financial institutions, most of which are currency exchanges and hawaladars. There is approximately one commercial bank branch for every 50,000 people, and ATMs are even less common. U.S. dollars are widely accepted. Due to weak supervision and regulation of banks and other financial institutions, there is little data available on the nature and extent of money laundering in the country. Hawala networks, both licensed and unlicensed, are widely used for legitimate as well as illicit purposes. Iraqi law enforcement and bank supervisors do carry out financial investigations and levy regulatory fines, but have poor capabilities to detect and halt illicit financial transactions.

Since June 2014, when Iraq's ongoing conflict with the Islamic State of Iraq and the Levant (ISIL) escalated, it has been more difficult for the Government of Iraq to monitor AML/CFT in areas outside of the central government's control. The Central Bank of Iraq (CBI) has taken a number of steps to cut off financial connectivity to ISIL, including by issuing a national directive to prohibit financial transactions with banks and financial companies located in ISIL-controlled areas and publishing a list of companies prohibited from accessing the U.S. currency auction and have revoked the licenses of others. However, the CBI lacks adequate personnel and technical capacity to fully monitor financial entities operating in Iraq and routinely encounters difficulty engaging other parts of the Government of Iraq during its investigations. To overcome these challenges, the CBI has requested technical assistance from international donors.

Smuggling is endemic, often involving consumer goods, including cigarettes, counterfeit prescription drugs, antiquities, and petroleum products. ISIL has been able to take advantage of insufficient law enforcement capacity to smuggle and illicitly trade crude oil and refined fuels. Bulk cash smuggling is likely common, in part because Iraqi law only allows for the seizure of funds at points of entry, such as border crossings and airports. Trafficking in persons, intellectual property rights violations, and currency counterfeiting also have been reported. Narcotics trafficking occurs on a small scale but it, along with increasing kidnappings for ransom, continues to be a growing concern to Iraqi authorities. Extortion is rampant in ISIL-controlled areas. Corruption is pervasive at the local, provincial, regional, and national government levels and is widely regarded as a cost of doing business in Iraq.

Iraq has four free trade zones (FTZs): the Basra/Khor al-Zubair seaport; Ninewa/Falafel area; Sulaymaniyah; and al-Qaim, located in western Al Anbar province. Under the Free Trade Zone Authority Law goods imported or exported from the FTZs are generally exempt from all taxes and duties, unless the goods are to be imported for use in Iraq. Additionally, capital, profits, and investment income from projects in the FTZs are exempt from taxes and fees throughout the life of the project, including the foundation and construction phases. Trade-based money laundering is a significant problem in Iraq and the surrounding region and is linked to underground financial systems such as hawala.

**Do financial institutions engage in currency transactions related to international narcotics trafficking that include significant amounts of US currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.:** NO

**Criminalization of money laundering:**

**“All serious crimes” approach or “list” approach to predicate crimes:** All serious crimes

**Are legal persons covered: criminally:** YES **civilly:** NO

**Know-your-customer (KYC) rules:**

**Enhanced due diligence procedures for PEPs: Foreign:** NO **Domestic:** NO

**KYC covered entities:** Banks; managers and distributors of shares of investment funds; life insurance companies; securities dealers; money transmitters, hawaladars, and issuers or managers of credit cards and traveler’s checks; foreign currency exchange houses; asset managers, transfer agents, and investment advisers; and dealers in precious metals and stones

**REPORTING REQUIREMENTS:**

**Number of STRs received and time frame:** 18 in 2015

**Number of CTRs received and time frame:** 11,863 in 2015

**STR covered entities:** Banks; managers and distributors of shares of investment funds; life insurance companies; securities dealers; money transmitters, hawaladars, and issuers or managers of credit cards and traveler’s checks; foreign currency exchange houses; asset managers, transfer agents, and investment advisers; and dealers in precious metals and stones

**money laundering criminal Prosecutions/convictions:**

**Prosecutions:** Not available

**Convictions:** Not available

**Records exchange mechanism:**

**With U.S.: MLAT:** NO **Other mechanism:** YES

**With other governments/jurisdictions:** YES

Iraq is a member of the Middle East and North Africa Financial Action Task Force (MENAFATF), a FATF-style regional body.

**Enforcement and implementation issues and comments:**

Iraq’s ability to detect and prevent money laundering and other financial crimes is limited by endemic corruption, capacity constraints in public institutions, weak financial controls in the banking sector, and weak links to the international law enforcement community and regional financial intelligence units.

In January 2014, the Government of Iraq started to implement the first phase of a 2010 tariff law that will eventually replace the across-the-board 5 percent tariff rate enacted more than a decade ago, with a much broader scale of some lower, and mostly higher tariff rates. Implementation thus far has been inconsistent and variable. In August 2015, the Prime Minister's Office halted the implementation of phase two after popular protests in Al Basrah Province.

In October 2015, Iraq passed a new AML/CFT law. The new law, while an improvement on the 2004 law, will require extensive implementing regulations to ensure it is compliant with international standards. The CBI is working with international donors to draft the necessary regulations. The new law makes a number of improvements to Iraq's AML/CFT regime. It establishes an AML/CFT Council that will be chaired by the CBI Governor and will include representatives from a number of Iraqi executive bodies. Broadly, its duties will focus on proposing new laws and developing needed AML/CFT regulations; monitoring and reporting on AML/CFT developments in Iraq; and facilitating the exchange of information across regulatory bodies.

A new AML/CFT Office will act as Iraq's financial intelligence unit (FIU), replacing the current Money Laundering Reporting Office (MLRO) at the CBI. The AML/CFT Office will analyze and compile information related to illicit financial flows and will be empowered to suspend transactions for up to one week to help ensure timely action against suspicious activity. Currently, in practice, very few suspicious transaction reports (STRs) are filed. Due to a weak institutional culture and the lack of robust penalties for noncompliance, banks often are unmotivated to file reports and sometimes conduct internal investigations in lieu of filing reports.

A CBI deputy governor will chair a new committee empowered to freeze the funds and assets of individuals designated by UN sanctions. The new law also allows for the seizure of illicit funds. It permits the judiciary to seize ML/FT-related assets at the request of the public prosecutor, the CBI Governor, or the AML/CFT Office. Furthermore, the law sets penalty standards and dictates the scope of punishment for violating AML/CFT provisions. Money laundering will be punishable by up to 15 years in prison and a fine of up to five times the amount of the illicit transaction; terrorism finance will be punishable by up to life in prison.

The 2015 law strengthens supervisory authorities. A number of ministries including the Ministry of Trade and the CBI will be granted powers to develop inspection procedures and standards and to issue guidelines to assist financial institutions with complying with the new regulations. It also increases the obligations of financial institutions. Banks and financial companies will be required to report regularly to the AML/CFT Office and to establish compliance programs to reduce the potential for illicit financial flows. Financial institutions must also follow customer due diligence (CDD) and KYC procedures for opening new accounts. The implementation of the new AML/CFT law should help to increase the regulation and supervision of the financial sector, but the capacity of the regulatory authorities is limited, and enforcement is subject to political constraints. The CBI lacks adequate personnel and technical capacity to fully monitor financial entities operating in Iraq and routinely encounters difficulty engaging other parts of the government during its investigations. Informal money and value transfer systems such as hawala operate outside the scope of CBI control. In practice, despite CDD requirements, most banks open accounts based on the referral of existing customers and/or verification of a person's employment. Actual application of CDD and other preventive measure requirements varies widely.

Senior-level support and increased capacity for all parties are necessary to ensure AML/CFT cases can be successfully investigated and prosecuted. Investigators are frustrated when judges do not pursue their cases; similarly, judges claim the cases they receive are of poor quality and not prosecutable. Iraq reportedly has one judge assigned to process all money laundering cases, and that judge does not exclusively focus on money laundering. The new law will likely help empower prosecutions.

Greater overall coordination between the Government of Iraq and the Kurdistan Regional Government is needed to regulate financial transactions, crack down on smuggling networks, and cooperate on AML/CFT efforts. Kurdistan officials report they are abiding by Iraq's AML law, and there are initial efforts underway by the Central Bank of Iraq to increase supervision of the exchange house sector in Kirkuk. Moreover, Kurdish customs requirements are less stringent than Iraq's, which risks enabling the smuggling of illicit and counterfeit goods into Iraq. The Government of Iraq should put in place the necessary regulations to fully implement and enforce its new AML/CFT law. Iraqi authorities should encourage increased reporting by financial institutions through more in-depth onsite supervision as well as an increase in the penalties levied for noncompliance.

#### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Iraq does not conform with regard to the following government legislation: -

**Arrangements for Asset Sharing** - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

**International Terrorism Financing Convention** - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

#### **EU White list of Equivalent Jurisdictions**

Iraq is not currently on the EU White list of Equivalent Jurisdictions

#### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

#### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

Iraq is not considered to be an Offshore Financial Centre

### US State Dept Narcotics Report 2016 (introduction):

Iraq continues to be a transit country for illicit drugs, with growing rates of substance abuse due to an upsurge in trafficking of pharmaceuticals and other synthetic drugs. The Government of Iraq recognizes this threat, and with assistance from the United States, the Iraqi Ministry of Health (MOH) has enhanced its ability to prevent and treat substance abuse. Given the continued deterioration in the security environment, however, the government's efforts are limited and secondary to the focus on internal security and public order.

Iraq's uncontrolled and porous borders enable the trafficking of illegal drugs, including fenethylamine pills (an amphetamine-type stimulant) that are transported via the Iraq-Syria border for domestic consumption and for transshipment to other countries in the Middle East. Heroin, opium, methamphetamine, and hashish are transported through Iran into Iraq, and then onward to international markets. Iraqi pharmacies are only beginning to require a doctor's prescription before providing medicine and drugs to consumers. Drug law reform is needed to address the abuse and diversion of pharmaceutical medication and provide comprehensive protection against the trafficking and use of synthetic drugs.

Pursuant to the 2008 U.S.-Iraq Strategic Framework Agreement, the United States funded a counternarcotics initiative that led to the development of a national substance abuse center in Baghdad. This initiative began in 2011, and helped form the Iraq Community Epidemiological Workgroup, which produced the first comprehensive profile on the nature and extent of drug abuse in Iraq. The United States also provided training on evidence-based substance abuse treatment to Iraqi health care professionals, which enabled them to replicate this training throughout Iraq. Additionally, U.S. assistance to Iraqi civil society organizations has led to the development of anti-drug coalitions and outreach drop-in centers that work to prevent substance abuse through grassroots community engagement, and also to refer hard-to-reach populations to treatment centers.

Extradition between the United States and Iraq is governed in principle by the 1934 U.S.-Iraq Extradition Treaty. While there is no mutual legal assistance treaty in force between the United States and Iraq, both are parties to international treaties that enable international cooperation in criminal matters.

Working with the MOH in 2015, the United States completed a nation-wide survey on the prevalence and demographics of substance abuse that will inform the development of a national strategy to decrease substance abuse, and implementation of the strategy. The results of the survey report show an increase in substance abuse, with a 3.7 percent lifetime prevalence use rate, as compared with a 2004 WHO report indicating a less than one percent rate. Iraq's political leadership continues to focus on restoring stability. While securing resources to counter drug trafficking and reduce domestic demand is important, it will not likely be the top priority for the Government of Iraq.

## US State Dept Trafficking in Persons Report 2014 (introduction):

Iraq is classified a Tier 2 country - A country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Iraq is a source and destination country for women and children subjected to sex trafficking, and men, women, and children subjected to forced labor. Iraqi women and girls are subjected to sex and labor trafficking within the country and in Lebanon, Jordan, Kuwait, the United Arab Emirates, Turkey, Iran, Yemen, and Saudi Arabia. An international organization reported cases of forced prostitution in the city of Tikrit; sex traffickers sell girls and women from Baghdad, Kirkuk, and Syria for the equivalent of approximately \$1,000-5,000. Criminal gangs reportedly force girls from outside of the Iraqi Kurdistan Region (IKR) into prostitution in the provinces of Erbil, Dahuk, and Sulaymaniyah. An international organization alleged that police officers and other members of the security forces kidnapped women and girls and forced them into prostitution in Kirkuk and Salah ad-Din Provinces. An NGO reported in previous years that sex traffickers rape women and girls on film and blackmail them into prostitution or recruit them in prisons by posting bail and then forcing them into prostitution through debt bondage. Some women and children are pressured into prostitution by family members to escape desperate economic circumstances. NGOs report that women are forced into prostitution in private residences, brothels, restaurants, and places of entertainment. Some women and girls are sold into "temporary marriages" within Iraq—primarily for the purpose of sexual exploitation, prostitution, or domestic servitude—by which the family of the victim receives money in the form of a dowry in exchange for permission for the woman or girl to be married for a limited period of time. Women who flee such marriages or whose husbands divorce them are often vulnerable to further forced labor or sexual servitude. Criminal gangs reportedly subject children to forced begging and other types of forced labor in Iraq. On at least one occasion, a terrorist group recruited teenagers to take part in violent activities, to include serving as suicide bombers.

The large population of internally displaced persons and refugees in Iraq are particularly at risk of being subjected to forced labor and sex trafficking. Iraqi refugees who involuntarily return to Iraq from Syria are highly vulnerable to exploitation and trafficking in Iraq, due in part to the fact that female and child returnees typically do not have a support network or community to which they return. The growing population of Syrian refugee men, women, and children are highly vulnerable to trafficking, as the Iraqi government restricts their access to work permits; thus, some women enter into marriages with Iraqi men for lower dowries, men enter into employment without legal work contracts, and children are increasingly pressured to engage in begging. In 2013, NGOs and local media reported several alleged sex trafficking cases involving young Syrian refugee girls in the IKR and central provinces of Iraq. Taxicab drivers in the IKR reportedly play a role in forcing young female Syrian refugees into prostitution. In addition, there are some Syrian refugee girls from refugee camps in the IKR who are forced into early or "temporary marriages" with Iraqi men.

Iraq is a destination country for men and women who migrate primarily from Bangladesh, India, Indonesia, Nepal, the Philippines, Sri Lanka, Thailand, Pakistan, Georgia, Jordan, Ethiopia, and Uganda; these men and women are subsequently forced to work as construction workers, security guards, cleaners, handymen, and domestic workers. Some foreign migrants are recruited for work in other countries such as Jordan or the Gulf States,

but are forced, coerced, or deceived into traveling to Iraq, where their passports are confiscated and their wages withheld, ostensibly to repay labor brokers for the costs of recruitment, transport, food, and lodging. Other foreign migrants are aware they are destined for Iraq, but once in the country, find the terms of employment are not what they expected or the jobs they were promised do not exist, and they are forced to live in work camps in substandard conditions. Anecdotal reporting suggests that the economic growth in the IKR attracts an increased number of foreign migrants into the region, many of whom are vulnerable to forced labor. Some workers migrate to Iraq through Iran under false offers of employment, but upon arrival in the IKR, they have no such job offer or are paid little to no wages. Some migrant workers, particularly from Bangladesh, are recruited to work in the IKR through companies located in the UAE; some reported that their employers confiscated their passports and paid them low wages. Women primarily from Iran, China, and the Philippines reportedly are forced into prostitution in Iraq.

The Government of Iraq does not fully comply with the minimum standards for the elimination of trafficking, but it is making significant efforts to do so. The inter-ministerial Central Committee to Combat Trafficking in Persons continued to meet and it included participation from Kurdistan Regional Government (KRG) officials and an international organization. The government also opened a temporary trafficking shelter in this reporting period. The government made limited efforts to investigate trafficking offenders—including government officials who may have been complicit in trafficking-related offenses—but did not prosecute any offenders in 2013 under the 2012 anti-trafficking law or other relevant laws, compared with at least one prosecution in 2012. The government initiated investigations of at least 11 suspects of sex trafficking. The government continued to arrest, detain, prosecute, convict, and deport victims of forced prostitution and forced labor, with no discernible efforts to identify victims of trafficking. Likewise, the government did not report identifying any trafficking victims in 2013, a decrease from 2012. Government inaction resulted in a failure to protect victims. The government also did not refer any victims to protection services, including the government shelter, which consequently remained vacant throughout the year. The government's law enforcement efforts and capability to monitor trafficking cases in this reporting period was hindered by a dramatic increase in terrorist attacks by al-Qa'ida and the Islamic State of Iraq and the Levant (ISIL), which led to the deaths of over 10,000 civilians in 2013, and the influx of approximately 200,000 Syrian refugees.

### US State Dept Terrorism Report 2015

Iraq is currently identified by the US Secretary of State as a Safe Haven for International Terrorism.

**Overview:** Iraq witnessed a continued surge of terrorist activity in 2015, primarily as a result of the actions of the Islamic State of Iraq and the Levant (ISIL), which has occupied large areas of the country since early 2014. ISIL had no strategic victories after its capture of Ramadi in May 2015, however, and lost more than 40 percent of the Iraqi territory it once controlled. A series of successive ISIL defeats shifted the momentum in favor of the Iraqi government and the Coalition by year's end.

In April, an Iraqi-led military effort retook the city of Tikrit, the symbolically-important hometown of Saddam Hussein. The subsequent return of 80 percent of internally displaced

persons to the city by the end of the year was a major milestone in the effort against ISIL, and the Iraqi government coordinated closely with the international community to stabilize the city. In November, Peshmerga forces retook the town of Sinjar, a city that came to the world's attention with brutal attacks by ISIL against the Yazidi community in the summer of 2014. At the end of the year, newly-empowered Iraqi Security Forces (ISF) units, accompanied by local Sunni fighters, liberated large parts of Ramadi, the capital of Anbar Province and a strategically important hub.

Although the Government of Iraq – supported by the 66-member Global Coalition to Counter ISIL – made significant progress in its campaign to retake occupied territory from ISIL, there remained a security vacuum in parts of Iraq.

**2015 Terrorist Incidents:** Terrorist groups continued to mount a large number of attacks throughout the country. Most notably, ISIL's use of military equipment captured in the course of fighting gave it greater capabilities in line with a more conventional military force, including the reported use of eastern bloc tanks, artillery, and self-developed unmanned aerial drones. According to estimates from the UN Assistance Mission for Iraq (UNAMI), acts of terrorism and violence killed more than 7,500 civilians and injured more than 13,800 in 2015.

Iranian-backed groups, including Kata'ib Hizballah (KH), continued to operate in Iraq during 2015, which exacerbated sectarian tensions in Iraq and contributed to human rights abuses against primarily Sunni civilians. KH and other Iraqi Shia militias associated with the Iranian Revolutionary Guards have been brought into the Iraqi government's Popular Mobilization Forces. The inclusion of KH, a designated Foreign Terrorist Organization, in the Popular Mobilization Forces enlisted by the Iraqi Government in the effort against ISIL, threatens to undermine counterterrorism objectives.

The following is an illustrative sample that highlights only a small number of the most egregious terrorist attacks conducted in 2015:

- On January 1, 15 members of the Jamilat tribe in Ninewa Province were executed after refusing to join ISIL.
- On February 7, three separate bombings in Baghdad, including one suicide bomber, killed 36 people and injured 70.
- On April 17, ISIL claimed responsibility for a car bomb attack that killed three and wounded five outside the U.S. Consulate in Erbil.
- On April 22, eight pilgrims returning from a Shia shrine in Samarra were killed in a suicide bombing; 16 others were injured.
- On May 8, three suicide bombers attacked the al-Zahraa mosque and the Imam Hussein mosque, killing at least 22 people in total, including a senior police officer.
- On May 12, a suicide bomber and two mortar attacks that were launched during a Shia march in Baghdad killed six and injured 16.
- On June 25, five separate bombings and a shooting incident in Baghdad killed eight and injured more than 20.
- On July 17, a suicide car bombing using an ice cream truck in Khan Bani Saad (Diyala Province) targeted a local marketplace. Approximately 130 people were killed with a similar number injured. Several others were killed by buildings that collapsed as a result of the explosion.

- On July 25, two suicide bombers attacked a crowded swimming pool in Tuz Khurmatu causing at least 12 deaths and 45 injured.
- On August 13, a truck bomb targeted a food market in a predominantly Shia neighborhood in Sadr City killing two and injuring 10.
- On October 3, twin suicide bombings in Baghdad killed 18 and wounded more than 60.
- On November 30, a suicide bomber detonated his explosives at a checkpoint along a route used by Shia pilgrims in the northern Baghdad neighborhood of al-Shaab, killing nine and wounding 21. The victims were taking part in the annual Arba'een ceremony.
- On December 9, a suicide bomber detonated his explosives in the doorway of a Shia mosque at the end of prayer in Baghdad killing 11 and wounding 20.

**Legislation, Law Enforcement, and Border Security:** ISIL offensives in 2014 and early 2015 significantly degraded ISF capabilities, manpower, and equipment. The Government of Iraq suffered losses across its national security apparatus, especially in the Iraqi Army and federal and local police. However, with substantial assistance received from the Coalition to address training and equipping shortfalls, the Government of Iraq worked to redress those losses.

Iraq adopted the Terrorist Interdiction Program's Personal Identification Secure Comparison and Evaluation System (PISCES) in an effort to secure its borders and identify fraudulent travel documents. The Government of Iraq has the capability to conduct biographic and biometric screening at multiple land and air ports of entry. Iraq also continued to participate in the Department of State's Antiterrorism Assistance (ATA) program; ATA training for the Emergency Response Brigades contributed to the Global Coalition to Counter ISIL.

**Countering the Financing of Terrorism:** Since 2005, Iraq has been a member of the Middle East and North Africa Financial Action Task Force (MENAFATF), a Financial Action Task Force (FATF)-style regional body. Iraq is also under review by the FATF, due to a number of strategic deficiencies in its anti-money laundering/combating the financing of terrorism (AML/CFT) regime. In December, the Iraqi government adopted a new AML/CFT law, which will require extensive implementing regulations to ensure its compliance with international (FATF) standards. Although that law represented significant progress in strengthening Iraq's AML/CFT regime, in and of itself it did not fulfill all of the country's commitments to the FATF. In December, as part of its Action Plan with the FATF, the Iraqi government adopted a new AML/CFT law, which will require extensive implementing regulations to ensure it is compliant with international standards.

In 2015, the Central Bank of Iraq took a number of steps to disrupt ISIL's financial activity, including: issuing a national directive to prohibit financial transactions with banks and financial companies located in ISIL-controlled areas; cutting off salary payments to government employees located in ISIL-controlled areas to prevent those salaries from being "taxed" by ISIL and so used to fund ISIL operations; and publishing a list of exchange houses and transfer companies prohibited from accessing U.S. currency auctions.

**Countering Violent Extremism:** The Government of Iraq recognizes that to defeat ISIL it must use soft power along with hard power. The Iraqis took a good first step when the Iraqi National Security Council, in conjunction with Combined Joint Task Force-Operation Inherent Resolve, hosted an International Military Conference on Psychological Operations to Counter

Da'esh Media on December 16-17 in Baghdad. The conference brought together representatives from 17 nations in an effort to increase the effectiveness of combined operations to degrade ISIL propaganda and to aid the Iraqi government and Security Forces in communicating a more viable narrative than that offered by ISIL. The conference received extensive media coverage and the public acknowledgement by many prominent Iraqis of the divisiveness caused by sectarianism was an encouraging development.

**International and Regional Cooperation:** Iraq is a member of multilateral and regional organizations including the UN, the Organization of the Islamic Conference, and the Arab League. The U.S.-led Global Coalition to Counter ISIL focused on training, equipping, advising, and assisting the ISF, including Kurdish forces. Seventeen Coalition members joined the United States in deploying military personnel to assist the Iraqi government in training, along with "advise and assist" missions. Coalition partners trained more than 30,000 ISF, while 12 Coalition members conducted more than 6,000 air strikes in Iraq, including 630 in support of the Ramadi liberation. In addition, more than a dozen Coalition partners contributed \$50 million to the Funding Facility for Iraq Stabilization.

There were a number of global events meant to focus the international community on supporting counter-ISIL efforts as well as the many post-conflict stabilization needs in Iraq. In January, the Small Group Ministerial met in London to assess the counter-ISIL campaign and reconvened in Brussels in June again to assess progress. The Global Coalition convened the Stabilization Working Group in March in Berlin followed by a subsequent meeting in May in Abu Dhabi. In July, the political directors of the Coalition Small Group met in Quebec City following a meeting of the Lines of Effort leads and the one-year anniversary of the Counter-ISIL Coalition on September 28. On November 4, the Small Group of the Counter-ISIL Coalition met in Brussels to take stock of developments on the ground and continue expanding efforts to degrade and defeat ISIL. Later that same month, the Ambassadors of the Global Coalition met at the Department of State where the Vice President called on the Coalition to intensify its efforts against ISIL.

### Arms

The UN originally imposed sanctions on Iraq (via [UN Security Council Resolution 661](#)) following the Iraqi invasion of Kuwait in August 1990.

With the fall of the Iraqi government in 2003, the UN issued [UNSCR 1483](#) in May 2003. This resolution declared the lifting of trade sanctions, apart from the arms embargo which remained in force.

This resolution has subsequently been amended via [UNSCR 1546 \(2004\)](#) which declared that the restrictions are lifted for arms or related material required by the government of Iraq or the multinational force. Restrictions remain in force on other end users.

You can access copies of [UN resolutions on the UN Security Council website](#).

### EU legislation

The EU issued its own arms embargo on Iraq, following the UN Security Council's resolutions condemning the invasion of Kuwait in 1990.

The EU's position is now outlined in the following declarations:

- [Council Common Position 2003/495/CFSP](#), which allows the supply of arms to supply UN Security Council Resolutions
- [Council Common Position 2003/735/CFSP](#), which amended the previous Common Position
- [Council Common Position 2004/553/CFSP](#), which amended this and authorises the sale, supply, transfer or export of arms and related material required by the new Government of Iraq and the multinational force.
- [Council Regulation \(EC\) No 1210/2003](#), as amended.

### Financial

The [UN Security Council](#) imposed sanctions against the Republic of Iraq in August 1990 following Iraq's invasion of Kuwait.

In 2003, the UN lifted all trade sanctions against Iraq except for the arms embargo; replaced the existing assets freeze with a freeze targeted at all Government of Iraq funds and all funds belonging to Saddam Hussein, senior members of his regime and their immediate family members; and required that such funds be transferred to the Development Fund for Iraq. [Iraq current regime list \(html\)](#)

### Current EU regulations

- [14.02.2011 Council Regulation \(EU\) No. 131/2011](#) In accordance with UNSCR 1956 (2010), extended until 30 June 2011 the provision in UNSCR 1483 (2003) for the

depositing into the Development Fund of Iraq of proceeds from export sales of petroleum, petroleum products and natural gas from Iraq, and arrangements concerning immunity from legal proceedings of certain Iraqi assets.

- [01.03.2010 Council Regulation \(EU\) No. 168/2010](#) In accordance with UNSCR 1905 (2009), extended until 31 December 2010 the provision in UNSCR 1483 (2003) for the depositing into the Development Fund of Iraq of proceeds from export sales of petroleum, petroleum products and natural gas from Iraq, and arrangements concerning immunity from legal proceedings of certain Iraqi assets.
- [05.03.2009 Council Regulation \(EC\) No. 175/2009](#) In accordance with UNSCR 1859 (2008), extended until 31 December 2009 the provision in UNSCR 1483 (2003) for the depositing into the Development Fund of Iraq of proceeds from export sales of petroleum, petroleum products and natural gas from Iraq, and arrangements concerning immunity from legal proceedings of certain Iraqi assets.
- [23.05.2006 Commission Regulation \(EC\) No. 785/2006](#) Amended Council Regulation (EC) No 1210/2003.
- [03.08.2004 Council Regulation \(EC\) No. 1412/2004](#) Amended Council Regulation (EC) No 1210/2003.
- [09.06.2004 Commission Regulation \(EC\) No. 1086/2004](#) Amended Council Regulation (EC) No 1210/2003.
- [14.05.2004 Commission Regulation \(EC\) No. 979/2004](#) Amended Council Regulation (EC) No 1210/2003.
- [29.04.2004 Commission Regulation \(EC\) No. 924/2004](#) Amended Council Regulation (EC) No 1210/2003.
- [02.12.2003 Commission Regulation \(EC\) No. 2119/2003](#) Amended Council Regulation (EC) No 1210/2003.
- [13.10.2003 Council Regulation \(EC\) No. 1799/2003](#) Amended Council Regulation (EC) No 1210/2003
- [07.07.2003 Council Regulation \(EC\) No 1210/2003](#) Implemented UNSCR 1483 (2003) in the EC. Replaced Council Regulation (EC) No 2465/96. Council Regulation (EEC) No 3541/92 to remain in force.
- [07.12.1992 Council Regulation \(EEC\) No 3541/1992](#) Prohibited the satisfying of Iraqi claims with regard to contracts and transactions the performance of which was affected by UNSCR 661 (1990) and related resolutions.

## US Sanctions

There currently are no broad-based sanctions in place against Iraq, but there are certain prohibitions and asset freezes against specific individuals and entities associated with the former Saddam Hussein regime, as well as parties determined to have committed, or to pose a significant risk of committing, an act of violence that has the purpose or effect of threatening the peace or stability of Iraq or the Government of Iraq or undermining efforts to promote economic reconstruction and political reform in Iraq or to provide humanitarian assistance to the Iraqi people. The Secretary of the Treasury is authorized to name all such individuals and entities. These names are included in OFAC's list of Specially Designated Nationals and Blocked Persons ("SDN List"). In addition to these targeted sanctions, the ISISR impose some specific prohibitions designed to protect certain Iraqi property and contain certain provisions dealing with residual restrictions from the 1990 Iraqi sanctions.

## Arab League

November 28, 2011 - The Arab League (comprising 22 Arab member states), of which this country is a member, has approved imposing sanctions on Syria. These include: -

- Cutting off transactions with the Syrian central bank
- Halting funding by Arab governments for projects in Syria
- A ban on senior Syrian officials travelling to other Arab countries
- A freeze on assets related to President Bashar al-Assad's government

The declaration also calls on Arab central banks to monitor transfers to Syria, with the exception of remittances from Syrians abroad.

The Arab League has boycotted Israel in a systematic effort to isolate Israel economically in support of the Palestinians, however, the implementation of the boycott has varied over time among member states.

There are three tiers to the boycott. The primary boycott prohibits the importation of Israeli-origin goods and services into boycotting countries. The secondary boycott prohibits individuals, as well as private and public sector firms and organizations, in member countries from engaging in business with any entity that does business in Israel. The Arab League maintains a blacklist of such firms. The tertiary boycott prohibits any entity in a member country from doing business with a company or individual that has business dealings with U.S. or other firms on the Arab League blacklist.

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	17
World Governance Indicator – Control of Corruption	4

**US State Department**

While large-scale investment opportunities exist in Iraq, particularly for sophisticated investors, corruption remains a significant impediment to conducting business, and investors can expect to contend with it in many forms. While the GOI has moved toward greater effectiveness in reducing opportunities for procurement corruption, credible reports of corruption in government procurement are widespread, with examples ranging from bribery and kickbacks to awards involving companies connected to political leaders. Investors may come under pressure to take on well-connected local partners to avoid systemic bureaucratic hurdles to doing business. Similarly, there are widespread reports of corruption involving government payrolls, ranging from “ghost” employees and salary skimming to nepotism and patronage in personnel decisions. Moving goods into and out of the country continues to be difficult and bribery of port officials is reportedly common; Iraq ranks 179th out of 185 countries in “trading across borders” in the World Bank’s 2014 *Doing Business* report. Iraq ranked seven places from the bottom in Transparency International’s 2013 Corruption Perceptions Index, slipping down one position from 2012. Iraq also ranked in the eighth percentile of the World Bank’s 2012 Control of Corruption Index. In view of the conflict and sanctions Iraq has endured over recent decades, the resulting breakdown in institutional effectiveness that might curb high levels of corruption is not surprising. The United States continues to implement several programs to address corruption at the institutional level, with some positive impact.

The Commission of Integrity, the Federal Board of Supreme Audit, and the Office of the Inspector General are the three principal institutions specifically designated to address the problem of corruption in Iraq. Order Number 57 established Inspectors General (IGs) for each of Iraq’s ministries. Similar to the role of IGs in the U.S. Government, these offices are responsible for inspections, audits, and investigations within their ministries. The Commission of Integrity (COI) is an independent government agency responsible for pursuing anti-corruption investigations, upholding enforcement of laws and preventing crime. The COI investigates government corruption allegations and refers completed cases to the Iraqi judiciary. COI Law Number 30, passed in 2011, updated provisions by granting the COI broader responsibilities and jurisdiction through three newly created Directorates: Asset recovery, Research and Studies, and the Anti- Corruption Academy.

The Board of Supreme Audit (BSA), established in 1927, is an analogue to the U.S. Government’s General Accountability Office. It is a financially and administratively independent body that derives its authority from Law 31 of 2011 – The Law of the Board of

Supreme Audit. It is charged with fiscal and regulatory oversight of all publicly funded bodies in Iraq. In October 2012, several amendments to the BSA's authorizing legislation, including a name change to the "Federal Board of Supreme Audit" (FBSA), gave it jurisdiction over audits of all federal revenues, including any revenues received from the IKR. Neither the COI nor the IGs have effective jurisdiction within the IKR. Regional revenues are audited by the Kurdistan Board of Supreme Audit with Iraqi Kurdistan Parliament (IKP) oversight. The IKP passed the Commission on Public Integrity (Law Number 3) of 2011, which established a regional Commission of Integrity that began its work in late 2013. The Commission launched an initiative in early 2014 to collect financial declaration forms from public officials. The Commission's office, located in Erbil, is divided into four sections – prevention and transparency, legal and investigative affairs, finance and administration, as well as the Office of the Commissioner.

Coordination among the three Iraqi Government institutions is currently overseen by the Joint Anti-Corruption Council (JACC), which reports to the Council of Ministers, and a small office that advises the Prime Minister on anticorruption issues. Within the Council of Representatives, corruption issues are the primary responsibility of the Integrity Committee. The JACC coordinated the GOI's National Anti-Corruption Strategy for 2010-2014 with input from Iraqi ministries to guide all three anti-corruption institutions in preventing, deterring, and counteracting corruption at all levels. Because the GOI has not completed all the action items in the current plan, an implementing committee formed under the 2010-2014 plan is developing an updated 2014-2018 strategy. The national strategy is part of Iraq's response as a signatory to the UN Convention Against Corruption (UNCAC), to which Iraq acceded in March 2008.

The UN Office of Drugs and Crime (UNODC) continues to provide United States-funded capacity building assistance to further Iraq's efforts to comply with UNCAC requirements. As of December 12, 2012, the country was accepted as a member of the Extractive Industry Transparency Initiative (EITI), having been found compliant with EITI requirements. The Board did, however, stipulate that the GOI should include data on oil and gas production in the IKR as well as oil and gas sales revenue to the KRG. GOI officials reported to EITI that they attempted to obtain KRG data for the 2011 and 2012 reports, but were unsuccessful.

Failure of the GOI to seek Council of Representatives confirmation of key anti-corruption appointments, however, has undermined the independence of Iraq's principal institutions to combat corruption. The result has been that many high-level officials operate in an acting capacity and are thus subject to removal at any time by the Prime Minister. While the GOI has made progress in some areas, it remains to be seen how vigorously the Government will move to address the problem of corruption system-wide. Article 136(b) of Iraq's 1971 Criminal Procedures Code, which allowed ministers to shield ministry employees from work-related prosecution for official acts, was abolished on November 14, 2011. While such a provision could serve as a legitimate shield against politically-driven prosecution, the provision had increasingly been used to block corruption investigations at higher levels within the GOI. Hundreds of cases of corruption brought before the courts are still pending, hung up due to political pressure and threats against the judiciary.

Iraq's existing anti-money laundering/counter terrorism financing (AML/CTF) regime is inadequate, and international financial institutions frequently cite this as a major impediment to increasing their operations in Iraq. The country's financial system needs a major overhaul of its anti-money laundering regime to meet the Middle East North Africa Financial Action

Task Force (MENAFATF) standards. Iraq joined MENAFATF in 2005 and underwent its first ever Mutual Evaluation (ME) in 2012. The ME team was led by World Bank experts early in 2012 to determine if the GOI conformed to the international standards stated in the 40-plus-9 recommendations issued by Financial Action Task Force (FATF); the Mutual Evaluation Report (MER) on Iraq was published in November 2012. According to a February 2014 International Cooperative Review Group (ICRG) statement, Iraq has made a high-level political commitment to work with the FATF and MENAFATF to address its remaining strategic AML/CTF deficiencies. According to the ICRG, Iraq should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalizing money laundering and terrorist financing; (2) establishing and implementing an adequate legal framework for identifying, tracing and freezing terrorist assets; (3) establishing effective customer due diligence measures; (4) establishing a fully operational and effectively functioning financial intelligence unit; (5) establishing suspicious transaction reporting requirements; and (6) establishing and implementing an adequate AML/CFT supervisory and oversight program for all financial sectors.

## **Corruption and Government Transparency - Report by Global Security**

### **Political Climate**

In 2003, a United States-led coalition invaded Iraq and led to the ousting of President Saddam Hussein. In October 2005, Iraqis approved a constitution in a national referendum and, subsequently, pursuant to this document, elected a Council of Representatives (CR). Iraq held parliamentary elections in March 2010, and after a nine-month long deadlock the CR approved the new government in December 2010. International observers claimed there was no widespread fraud involved in the elections, according to a March 2010 article by The New York Times. Despite this, Freedom House 2013 reports that political participation and decision-making in the country remain seriously impaired by sectarian and insurgent violence, widespread corruption, and the influence of foreign powers.

The high incidence of corruption in Iraq emanates from different circumstances, among them the legacy of the Saddam Hussein regime, according to the Bertelsmann Foundation 2012. The Iraqi government has attempted to fight the high levels of corruption by establishing a number of control and anti-corruption institutions. In 2004, the main anti-corruption agency, the Commission of Integrity (COI), was established, charged with preventing and investigating cases of corruption in all ministries and other units of the government. While the COI remains undeveloped as an institution, especially in the provinces, it has steadily increased the number of corruption-related arrests. However, most sources, including the US Department of State 2012, emphasise that Iraq's anti-corruption institutions such as the COI remain fragmented, and their cooperation is hampered by a lack of consensus about their role, partially due to the lack of enforcement of relevant legislation, as well as insufficient political will to fight corruption. Most importantly, the COI's work is often disrupted through political interference. For example, the US Department of State 2012 reports that Iraqi political parties have on a number of occasions attempted to influence the COI prosecutions of high-level figures. Moreover, it is not uncommon for Iraqi ministers to stall major corruption investigations, for instance, by failing to provide information or not complying with requests for officials to appear in court. This is due to Article 136(b) of the Iraqi

Criminal Procedures Code, which allows ministers to shield ministry officials from work-related prosecution for corrupt acts. As a result, cases are generally brought against low- and mid-ranking officials. According to the COI, more than one thousand officials were found guilty of corruption, and the cases of corruption and misappropriation of funds investigated by the commission totalled up to USD 1.1 billion during 2012. Iraq signed and ratified the United Nations Convention against Corruption (UNCAC) in March 2008.

According to the US Department of State 2012, although the Iraqi law provides criminal penalties for official corruption, the government has not implemented the law effectively. According to Freedom House 2013 and Bertelsmann Foundation 2012, all levels of government are plagued by pervasive corruption, and a May 2011 article by Alwah informs that corruption has been especially pervasive since the invasion of 2003, partly explained as a consequence to the subsequent unrest and absence of order. The Bertelsmann Foundation 2012 also notes that widespread corruption in the public sector has led to unqualified staffing even in sensitive positions. For instance, it was reported that the Iraqi Ministry of Interior admitted more than 9,000 civil servants with fake university degrees, including high-ranking staff in the Prime Minister's office. Public perception of government corruption and impunity continues to be strong, and large-scale corruption is believed to be a particular problem in the government. In line with this, Transparency International's Global Corruption Barometer 2010-2011 reveals that more than 63% of the surveyed households consider the government's efforts in fighting corruption as ineffective, while only 18% consider them to be effective. Furthermore, more than one-third of Iraqi households consider political parties to be 'extremely corrupt', while more than half believe that the parliament is extremely affected by corruption, making political parties and parliament the institutions perceived as most corruption-prone in Iraq. Most notably, well over half of the surveyed households report having paid a bribe in 2010, suggesting that petty corruption is highly institutionalised in the country.

### **Business and Corruption**

Investor interest in Iraq has strongly increased since 2008, following substantial improvements to security within the country. Accordingly, the Bertelsmann Foundation 2012 reports that enhanced security in the country has boosted investments in the oil sector and in infrastructure projects, and growth has also been recorded in wholesale and retail trade. However, problems such as corruption, red tape, and inefficiency continue to pose obstacles to foreign investors in the country, as stated by the US Department of State 2013. Results from the World Bank & IFC Enterprise Surveys 2011 show that 62% of the surveyed business executives cited corruption as a major constraint to doing business in Iraq, while 31% stated that gifts are expected in many different occasions when interacting with government officials, such as obtaining permits and licences, or securing a government contract. In addition, the survey result also shows that SMEs were in general, encountering more bribery incidences when compared to large enterprises, except for getting a construction permit, where 100% of the large enterprises stated that they are expected to give gifts.

Widespread corruption in the business sector is also highlighted in another business survey conducted by CIPE, titled '2011 Iraqi Business Survey', in which a majority of the surveyed companies pointed to corruption as the most serious factor hindering the growth of the business sector in Iraq, with 67% stating that more efforts need to be taken to combat corruption. An area in which companies perceive to be plagued by a high level of illicit

activity is government contracting. Overall, the above-mentioned sources emphasise that corruption remains endemic and permeates through all levels of government and society, including the private sector. Despite the yearlong political vacuum in 2010 during the government-formation process, the Iraqi government has publicly announced as well as implemented measures showing its commitment to attract and improve the Iraqi investment climate, according to the US Department of State 2013.

According to the Bertelsmann Foundation 2010 report, many Iraqi companies operate informally, without registration, due to the unfavourable regulatory environment. The implementation of 2006 Investment Law has been slow; as a result, investors continue to face a great number of constraints, most notably corruption, when operating in the country. Iraqi public procurement is allegedly stained with corrupt practices, and there are credible reports of bribery, kickbacks, and awards to companies connected to political leaders, according to the US Department of State 2013. In addition, investors may come under pressure to take on well-connected local partners to avoid bureaucratic hurdles connected to procurement and to doing business in general. An environment of pervasive corruption and lack of transparency in procurement processes could potentially result in negative consequences for both the cost and quality of public services, despite the fact that government tender processes have been reformed to enhance transparency. Given this environment, companies are strongly recommended to develop, implement and strengthen integrity systems, and to conduct extensive due diligence before committing funds or when already doing business in Iraq. In addition, companies are recommended to use a specialised public procurement due diligence tool in order to mitigate corruption risks related to public procurement in Iraq.

### **Regulatory Environment**

In line with its positive stance towards investment, Iraq has made efforts to improve its regulatory environment. To facilitate foreign investment, the government has created one-stop shops under the aegis of the National Investment Commission to minimise and accelerate cumbersome bureaucratic procedures. According to the Bertelsmann Foundation 2012, the Commission has had some success in bringing foreign direct investment to Iraq, but regulatory procedures remain non-transparent and cumbersome. According to the report, Iraq's regulatory environment is particularly discouraging for SMEs and acts as a strong deterrent to their establishment. Generally, a lack of regulations, inconsistent and discretionary rule implementation, conflict of interests between public servants and private investors, corruption, and insufficient progress in strengthening regulatory institutions represent major hurdles to investments and private businesses. Various sources such as Global Integrity 2008 and the Bertelsmann Foundation 2012 indicate that the regulatory situation in Iraq could be linked to so-called structural constraints; namely, a friendly and efficient regulatory environment in Iraq is not an option as long as the country's governing institutions and basic administrative structures remain weak and corrupt. The same report further notes that these institutions are plagued by nepotism and politically motivated appointments which further hamper their efficiency and credibility. Also the US Department of State 2013 states that the Iraqi government is still too weak to enforce most regulations, but the government has implemented some reforms aimed at improving the regulatory climate, including issuing regulations intended to ease access to land for foreign investors.

According to the World Bank & IFC Doing Business 2013, Iraq's excessive bureaucratic red tape continues to be a major constraint on the competitiveness of the economy and deters

investors. Also the US Department of State 2013 pinpoints that the government's efforts to increase transparency in the regulatory system are still in their infancy, as the Iraqi administration remains opaque and difficult to navigate, and obtaining routine permits can be difficult. Similarly, Doing Business 2013 reveals that starting a company in Iraq continues to be extremely challenging, taking an average of 74 days and 10 procedures. In addition, Iraq is reported to be among the most difficult countries in the world to conduct business in relation to closing a company and trading across borders, in terms of both time and number of procedures. In contrast, there have been significant improvements in relation to the time and number of procedures required to register property in Iraq, thus painting a brighter picture of the regulatory environment.

While the law of domestic arbitration is fairly well developed in Iraq, international arbitration is not sufficiently supported by Iraqi law. Iraq is a signatory to the League of Arab States Convention on Commercial Arbitration and the Riyadh Convention on Judicial Cooperation, but has not yet signed or adopted the New York Convention of 1958 and is not a party to the International Centre for the Settlement of Investment Disputes (ICSID). Although dispute resolution is provided by Iraqi law, the lack of implementation of regulation makes application of the law uncertain in practice, according to the US Department of State 2013. Moreover, the report alleges that dispute resolution mechanisms in Iraq are non-transparent. Foreign companies should note that even though business agreements may contain general provisions on access to arbitration and dispute settlement, the Iraqi government's ability and willingness to enforce them remains unknown. To improve the regulatory and investment environment in Iraq, the government has created a special commercial court in Baghdad for disputes involving foreign investors, and plans to create three more in Basrah, Mosul, and Karbala. In addition, the government has established the First Commercial Court, a court of specialised jurisdiction for disputes involving foreign investors. The court has jurisdiction only over cases involving a foreign party in Baghdad province.

## Section 3 - Economy

An improving security environment and foreign investment are helping to spur economic activity, particularly in the energy, construction, and retail sectors. Broader economic development, long-term fiscal health, and sustained improvements in the overall standard of living still depend on the central government passing major policy reforms. Iraq's largely state-run economy is dominated by the oil sector, which provides more than 90% of government revenue and 80% of foreign exchange earnings. Iraq in 2012 boosted oil exports to a 30-year high of 2.6 million barrels per day, a significant increase from Iraq's average of 2.2 million in 2011. Government revenues increased as global oil prices remained persistently high for much of 2012. Iraq's contracts with major oil companies have the potential to further expand oil exports and revenues, but Iraq will need to make significant upgrades to its oil processing, pipeline, and export infrastructure to enable these deals to reach their economic potential. The Iraqi Kurdistan Region's (IKR) autonomous Kurdistan Regional Government (KRG) passed its own oil law in 2007, and has directly signed about 50 contracts to develop IKR energy reserves. The federal government has disputed the legal authority of the KRG to conclude most of these contracts, some of which are also in areas with unresolved administrative boundaries in dispute between the federal and regional government. Iraq is making slow progress enacting laws and developing the institutions needed to implement economic policy, and political reforms are still needed to assuage investors' concerns regarding the uncertain business climate, which may have been harmed by the November 2012 standoff between Baghdad and Erbil and the removal of the Central Bank Governor in October 2012. The government of Iraq is eager to attract additional foreign direct investment, but it faces a number of obstacles including a tenuous political system and concerns about security and societal stability. Rampant corruption, outdated infrastructure, insufficient essential services, skilled labor shortages, and antiquated commercial laws stifle investment and continue to constrain growth of private, nonoil sectors. Iraq is considering a package of laws to establish a modern legal framework for the oil sector and a mechanism to equitably divide oil revenues within the nation, although these reforms are still under contentious and sporadic negotiation. Under the Iraqi Constitution, some competencies relevant to the overall investment climate are either shared by the federal government and the regions or are devolved entirely to the regions. Investment in the IKR operates within the framework of the Kurdistan Region Investment Law (Law 4 of 2006) and the Kurdistan Board of Investment, which is designed to provide incentives to help economic development in areas under the authority of the KRG. Inflation has remained under control since 2006 as security improved. However, Iraqi leaders remain hard pressed to translate macroeconomic gains into an improved standard of living for the Iraqi populace. Unemployment remains a problem throughout the country despite a bloated public sector. Encouraging private enterprise through deregulation would make it easier for Iraqi citizens and foreign investors to start new businesses. Rooting out corruption and implementing reforms - such as restructuring banks and developing the private sector - would be important steps in this direction.

### **Agriculture - products:**

wheat, barley, rice, vegetables, dates, cotton; cattle, sheep, poultry

**Industries:**

petroleum, chemicals, textiles, leather, construction materials, food processing, fertilizer, metal fabrication/processing

**Exports - commodities:**

crude oil 84%, crude materials excluding fuels, food and live animals

**Exports - partners:**

US 21.4%, India 21.1%, China 13.8%, South Korea 11.2%, Canada 4.8%, Italy 4.5%, Spain 4.3% (2012)

**Imports - commodities:**

food, medicine, manufactures

**Imports - partners:**

Turkey 27.8%, Syria 15.9%, China 12.6%, US 5.2%, South Korea 4.8% (2012)

## Banking

After many years of war and sanctions the banking system is still weak and requiring modernisation, consolidation and a complete change of it's business model.

The banking system is dominated by two government two banks, the Bank of Mesopotamia and Rasheed Bank. Some foreign banks are beginning to open branches in Iraq, especially from other middle eastern countries.

## Stock Exchange

The Iraq Stock Exchange (ISX) was established in 2004. The ISX is financially and administratively independent from the Iraqi government including the Ministry of Finance. It is organized as a non-profit entity that is owned by its members, the Brokers. It is regulated by the Iraq Securities Commission.

### Executive Summary

Investors in Iraq face both tremendous opportunities and significant challenges. The Government of Iraq (GOI) has publicly stated its commitment to attract foreign investment and plans to invest \$357 billion in energy, building and services, agriculture, education, transportation, and communications sector projects under its five-year National Development Plan. In 2013 the Iraqi economy grew by 4.2% and investment expenditures in oil production reached \$20 billion. Inward FDI grossed \$2.5 billion in 2012. Real estate is the largest non-oil area of foreign investment in Iraq.

The World Bank ranked Iraq 151 out of 189 economies for “ease of doing business.” Potential investors should prepare to face significant security costs, to navigate cumbersome and confusing bureaucratic procedures, and to expect long payment delays on some GOI contracts. Corruption, delays in customs, unreliable dispute resolution mechanisms, electricity shortages, and lack of access to financing are also common complaints from investors. Internal GOI regulations at times impose unpublicized requirements or procedures that create additional burdens for investors. The GOI currently operates over 192 state-owned enterprises, a legacy of decades of oil-dependent statist economic policy. Insurgent groups, including the Islamic State of Iraq and the Levant, an al-Qa’ida offshoot, are increasingly active throughout Iraq. Sectarian and terrorist violence has increased since the beginning of 2013 in Iraq, most notably in the provinces of Baghdad, Ninewa, Salah ad Din, Anbar, and Diyala.

The 2006 National Investment Law (NIL) provides a baseline for a modern legal structure to protect foreign and domestic investors in addition to providing investment incentives. The NIL allows both domestic and foreign investors to qualify for incentives equally. A 2009 amendment to the NIL, followed by 2010 implementing regulations, allows for limited foreign ownership of land solely for the purpose of developing residential real estate projects. The lack of clear and definitive implementing regulations for the NIL and the 2009 amendment remains a source of delay and confusion in the approval of investment projects. Under the NIL, the National Investment Commission and the Provincial Investment Commissions are designed to be “one-stop shops” to facilitate investment. However, Investment Commissions operate without clear regulations and standard operating procedures. A new amendment to the NIL is currently under consideration by the Shura Council, which vets legislation before it is considered by parliament.

Under the Iraqi Constitution, some competencies relevant to the overall investment climate are either shared by the federal government and the regions or are devolved entirely to the regions. Investment in the Iraqi Kurdistan Region (IKR) operates within the framework of the 2006 Kurdistan Region Investment Law and the Kurdistan Board of Investment. Investors in the IKR face many of the same challenges as investors elsewhere in Iraq, including corruption, red tape, and inefficiencies, but the business-friendly investor law and generally stable security situation continue to attract foreign businesses.

The United States government and the GOI are seeking to address impediments to trade and investment through bilateral economic dialogue mechanisms provided under the U.S.-Iraq Strategic Framework Agreement and the Trade and Investment Framework Agreement. The

bilateral Investment Incentive Agreement entered into force in 2013, and numerous programs geared towards creating an enabling environment for investment are ongoing.

### **1. Openness To, and Restrictions Upon, Foreign Investment**

The Government of Iraq has publicly stated its commitment to attract foreign investment and has taken several steps to improve Iraq's investment climate. Owing to increased petroleum exports, Iraq's economy grew by approximately 4.2% in 2013 according to the IMF. The GOI announced a 2013 – 2017 National Development Plan, which calls for spending \$357 billion on projects in the energy, building and services, agriculture, education, transportation, and communications sectors. However, the GOI's preference for funding investment entirely from current budget may constrain investment in public infrastructure.

The NIL, originally passed in 2006, provides a baseline for a modern legal structure to protect foreign and domestic investors in addition to providing tax and other incentives. (A copy of the National Investment Law can be obtained from the National Investment Commission website – [investpromo.gov.iq](http://investpromo.gov.iq).) The GOI has continued to work on revising the investment law to create a better investment climate. A 2009 amendment to the NIL sought to bring greater clarity to investment regulations and the GOI is currently considering further amendments to the 2006 NIL. A new amendment to the NIL is currently under consideration by the Shura Council, which vets legislation before it is considered by the Council of Representatives.

Formed in accordance with the NIL of 2006, the National Investment Commission (NIC) and the Provincial Investment Commissions are designed to be "one-stop shops" that can provide information, sign contracts, and facilitate registration for new foreign and domestic investors. The NIC offers investor facilitation services on transactions including work permit applications, customs procedures, and business registration. Investors can request these services through the NIC website. However, the Investment Commission struggles to operate amidst unclear lines of authority, budget restrictions, and the absence of regulations and standard operating procedures, which are compounded by a lack of staff familiar with prevailing practices in international business. Some investment projects approved by the NIC are waiting to break ground due to an overall lack of legislative clarity regarding the NIL and mechanisms to ensure interagency coordination.

Under the Iraqi Constitution, some competencies relevant to the overall investment climate are either shared by the federal government and the regions or are devolved entirely to the regions. Currently, the Iraqi Kurdistan Region, comprising three northern provinces, is the only area of Iraq with a designation as a region. Investment in the IKR operates within the framework of the Kurdistan Region Investment Law (KRIL) of 2006 and the Kurdistan Board of Investment (KBOI), which is designed to provide incentives to help economic development in areas under the authority of the Kurdistan Regional Government (KRG). In the sections that follow, this statement takes note of important differences between the investment climate in the IKR and rest of Iraq.

In 2008, a "Provincial Powers Law" (Law Number 21) was adopted to decentralize governance by delineating substantial powers for provincial (governorate) councils. Under the 2008 law, the provincial councils enact provincial legislation, regulations, and procedures, and choose the province's governor and two deputy governors. Governors' offices draft provincial budgets and implement federal policies. June 2013 amendments to this law include an increase in the "petrodollar" allocations for oil and gas-producing and oil-

refining provinces. As a consequence of this law and subsequent amendments, oil and gas-producing and refining provinces administer larger budgets.

The NIL does not apply to investment in the IKR. The KRIL provides specific incentives for companies to develop strategic investment projects, which the KBOI evaluates and licenses based on the project’s perceived economic and environmental impacts. If approved, a company is awarded an investment license that could include free land, a ten-year exemption from corporate taxes, and a five-year exemption from customs duties. (A copy of the IKR Investment Law can be obtained from the KBOI website – <http://www.kurdistaninvestment.org/docs/Investment%20Law.pdf> ). The KBOI has approved over 500 projects since 2006. Investors who do not wish to receive the incentives for their projects under the investment law may invest without applying for the investment license by working directly with the relevant sector’s ministry.

The overall investment climate in Iraq is challenging, especially for small- and medium-sized firms and investors. Prospective investors should be prepared to face significant security costs, cumbersome and confusing procedures, long payment delays on some GOI contracts, and dispute resolution mechanisms that are neither reliable nor transparent. Investors remain concerned about security, regulatory hindrances, difficulties working out financing arrangements, a lack of skilled workers, and other practical barriers to doing business ranging from bureaucratic red tape to electricity shortages and a weak banking system. Long delays at customs are another common complaint of businesses. Corruption is widespread, and the legacy of central planning and inefficient state owned enterprises continues to inhibit economic development. These impediments are a result of decades of oil-driven statist economic policy, followed by years of conflict and instability.

Investors in the IKR face many of the same challenges as investors elsewhere in Iraq, including corruption, red tape, difficulty securing land title, and inefficiency, but the KRIL’s progressive aspects and a more stable security situation continue to attract foreign investors. Each province within the IKR has its own specific investment requirements, and prospective investors should not assume that the particular province’s requirements are identical to those of the IKR as a whole. Foreign and domestic investment in the IKR has been rising annually for the last six years, with over 662 major projects valued at almost \$38 billion awarded under the KRIL since 2006 and \$12.4 billion in investment projects awarded in 2013 alone. The KRIL applies only to projects outside the oil and gas sectors.

Measure	Year	Rank or value	Website Address
TI Corruption Perceptions index	2013	(171 of 177)	<a href="http://cpi.transparency.org/cpi2013/results/">http://cpi.transparency.org/cpi2013/results/</a>
Heritage Foundation’s Economic Freedom index	2013	(N/A of 177)	<a href="http://www.heritage.org/index/ranking">http://www.heritage.org/index/ranking</a>

		Iraq is not ranked	
World Bank's Doing Business Report "Ease of Doing Business"	2014	(151 of 189)	<a href="http://doingbusiness.org/rankings">http://doingbusiness.org/rankings</a>
Global Innovation Index	2013	(NA of 142) Iraq is not ranked	<a href="http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener">http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener</a>
World Bank GNI per capita	2012	USD 5,870	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">http://data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

The United States government and the GOI are seeking to address impediments to trade and investment through the bilateral dialogue mechanism provided under the U.S.-Iraq Strategic Framework Agreement, which established Joint Coordination Committees (JCCs) in a number of areas of mutual interest. The economic-related JCCs are 1) Energy; 2) Services, Technology, Environment and Transportation; and 3) Trade and Finance. The Energy JCC last met in February 2014; the Services, Technology, Environment and Transportation JCC last met in September 2013; and the Trade and Finance JCC met for the first time in March 2013. In addition, the USG and the GOI held the inaugural Trade and Investment Framework Agreement Council meeting in March 2014. The USG continues to assist the GOI through many capacity-building programs intended to strengthen private sector development and create an enabling environment for investment. Other governments and international organizations also manage numerous programs in support of private sector development in Iraq, which cumulatively are laying a foundation for future growth.

Most investment in Iraq has gone to energy related projects. Article 111 of the Constitution states that Iraq's oil belongs to the people of Iraq, therefore most foreign companies operate through technical services contracts rather than production sharing agreements. Iraq has 143 billion barrels of proven oil reserves, the second-largest in OPEC, and oil exports in February 2014 reached the highest level in 34 years. Oil sector investors observe that, despite growing production, significant infrastructure deficiencies in storage and pumping capacity limit export potential, though the GOI is trying to address these restraints.

The GOI has held four oil and gas licensing ("bid") rounds since 2009, in which foreign firms were allowed to bid for contracts to develop a significant portion of Iraq's oil and gas resources. A planned fifth bid round (for gas exploration fields only) is expected in late 2014. Iraqi production of crude oil should increase dramatically over the next ten years, although

internal infrastructure constraints, security challenges, and other factors may limit the full realization of Iraq's potential. Iraq's first and second oil and gas licensing rounds in 2009 and 2010 were widely regarded as transparent and competitive. The third and fourth rounds in 2011 and 2012, however, attracted fewer bidders, and the government has publicly recognized the need to offer better terms in future rounds but has not specified those revised terms. The oil and gas contracts awarded to date are expected to bring in billions of dollars of investment in oil and gas-related industries and spur growth in the foreign and domestic private sector in Iraq.

Since passing its own Kurdistan Oil and Gas Law of 2007, the KRG has directly signed 86 contracts to develop IKR energy reserves within 57 different oil exploration blocks. The federal government has disputed the legal authority of the KRG to conclude most of these contracts, some of which are in locations with administrative boundaries in dispute between the federal and regional government. The federal government has been unable to agree on comprehensive hydrocarbons legislation to address these issues. Signing contracts for oil exploration or production with any region of Iraq, without approval from federal Iraqi authorities, exposes companies to potential legal and financial risks.

## **2. Conversion and Transfer Policies**

The currency of Iraq is the Dinar (IQD - sometimes referred to as the New Iraqi Dinar). Iraqi authorities confirm that in practice there are no restrictions on current and capital transactions involving currency exchange as long as underlying transactions are supported by valid documentation. The International Monetary Fund's annual publication on Exchange Arrangements and Restrictions states "restrictions on capital transactions are not enforced; however, documentation and reporting requirements apply." The NIL also contains provisions that allow investors to maintain accounts at banks licensed to operate in Iraq and transfer capital inside or outside of the country.

The Government of Iraq's monetary policy since 2003 has focused on maintaining price stability primarily by maintaining a de facto fixed exchange rate for the IQD against the U.S. dollar. Banks may engage in spot transactions in any currency but are not allowed to engage in forward transactions in Iraqi Dinar for speculative purposes. There are no taxes or subsidies on purchases or sales of foreign exchange. Improved security has allowed for an increased supply of goods and services which, along with the Central Bank of Iraq's (CBI) monetary and exchange rate policies, have continued to help temper inflation. The CBI has brought inflation down from a peak of more than 70 percent in 2006 to five percent in 2013, primarily through appreciating the currency. The CBI has held the official exchange rate at close to 1,166 IQD/1.00 USD since January 2012.

## **3. Expropriation and Compensation**

Article 23 of the Iraqi Constitution prohibits expropriation in Iraq, unless it is "for the purpose of public benefit in return for just compensation." The constitutional provision further stipulates that this provision shall be regulated by law, but specific legislation has yet to be considered. Article 12 of the NIL also guarantees "non-seizure or nationalization of the investment project covered by the provisions of this law in whole or in part, except for a project on which a final judicial judgment was issued."

## **4. Dispute Settlement**

During decades of war and sanctions, Iraqi courts became isolated from developments in international commercial transactions. In recent years, however, trade with foreign parties has played a more significant role in Iraq's economic growth, and Iraqi courts are beginning to see a significant increase in complex commercial transactions.

Iraq is a signatory to the League of Arab States Convention on Commercial Arbitration (1987) and the Riyadh Convention on Judicial Cooperation (1983). Iraq passed enacting legislation to join the International Center for Settlement of Investment Dispute (ICSID) Convention in July 2013. If Iraq signs the Convention and deposits the ratification document, ICSID will provide a dispute resolution mechanism for foreign investors with an enforcement process shielded from review by domestic courts. Iraq is considering, but has not yet signed or adopted, the two most important legal instruments for international commercial arbitration: The United Nations New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (commonly called the New York Convention) and the attendant rules and procedures established by the UN Commission on International Trade Law (UNCITRAL).

The Iraqi judiciary has specifically requested specialized training for its trial and appellate court judges in the area of international sales contracts, commercial court procedure and litigation, international arbitration, intellectual property, and documentary credit to ensure consistency and predictability for foreign companies in the Iraqi legal environment. The U.S. Department of Commerce's Commercial Law Development Program (CLDP) is conducting a multi-phase judicial development effort to support Iraq's commercial courts, which has featured ten in-depth workshops for nearly 100 judges from across Iraq's different provinces in all of the requested program areas. CLDP's workshops are also used as the Iraqi judiciary's primary tool to select and prepare judges for the country's new commercial courts. CLDP will continue to develop and implement workshops on similar topics and new topics that are identified based on the needs of the Iraqi courts.

In November 2010, Iraq's Supreme Judicial Council established the First Commercial Court of Iraq, a court of specialized jurisdiction for disputes involving foreign investors as part of a national strategy to improve Iraq's investment climate. This court began hearing cases in January 2011. It has jurisdiction only over cases involving a foreign party in Baghdad province. The court has received over 500 cases since its establishment. Over 350 of these cases have been adjudicated, many in as few as 30 days since the judges are able to give their full attention to these cases. This record stands in stark contrast to general jurisdiction trial courts that receive up to 30 cases per day and do not give priority to commercial cases, thereby causing commercial cases to be delayed for months or years before a resolution is achieved. Iraqi judicial officials have since created two additional commercial courts in Najaf and Basrah. Given that all of Iraq's ministries are located in the capital, and the vast majority of commercial cases involve a foreign party and an Iraqi government agency, the Baghdad Commercial Court reviews far more commercial cases than the general jurisdiction courts in the surrounding provinces. Please see also discussion of the Westinghouse Case decided in 2012 under Protection of Intellectual Property Rights and the Fincantieri case discussed below. In the IKR, commercial disputes are handled through the civil court system.

Iraq's domestic law on arbitration is outdated. However, with support from State Department and CLDP, the Iraqi government interagency is working to develop a domestic law based on the UNCITRAL model law. If enacted, the law would modernize Iraq's domestic law provisions on international arbitration and provide assurances to companies and investors that arbitration agreements and awards would be enforced in Iraqi courts. Domestic arbitration is

currently provided for in Articles 251-276 of the Iraqi Civil Procedure Code, which govern the enforcement of arbitration agreements and awards. However, it was applied only to domestic arbitration until a 2012 decision in the *Ministry of Finance v. Fincantieri* case, which was issued by the Baghdad Commercial Court and affirmed by the Court of Cassation. The ruling allows courts to apply the Civil Procedure Code to international arbitration agreements and awards instead of forcing parties to waive their contractual rights to resolve their disputes outside of Iraqi courts by not recognizing international arbitration. The Baghdad Commercial Court incorporated international principles embodied in the New York Convention and the UNCITRAL model law to determine the existence of an arbitration agreement, due to ambiguity in Iraq's Civil Procedure Code. However, as a civil law jurisdiction, Iraqi courts are still limited to the provisions of the Civil Procedure Code which, for example, permit judges to review the merits of an arbitrated case, unlike modern arbitration regimes. Therefore, these court decisions serve only as temporary measures until such time as Iraq passes the necessary domestic law and accedes to the New York Convention.

Article 27 of the NIL, which details the rights of Iraqis and foreigners with respect to Iraqi law, refers to dispute resolution. However, the absence of implementing regulation makes application of the law uncertain in practice. In the IKR, if the KBOI determines that investors are using land awarded under investment licenses for purposes other than those outlined in the license, it can impose fines and potentially confiscate the land. Article 17 of the region's investment law outlines an investor's arbitration rights.

## **5. Performance Requirements and Investment Incentives**

The NIL allows both domestic and foreign investors to qualify for incentives equally. It also allows for investors to repatriate capital brought into Iraq, along with its proceeds, in accordance with the law. Foreign investors are able to trade in shares and securities listed on the Iraqi Stock Exchange. In principle, the law also allows investors who have obtained an investment license to enjoy exemptions from taxes and fees for a period of ten years. Hotels, tourist institutions, hospitals, health institutions, rehabilitation centers, and scientific organizations also are granted additional exemptions from duties and taxes on their imports of furniture and other furnishings. The exemption increases to fifteen years if Iraqi investors own more than 50 percent of the project.

Companies pay a profit tax in the amount of 15%. The Ministry of Finance General Commission for Taxes can exempt foreign and domestic companies from paying profit tax if they have contracts with the GOI to execute projects within the National Investment Plan that is prepared annually by the Ministry of Planning. The GOI ministries overseeing investment projects are responsible for providing updates for a list of investment contracts that the Tax Commission maintains. Companies (foreign and domestic) that have registered businesses in order to execute contracts outside the National Investment Plan do not receive tax exemptions. However, in some exceptions GOI entities have negotiated partial or short-term tax exemption for companies as part of a project contract. It is highly recommended that any entity seeking Government of Iraq tax exemptions should discuss and document those discussions prior to any contract commitments.

Petroleum contracts signed by the Ministry of Oil are not included on this list. A profit tax rate of 35% is included in GOI petroleum contracts and applies to each consortium and its partners. Contract language was ratified by Council of Representatives and supersedes the Tax Code. Secondary contracts issued by consortiums holding primary petroleum contracts are treated differently. A consortium is required to withhold 7% from secondary contracts and

remit to the GOI. Defining what activities constitute 'petroleum activities' (and thus subject to 35% vs. 15% tax rate) is a gray area subject to interpretation. Any business or individual considering doing business in Iraq should obtain competent Iraq tax advice from an accountant or tax attorney. Tax treatment by the GOI for petroleum contracts issued by the Kurdistan Regional Government is unknown since those contracts have not been ratified by the Council of Representatives.

Under the IKR's investment law, foreign and national investors are treated equally and are eligible for the same benefits. Foreign investors may choose to invest in the IKR with or without local partners, and full repatriation of profits is allowed. While investors have the right to employ foreign employees in their projects, priority is given to awarding projects that employ a high share of local staff and ensure a high degree of knowledge transfer. Additionally, the law allows an investor to transfer his investment totally or partially to another foreign investor with the approval of the KBOI.

## **6. Right to Private Ownership and Establishment**

Foreign investors in Iraq are able to own enterprises as well as investment portfolios in shares and securities, and in specified circumstances they can obtain or lease land. Prior to the 2009 amendment, the NIL did not allow foreigners to own land. The amendment allows foreign interests to own land in Iraq for the express purpose of developing residential real estate projects. Additionally, the amendment sought to clarify the land use aspect of the NIL, in which foreign investors are permitted to rent or lease land for up to fifty years (renewable).

In December 2010, the GOI approved implementing regulations to this amendment, in the form of a prime ministerial decree (regulation seven). The regulations allow investors to obtain land for residential housing projects free of charge on the condition that land value is excluded from the sales price. The decree requires the Department of Real Estate to revoke the land registration from domestic or foreign investors who do not carry out the obligations of their agreement.

For non-residential, commercial investment projects – including agriculture, services, tourism, commercial, and industrial projects – the decree allows for leasing and allocation of government land, but not ownership. The terms and duration of these leases will vary, depending on the type of project and negotiations between the parties. Land for non-residential projects will be leased without an initial down payment, and compensation will be either a percentage of pre-tax revenue or a specified percentage of the "rent allowance" for the land – a figure determined by a formula specified in an earlier law. These smaller percentages of the "rent allowance" rate range from one to 25 percent and amount to significant rent reductions for leased land, as specified by type of investment project in the decree. Iraqi authorities are still in the process of interpreting these regulations and applying them to specific licensees.

In the IKR, foreign land ownership is allowed under Law Number 4 of 2006. The KBOI initially awarded more than half of all investment licenses to housing projects, though the lack of a clear sector strategy and speculation in housing properties prompted the board to freeze all new investment licenses issued in the sector in mid-2012. Investment licenses that include land ownership are now more likely to be issued in the KBOI's priority sector development areas of agriculture, industry and tourism. However, issues regarding timely transfer of land title have sometimes slowed projects.

The Companies Law (Law Number 21) of 1997 and regulation Number 5 of 1989 provide the legal framework for foreign investors to establish or participate in Iraqi companies. However, prior approvals from competent Iraqi government entities are required in advance for certain sectors, such as oil, defense, insurance, and banking. For example, the establishment of a company engaged in oil services will require the prior approval of the Ministry of Oil. The NIC has an office dedicated to facilitating and expediting permits and licenses for foreign invested businesses. The Companies Law applies in the Iraqi Kurdistan Region, although company registration procedures may differ.

Foreign limited liability companies (LLC), branch, and representatives offices are currently considered the most attractive legal forms for foreign investors to set up a presence in Iraq. The timeline to receive the Ministry of Interior's approval to establish an LLC is estimated at three to six months for most foreign investors, although in certain cases it takes longer. Additional clearances are required to appoint foreign nationals as managers of LLCs. The Ministry of Trade's (MOT's) Company Registration Office issues the registration certificate following this approval. In the IKR, registering an LLC is estimated to take two to four weeks.

Branch offices may only be opened by companies that have a government contract or a contract with a prime contractor of the Iraqi government, except in the IKR, where the Kurdistan Regional Government Company Registration Office does not require a government contract for the registration of a branch company. Representative offices may engage in business development and marketing, but they cannot engage in other business activities in Iraq. If a representative office is awarded a contract, the entity can then register as a branch office. It takes approximately one to two months to register a branch or representative office.

With support from USAID's Iraq Administrative Reform Project (also known as Tarabot), the Prime Minister's Advisory Council's Iraqi Solutions for Regulatory and Administrative Reform (ISRAR) program shortened the registration process for domestic businesses by at least 15 days in 2013. Some examples of reforms carried out during this process include eliminating site visits and verification of lease agreements from the registration process; and opening a bank branch in MOT's Company Registration Office to facilitate payment and deposits of initial capital. In August 2013, MOT also announced the launch of a "one stop shop" for company registration in cooperation with the Federation of Chambers of Commerce. USAID's Tarabot project worked with the MOT and the Federation to allow businesses to reserve a company name at a single location. They also published an online database (<http://Iraq-trade-names.com>) to allow businesses to check if a given company name is already in use. Identifying and reserving a trade name was previously a long and arduous process. ISRAR and Tarabot are now planning to speed up international company registration in response to a request by the GOI.

## **7. Protection of Property Rights**

Legal structures that protect intellectual property (IP) rights in Iraq are inadequate, and infringements are common. There is a significant presence of counterfeit products in the Iraqi marketplace. According to a 2012 study by the Business Software Alliance on self-reported piracy, 86% of Iraq's software was unlicensed in 2011. Both private and state-owned enterprises have reported losing tenders to competitors who stole their blueprints. These complaints pertained to tenders in the oil, housing, and construction sectors.

The GOI's ability to enforce IP protections remains weak and IP responsibilities are currently spread across several ministries. The Ministry of Culture handles copyrights and the Ministry of Industry and Minerals houses the office that registers trademarks. The Central Organization on Standards and Quality Control (COSQC), an agency within the Ministry of Planning, handles patent registry and the industrial design registry. The Ministry of Planning's Patent Registry Office has occasionally included Arab League Boycott questionnaires in the patent registry application. U.S. companies are prohibited by U.S. law from completing Arab League Boycott questionnaires.

A draft IP law to comply with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) has been stalled in the legislative review process since mid-2007. The draft law covers patents, trademarks, and copyrights, would help consolidate IP protection functions into a "one-stop" IP office, and would offer adequate statutory IP protections if enacted and accompanied by strong implementing regulations.

The United States is continuing efforts to bolster understanding of IP rights and build GOI capacity to protect them. In June 2012, the Federal Court of Cassation, the highest civil court in Iraq, upheld a finding by the Baghdad Commercial Court that ruled in favor of U.S. firm Westinghouse in a trademark dispute, setting a positive precedent for IP protection in Iraq. The Commercial Court has jurisdiction over commercial disputes that involve at least one foreign party and disputes over various commerce-related issues including trade, real estate, banking, trademarks and intellectual property, transportation, and other areas. It was established in November 2010 under the Higher Judicial Council (HJC) with the assistance of the Commercial Law Development Program, which provided technical assistance and training to Iraqi judges who serve on the court.

Iraq is a signatory to several international intellectual property conventions and to regional or bilateral arrangements, which include: 1) the Paris Convention for the Protection of Industrial Property (1967 Act), ratified by Law Number 212 of 1975; 2) the World Intellectual Property Organizations (WIPO) Convention, ratified by Law Number 212 of 1975. Iraq became a member of the WIPO in January 1976; 3) the Arab Agreement for the Protection of Copyrights, ratified by Law No. 41 of 1985; and 4) the Arab Intellectual Property Rights Treaty (Law Number 41) of 1985.

A copy of a list of local lawyers can be obtained by emailing [BaghdadACS@state.gov](mailto:BaghdadACS@state.gov). Other questions regarding property rights can be sent to:

- [IraqInvestmentClimate@state.gov](mailto:IraqInvestmentClimate@state.gov)
- Office: +1-301-985-8841 x2134 *from the United States*
- Office: 0760-030-2134 *from Iraq*

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

## **8. Transparency of the Regulatory System**

The lack of clear and definitive implementing regulations for NIL and its amendment remains a source of delay and confusion in the approval of investment projects. Once fully

implemented, the law would establish a legal framework for investment. Potential investors, however, would likely still face laws, regulations, and administrative procedures that continue to make Iraq's overall regulatory environment relatively opaque. PICs have also been active in assisting regional investors. However, the NIC, PICs, and their staff often lack training and expertise and are still building their operations to serve as effective "one-stop shops" to ease investors' entrance into the Iraqi market.

The absence of other laws in areas of interest to foreign investors also creates ambiguity. Iraq's Legislative Action Plan for the Implementation of WTO Agreements – the legislative "road map" for Iraq's eventual WTO accession – requires the implementation of competition and consumer protection laws that are critical for leveling the business playing field. The Council of Representatives passed a Competition Law and a Consumer Protection Law in 2010; however, the Competition and Consumer Protection Commissions authorized by these laws have yet to be formed. Without these Commissions, investors do not have recourse against unfair business practices such as price-fixing by competitors, bid rigging, or abuse of dominant position in the market. In the IKR, the KRG adopted a Consumer Protection Law through its passage of Law Number 9 of 2010.

The way in which the Iraqi government promulgates regulations can be opaque and lend itself to arbitrary use. Regulations imposing duties on citizens or private businesses are required to be published in the official government gazette. However, there is no corresponding requirement for the publication of internal ministerial regulations. This loophole allows bureaucrats to create internal requirements, procedures, or other "turnstiles" with little or no oversight, which can result in additional burdens for investors and other businesspersons.

In the IKR, investors sometimes find it challenging to de-conflict seemingly opposing regulations from relevant stakeholder ministries and investment entities. The emergence of new regulations with little advance notice, as well as requirements related to the amount of investment guarantees, has also slowed projects. While the KRIL does not stipulate that a local partner is necessary to acquire an investment license, government officials sometimes encourage this practice.

## **9. Efficient Capital Markets and Portfolio Investment**

The Central Bank of Iraq (CBI) is responsible for conducting monetary policy in Iraq. The CBI was reorganized by Order Number 56 as a legal public entity possessing financial and administrative independence. The Iraqi banking system includes seven state-owned banks, with the three largest (Rafidain Bank, Rasheed Bank, and Trade Bank of Iraq) accounting for about 96 percent of banking sector assets. There are also 34 privately owned banks licensed by the CBI (see CBI's website <http://www.cbi.iq/index.php?pid=IraqFinancialInst>). Over 20 foreign banks either have licensed branches in Iraq or have strategic investments in Iraqi banks. Citibank and JP Morgan provide letters of credit through the Trade Bank of Iraq.

Although the volume of lending by privately-owned banks is growing, many privately-owned banks do more business providing wire transfers and other fee-based transaction services than lending. Businesses therefore largely self-finance or obtain credit from individuals in private transactions. Financial transfers from the government to provincial authorities or individuals, rather than business loans, represent the major activity of the state-owned banks. Iraq's economy remains primarily cash-based. USAID is seeking to finalize two agreements in

order to support bank lending in the private health care delivery sector and provide venture capital for small and medium enterprises.

The Trade Bank of Iraq (TBI) was established as an independent government entity under Order Number 20 in 2003. The TBI's main purpose is to provide financial and related services to facilitate import trade, particularly through letters of credit (LCs). In 2009, the ministry of Finance opened the government LC market by granting private banks permission to issue LCs below \$4 million in size. The ceiling was later raised to \$5 million. All government LCs are processed by the TBI which has stated that it transfers a number of LCs under \$5 million to private banks.

The NIL allows for foreign investors to exchange shares and securities listed in the Iraqi Stock Exchange (ISX). The NIL also allows foreign investors to form investment portfolios. According to press reports, foreign investors held \$5.6 billion in equities listed on Iraq's stock exchange as of early 2014. Automation of the ISX was completed in 2009, and by the end of 2010 all companies listed on the ISX were being traded electronically. In addition, a new securities law has largely completed the constitutional review process but has not yet been passed by the Iraqi government. Until the new law passes, an extension of previous regulations will secure the status of the Iraqi Securities Commission. The Erbil Stock Exchange announced its establishment in February 2010, but has delayed its opening until late 2014. The Erbil Stock Exchange plans to list companies from all regions of Iraq.

## **10. Competition from State-Owned Enterprises**

GOI ministries currently own and operate over 192 state-owned enterprises (SOEs), a legacy of the state planning system of Iraq's former regime. These firms employ over 800,000 Iraqis, many of whom are underemployed. As a result of years of sanctions and war, most of these SOEs suffer from underinvestment or actual physical damage. Many of them are not commercially viable due to bloated payrolls and obsolete equipment, although some have adapted and are producing goods for the domestic market. Because of their low productivity, Iraqi SOEs that work in sectors where there is significant foreign competition are losing market share. The degree to which SOEs compete with private companies varies by sector; SOEs face the most competition in consumer goods.

Law Number 22 of 1997 and the NIL provide the regulatory framework for the operations of SOEs and joint ventures between foreign companies and SOEs. Law 22 is complex, and several articles are ambiguous as to what SOEs may and may not do. Article 15.3 of Law 22 allows Iraqi SOEs to engage in partnership agreements or joint ventures with foreign companies; however, the lack of clarifying regulations has created difficulty in implementation. Ministries have faced challenges in reviewing partnership agreements without sufficient criteria to determine if the agreements would be effective or successful. When parent ministries wish to initiate a joint partnership for an SOE under their purview, they generally advertise the tender on their ministry's website. Joint partnerships are negotiated on a case by case basis and the minister's approval is required. The Ministry of Industry and Minerals (MIM), which oversees 80% of Iraq's SOEs, received approval from the Council of Ministers in 2013 to institute the following requirements for joint partnerships: 1) change the required minimum duration to three years; 2) add a requirement that the foreign company register a company office in Iraq; and 3) add a requirement that the foreign company participate in the production of goods.

According to the Prime Minister's Advisory Council, foreign companies have faced challenges in joint partnerships in cases when the GOI cut off subsidies to the SOE after partnerships were formed, the employment policies and salary decisions were dictated by the parent ministry, and gaps between the GOI's official policy and practices affected their bottom line. In addition, MIM has often required that the foreign investor pay all SOE employees' salary regardless of whether they are working on the agreed project.

GOI entities are required to give preferential treatment to SOEs under multiple GOI laws. A 2009 Council of Minister decision requires all Iraqi government agencies to procure goods from SOEs unless the SOE cannot fulfill the quality and quantity requirements of the tender. A Board of Supreme Audit decision requires government agencies to award SOEs tenders if the SOE's bid is no more than 10% higher than other bids. Furthermore, some GOI entities, including MIM, have also issued their own internal regulations requiring tenders to select Iraqi SOEs unless the SOE states that it cannot fulfill the order. Under Article 16 of the 2008 Regulations for Implementing Government Contracts (Law Number 1), SOEs and are exempt from bid bond and performance bond requirements. State-owned banks have provided SOEs with approximately \$11 billion in loans in order to finance salaries since 2003, although many SOEs that received these loans are unable to repay. SOEs also receive research and development subsidies. According to the Baghdad Commercial Court, more than 30% of cases are decided against Iraqi sovereign agencies.

Articles 20-25 of Law 22 specify the selection process of an SOE's board of directors. The law includes provisions to introduce a degree of autonomy. For example, it requires that the minister's sole appointment from outside the SOE receive the approval of an "Opinion Board." Nevertheless, in practice the majority of board members have close personal and political connections to the parent ministry's leadership. Article 25 of Law 22 also grants limited autonomy to SOE board of directors. SOEs are required to seek their parent ministry's approval for three categories of financial decisions and operation expansions, however in practice SOEs defer to the parent ministry for the vast majority of decisions. SOEs submit financial reports to their parent ministry's audit departments and the Board of Supreme Audit; however, the reports are not published and at times exclude salary expenses.

In 2010, the Prime Minister approved a national policy of corporatization of SOEs based on a "Road Map" derived from international best practices, but implementation has been slow. In 2012, the Ministry of Finance established an Asset Valuation Unit which was later expanded to become the Asset Valuation Department. However, the Department is still in development and is struggling to build its operational capacity. Approximately a dozen SOEs have been paired with private foreign consultants to make them commercially viable. Under this pilot project, SOEs are obligated to introduce the consultants' recommended changes. While the ultimate goal of this reform process is to partially or completely privatize SOEs, their fate will be decided on a case-by-case basis. The pilot project group includes SOEs in the construction, housing, and water resources sectors, and the SOEs were selected for their potential to become viable based on indicators such as payrolls that were less bloated than average. Approximately three public-private-partnerships have formed between MIM SOEs and foreign private companies, and negotiations are ongoing for three additional partnerships.

## **11. Corporate Social Responsibility**

The international oil companies active in Iraq are required to observe international best practices in corporate social responsibility as part of their contracts with the GOI. As

conditions improve, awareness of this area of concern is likely to increase beyond the oil sector.

In the IKR, oil companies are mandated in their production sharing contracts with the Kurdistan Regional Government to give back to the communities in which they work. Agreements require yearly payments, from which the KRG Ministry of Natural Resources then allocates funds for capacity-building projects.

## **12. Political Violence**

Violence and threats against U.S. citizens persist. U.S. citizens in Iraq remain at risk for kidnapping. Methods of attack in the past have included roadside improvised explosive devices (IEDs), including Explosively Formed Penetrators (EFPs), magnetic IEDs placed on vehicles, human and vehicle-borne IEDs, mines placed on or concealed near roads, mortars and rockets, and shootings using various direct-fire weapons. Baghdad International Airport has been struck by mortar rounds and rocket attacks. Numerous insurgent groups, including the Islamic State of Iraq and the Levant, an al-Qa'ida offshoot, are increasingly active throughout Iraq. Although Iraqi Security Forces (ISF) operations against these groups continue, terrorist activity persists in many areas of the country. Sectarian and terrorist violence has increased since the beginning of 2013 in Iraq, most notably in the provinces of Baghdad, Ninewa, Salah adDin, Anbar, and Diyala.

The U.S. government considers the potential threat to U.S. government personnel in Iraq to be serious enough to require them to live and work under strict security guidelines. All U.S. government employees under the authority of the U.S. Chief of Mission must follow strict safety and security procedures when traveling outside the Embassy. State Department guidance to U.S. businesses in Iraq advises the use of protective security details. Detailed security information is available at the U.S. Embassy website (<http://iraq.usembassy.gov>).

Some regions within Iraq have experienced fewer violent incidents than others in recent years, in particular the IKR. The security situation in the IKR, which includes the provinces of Sulymaniyah, Erbil, and Dohuk, has been more stable relative to the rest of Iraq in recent years, but threats remain. U.S. government personnel in northern Iraq are required to be accompanied by a protective security detail when traveling outside secure facilities.

U.S. citizens should avoid areas near the Syrian, Turkish, and Iranian borders in northern Iraq, which are especially dangerous and not always clearly defined. The Governments of Turkey and Iran continue to carry out military operations against insurgent groups in the mountain regions bordering Iraq. These operations have included troop movements and both aerial and artillery bombardments. Extensive unmarked minefields also remain along these borders. Border skirmishes with smugglers have become commonplace. The unrest in Syria has resulted in large numbers of people seeking refuge in the area. In 2009, three U.S. citizens were detained by Iranian authorities while hiking in the vicinity of the Iranian border in the IKR. The resources available to the U.S. Embassy to assist U.S. citizens who venture close to or cross the border with Iran are extremely limited. The Department of State discourages travel in close proximity to the Iranian border.

The Ministry of Interior stood up the General Department of Investment Protection in early 2014 to provide courtesy security services to investors. The department offers secure transportation from the airport and perimeter security services for companies that are pursuing or have obtained investment licenses through the National Investment Commission.

Companies can contact the National Investment Commission through their website to request these services.

### 13. Corruption

While large-scale investment opportunities exist in Iraq, particularly for sophisticated investors, corruption remains a significant impediment to conducting business, and investors can expect to contend with it in many forms. While the GOI has moved toward greater effectiveness in reducing opportunities for procurement corruption, credible reports of corruption in government procurement are widespread, with examples ranging from bribery and kickbacks to awards involving companies connected to political leaders. Investors may come under pressure to take on well-connected local partners to avoid systemic bureaucratic hurdles to doing business. Similarly, there are widespread reports of corruption involving government payrolls, ranging from “ghost” employees and salary skimming to nepotism and patronage in personnel decisions. Moving goods into and out of the country continues to be difficult and bribery of port officials is reportedly common; Iraq ranks 179th out of 185 countries in “trading across borders” in the World Bank’s 2014 *Doing Business* report. Iraq ranked seven places from the bottom in Transparency International’s 2013 Corruption Perceptions Index, slipping down one position from 2012. Iraq also ranked in the eighth percentile of the World Bank’s 2012 Control of Corruption Index. In view of the conflict and sanctions Iraq has endured over recent decades, the resulting breakdown in institutional effectiveness that might curb high levels of corruption is not surprising. The United States continues to implement several programs to address corruption at the institutional level, with some positive impact.

The Commission of Integrity, the Federal Board of Supreme Audit, and the Office of the Inspector General are the three principal institutions specifically designated to address the problem of corruption in Iraq. Order Number 57 established Inspectors General (IGs) for each of Iraq’s ministries. Similar to the role of IGs in the U.S. Government, these offices are responsible for inspections, audits, and investigations within their ministries. The Commission of Integrity (COI) is an independent government agency responsible for pursuing anti-corruption investigations, upholding enforcement of laws and preventing crime. The COI investigates government corruption allegations and refers completed cases to the Iraqi judiciary. COI Law Number 30, passed in 2011, updated provisions by granting the COI broader responsibilities and jurisdiction through three newly created Directorates: Asset recovery, Research and Studies, and the Anti- Corruption Academy.

The Board of Supreme Audit (BSA), established in 1927, is an analogue to the U.S. Government’s General Accountability Office. It is a financially and administratively independent body that derives its authority from Law 31 of 2011 – The Law of the Board of Supreme Audit. It is charged with fiscal and regulatory oversight of all publicly funded bodies in Iraq. In October 2012, several amendments to the BSA’s authorizing legislation, including a name change to the “Federal Board of Supreme Audit” (FBSA), gave it jurisdiction over audits of all federal revenues, including any revenues received from the IKR. Neither the COI nor the IGs have effective jurisdiction within the IKR. Regional revenues are audited by the Kurdistan Board of Supreme Audit with Iraqi Kurdistan Parliament (IKP) oversight. The IKP passed the Commission on Public Integrity (Law Number 3) of 2011, which established a regional Commission of Integrity that began its work in late 2013. The Commission launched an initiative in early 2014 to collect financial declaration forms from public officials. The Commission’s office, located in Erbil, is divided into four sections – prevention and

transparency, legal and investigative affairs, finance and administration, as well as the Office of the Commissioner.

Coordination among the three Iraqi Government institutions is currently overseen by the Joint Anti-Corruption Council (JACC), which reports to the Council of Ministers, and a small office that advises the Prime Minister on anticorruption issues. Within the Council of Representatives, corruption issues are the primary responsibility of the Integrity Committee. The JACC coordinated the GOI's National Anti-Corruption Strategy for 2010-2014 with input from Iraqi ministries to guide all three anti-corruption institutions in preventing, deterring, and counteracting corruption at all levels. Because the GOI has not completed all the action items in the current plan, an implementing committee formed under the 2010-2014 plan is developing an updated 2014-2018 strategy. The national strategy is part of Iraq's response as a signatory to the UN Convention Against Corruption (UNCAC), to which Iraq acceded in March 2008.

The UN Office of Drugs and Crime (UNODC) continues to provide United States-funded capacity building assistance to further Iraq's efforts to comply with UNCAC requirements. As of December 12, 2012, the country was accepted as a member of the Extractive Industry Transparency Initiative (EITI), having been found compliant with EITI requirements. The Board did, however, stipulate that the GOI should include data on oil and gas production in the IKR as well as oil and gas sales revenue to the KRG. GOI officials reported to EITI that they attempted to obtain KRG data for the 2011 and 2012 reports, but were unsuccessful.

Failure of the GOI to seek Council of Representatives confirmation of key anti-corruption appointments, however, has undermined the independence of Iraq's principal institutions to combat corruption. The result has been that many high-level officials operate in an acting capacity and are thus subject to removal at any time by the Prime Minister. While the GOI has made progress in some areas, it remains to be seen how vigorously the Government will move to address the problem of corruption system-wide. Article 136(b) of Iraq's 1971 Criminal Procedures Code, which allowed ministers to shield ministry employees from work-related prosecution for official acts, was abolished on November 14, 2011. While such a provision could serve as a legitimate shield against politically-driven prosecution, the provision had increasingly been used to block corruption investigations at higher levels within the GOI. Hundreds of cases of corruption brought before the courts are still pending, hung up due to political pressure and threats against the judiciary.

Iraq's existing anti-money laundering/counter terrorism financing (AML/CTF) regime is inadequate, and international financial institutions frequently cite this as a major impediment to increasing their operations in Iraq. The country's financial system needs a major overhaul of its anti-money laundering regime to meet the Middle East North Africa Financial Action Task Force (MENAFATF) standards. Iraq joined MENAFATF in 2005 and underwent its first ever Mutual Evaluation (ME) in 2012. The ME team was led by World Bank experts early in 2012 to determine if the GOI conformed to the international standards stated in the 40-plus-9 recommendations issued by Financial Action Task Force (FATF); the Mutual Evaluation Report (MER) on Iraq was published in November 2012. According to a February 2014 International Cooperative Review Group (ICRG) statement, Iraq has made a high-level political commitment to work with the FATF and MENAFATF to address its remaining strategic AML/CTF deficiencies. According to the ICRG, Iraq should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalizing money laundering and terrorist financing; (2) establishing and implementing an adequate legal

framework for identifying, tracing and freezing terrorist assets; (3) establishing effective customer due diligence measures; (4) establishing a fully operational and effectively functioning financial intelligence unit; (5) establishing suspicious transaction reporting requirements; and (6) establishing and implementing an adequate AML/CFT supervisory and oversight program for all financial sectors.

#### **14. Bilateral Investment Agreements**

The United States does not have a bilateral investment treaty (BIT) with Iraq. Iraq is a signatory to some form of investor protection agreement or memorandum of understanding with 35 bilateral partners and nine multilateral groupings. However, none of these agreements is as all-encompassing as a U.S. BIT. The agreements include arrangements on investments promotion and protection within the Arab League, as well as arrangements with Afghanistan, Bangladesh, India, Iran, Japan, Jordan, Kuwait, Germany, Mauritania, Republic of Korea, Sri Lanka, Syria, Tunisia, Turkey, the United Kingdom, Vietnam, and Yemen. In 2010, Iraq concluded BITs with France, Germany, and Italy; the bilateral investment treaties with France and Germany were ratified by the Iraqi Council of Representatives in 2012, while the BIT with Italy has yet to be ratified. In 2012 the GOI concluded a bilateral investment agreement with Armenia, and in 2013 it concluded new investment agreements with Jordan and Kuwait. The Council of Ministers approved the agreements with Jordan and Kuwait in March 2014, and forwarded them to the Council of Representatives for ratification. Iraq's investment agreements include general provisions on promoting and protecting investments, including clauses on profit repatriation, access to arbitration and dispute settlements, fair expropriation rules and compensation for losses. However, the Iraqi government's ability and willingness to enforce such provisions remains untested.

In addition, Iraq has bilateral free trade agreements with the following 11 countries: Algeria, Egypt, Jordan, Lebanon, Oman, Qatar, Sudan, Syria, Tunisia, Yemen, and the United Arab Emirates. Iraq is also a signatory to several multilateral agreements, including the 1982 "Taysir" trade agreement with Arab countries.

The U.S.-Iraq Strategic Framework Agreement provides forums to address impediments to investment and trade through Joint Coordination Committees on 1) trade and finance; 2) energy; and 3) services, technology, environment and transportation. On May 31, 2013, the Trade and Investment Framework Agreement (TIFA) between the Governments of Iraq and the United States entered into force and the inaugural TIFA Council meeting took place in March 2014 in Washington D.C. The TIFA provides a framework for dialogue toward increasing trade and investment cooperation between the two countries.

#### **15. OPIC and Other Investment Insurance Programs**

On June 24, 2013, the Investment Incentive Agreement (IIA) between the U.S. and the Government of Iraq entered into force, thereby formally establishing the necessary conditions for the Overseas Private Investment Corporation (OPIC) to provide financing and political risk insurance in Iraq. Previously, OPIC offered its programs in Iraq on a temporary basis through a Congressional waiver of OPIC's statutory IIA requirement. The IIA provides long-term certainty to the availability of the full range of OPIC investment support programs, which can facilitate increased U.S. investment in Iraq. OPIC is currently financing two projects in the IKR, as well as providing funding for a microcredit organization.

#### **16. Labor**

Iraqi labor law remains weak. While it provides for workers' rights, including freedom of association and the right to collective bargaining in the private sector, these rights are not respected in practice. State Owned Enterprises are public entities and therefore restricted from union organization, although some State Owned Enterprises such as the Southern Oil Company have employee associations which advocate for worker rights. The law also regulates working conditions and prohibits all forms of forced or compulsory labor, but the GOI has not effectively monitored or enforced the law, which has resulted in unacceptable working conditions for many workers. Iraq continues to face a high level of violence and insecurity, high unemployment, a large informal sector, and lack of satisfactory work standards. The existing Saddam-era labor law, which also applies to the IKR, addresses working conditions for foreign expatriate workers and establishes rules governing working hours. A law more consistent with current international standards was drafted with the assistance of the International Labor Organization (ILO) and approved by the Shura Council in 2010 and in 2014 by the Council of Representative Committee on Labor and Social Affairs, but it has yet to be enacted as it awaits approval by the full Council of Representatives.

Iraq is a party to both ILO conventions related to youth employment, including child labor. The Ministry of Labor and Social Affairs sets a minimum monthly wage for unskilled workers. In addition, according to Iraqi law, all employers must provide some level of transport, accommodation, and food allowances for each employee. The law does not fix these allowance amounts.

The NIL states that priority in employment and recruitment shall be given to Iraqis. However, international companies have noted that Iraq lacks a skilled labor force, and the country has a need for human resource development. With a lack of skilled technically-qualified workers, foreign investors often must rely on foreign workers. However, there are labor-related requirements for foreign companies employing Iraqi or third-country nationals. Furthermore, foreign investors are expected to help train Iraqi employees to increase their efficiency, skills, and technical capabilities. In the IKR, hiring locally is encouraged but not mandated by either the KRIL or the 2011 Employment Policy of the KRG Ministry of Labor and Social Affairs. In the IKR, foreign employees can legally perform their duties based on their residency permits; no work permit is required. Some companies have reported prolonged delays in obtaining necessary residency permits for foreign workers.

## **17. Foreign Trade Zones/Free Ports**

The Free Zone Authority Law (Law Number 3) of 1998 permitted investment in free zones (FZ; similar to a U.S. foreign trade zone) through industrial, commercial, and service projects. This law is implemented through the Instructions for Free Zone Management and the Regulation of Investors' Business No. 4/1999 and is administered by the Free Zones Commission in the Ministry of Finance.

Under the law, capital, profits, and investment income from projects in an FZ are exempt from all taxes and fees throughout the life of the project, including in the foundation and construction phases. Goods entering into Iraqi commerce from FZs are subject to normal import tariffs; no duty is leveled on exports from FZs.

Activities permitted in FZs include: (a) industrial activities such as assembly, installation, sorting, and refilling processes; (b) storage, re-export and trading operations; (c) service and storage projects and transport of all kinds; (d) banking, insurance and reinsurance activities; and (e) supplementary and auxiliary professional and service activities. Prohibited activities

include actions disallowed by other laws in force, such as weapons manufacture, environmentally polluting industries and those banned because of place of origin.

Four geographic areas are currently designated as Free Zones. The Basrah/Khor al-Zubair Free Zone is located 40 miles southwest of Basrah on the Arab Gulf at the Khor al-Zubair seaport. This area has been operational since June 2004. The Ninewa/Falafel Free Zone is located in the north, near roads and railways that reach Turkey, Syria, Jordan, and the Basrah ports. The Al-Qa'im Free Zone is on the Iraqi-Syrian border. Although it is not currently operational, there is a project to rehabilitate it to its pre-2003 state. An undeveloped zone in Fallujah is in the planning stages. However, none of these areas is operating as a significant focal point for investment or trade, and only the Ninewa/Falafel zone has businesses operating in it. The Free Zone Commission lacks capacity and is further inhibited by its being placed under the Ministry of Finance, which lacks a specific mandate to develop the FZs. In the IKR, there are currently no free zones, although a zone proposed for Dahuk is under consideration for approval by the Kurdistan Regional Government.

## 18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

**TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy**

	Host Country Statistical source: Ministry of Planning Central Statistical Organization		USG or international statistical source		USG or international Source of data
<b>Economic Data</b>	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (Billions U.S. Dollars)	2012	\$192.9	2012	\$215.8	<a href="http://www.worldbank.org/en/country">http://www.worldbank.org/en/country</a>
<b>Foreign Direct Investment</b>	Host Country Statistical source: Not Available		USG or international statistical source		USG or international Source of data
U.S. FDI in partner country (Millions U.S. Dollars,			2012	\$1,235	<ul style="list-style-type: none"> <li>• Bureau of Economic Analysis</li> <li>• Balance of Payments and Direct Investment Position Data</li> </ul>

stock positions)					<ul style="list-style-type: none"> <li>• U.S. Direct Investment Position Abroad on a Historical-Cost Basis</li> <li>• By Country only (all countries) (Millions of Dollars)</li> </ul>
Host country's Outbound FDI (Millions U.S. Dollars, stock positions)			2012	\$549	<ul style="list-style-type: none"> <li>• UNCTAD (BEA has no data for host country's FDI in the United States)</li> </ul>
Total inbound stock of FDI as % host GDP			2012	0.006%	

**TABLE 3: FDI Flows**

FDI (USD million)	2005	2006	2007	2008	2009	2010	2011	2012
FDI Inflow	515	383	972	1,856	1,598	1,396	2,082	2,549
FDI Outflow	89	305	8	34	72	125	366	549

Source: UNCTAD.

**TABLE 4: FDI Stock**

Trade (USD million)	2005	2006	2007	2008	2009	2010	2011	2012
FDI Stock Inward	1,779	2,162	3,134	4,990	6,588	7,984	10,067	12,616
FDI Stock Outward	89	394	402	435	507	632	998	1,547

Source: UNCTAD.

According to the United Nations Conference on Trade and Development (UNCTAD), FDI flows into Iraq reached \$2.5 billion in 2012, up from \$2.0 billion in 2011. According to an

analysis by Investment Consulting Associates in "The New Iraq – 2013 Discovering Business," from 2003 to 2011 the country attracted almost US\$70 billion in FDI, with a sharp increase in FDI projects after 2008. Although 2011 showed an increase in the number of jobs created and capital attracted, the total number of FDI project declined for the first time since 2007. The GOI publishes limited statistics with which to compare international and U.S. investment data.

The NIC and Provincial Investment Commissions (PICs) granted 25 licenses in 2013 with a total potential value of \$2.6 billion. These licenses were for projects in Baghdad in addition to Basrah, Muthanna, Dhi Qar, Najaf, and Babil provinces. Approximately half of these licenses were for housing development projects, a third were for industrial projects, and the remainder was for service and agricultural projects. However, the granting of a license by the NIC or a PIC does not guarantee that the proposed investment will be implemented. The total potential value of all licenses granted by the NIC and PICs is approximately \$50 billion.

In the IKR, the KBOI granted 128 licenses in 2013, with a total potential value of \$12.4 billion. While the granting of a license by the KBOI does not guarantee that the proposed investment will be implemented, the potential value of the projects increased 104 percent over the licenses issued in 2012. Most of the investment licenses issued by the KBOI in 2013 (46 percent) were for projects in the province of Erbil. The total potential value of all KBOI licenses granted from 2006 through March 2014 is \$38.1 billion. The KBOI granted the most licenses to housing development projects (35%), followed by industrial projects (31%), and tourism industry projects (16.6%).

The Ministry of Oil confirmed investment expenditures in oil production reached \$20 billion in 2013; since the Iraqi government is contractually obligated to reimburse oil companies for these expenditures and therefore is the owner of the equipment, it is considered government investment rather than FDI. Real estate remains the largest non-oil area of foreign participation in Iraq's economy.

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

mixed legal system of civil and Islamic law

### International organization participation:

ABEDA, AFESD, AMF, CAEU, CICA, EITI (candidate country), FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IDB, IFAD, IFC, IFRC, ILO, IMF, IMO, IMSO, Interpol, IOC, IPU, ISO, ITSO, ITU, LAS, MIGA, NAM, OAPEC, OIC, OPCW, OPEC, PCA, UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO (observer)

## Section 6 - Tax

### Treaty and non-treaty withholding tax rates

Iraq has entered into few material treaties with other jurisdictions. Iraq is a signatory to the Arab Economic Union Council Agreement, although to date, practical application of this agreement in Iraq has been limited

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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