The situation of the investment and business climate in Iraq within the framework of business climate development strategy of the Organization for Economic Cooperation and Development (OECD)

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Abstract

This study aims to assess the situation of business and investment climate in Iraq, according to the criteria established by the Business Climate Development Strategy (BCDS), which was prepared by the Department of private sector development in the Organization of Economic Cooperation and Development (OECD)[1]. This was established on number of basic standards and classifications that are based on the assessment of the general framework and therefore diagnosis of the obstacles that stand in front of the investment projects. We will aim from this research to:

Increase involvement of the private sector in the formulation of the business environment.

Determine the guidelines to improve the business environment and accelerate the pace of reforms.

Identify the possibility of recommending reforms in the field of legislation and laws governing investment and affect them.

Structure Search:

The study will be divided into three sections dealing in the first with the key indicators on which the business climate development strategy that provide an assessment of the foreign investment policy in the country concerned, and then evaluate the promotion and facilitation of investment approved by the government under its laws and procedures for promoting investment and in the transparency that

(1) Full frame of the strategy can be revert in the bulletins Organization Economic Cooperation and Development, which include:

-OECD (2010); "Preliminary assessment of investment policies and promotion in the MENA region", OECD, December 2010.

-MENA-OECD Investment Programme (2010), Investment Reforms in the MENA Region: country progress 2006-2009.

foreign investments find in their dealings within the country. While we take up in part two assessment of the reality of Iraq as part of a strategy to develop the business climate in the light of the indicators that were introduced as legislation, laws and mechanisms that work in Iraq today to come in the final section to summarize the situation of Iraq under the numerical table identifies the location of Iraq as part of (BCDS).

The importance of research:

It is important to adopt the studies carried out by international organizations such as those adopted by this study in order to give the assessment phase to greater confidence and a deeper look at the needs of the foreign investors, as it gives a description of the current stage where we stand. More importantly, it is to diagnose the problems of each of the sectors processors and propose practical experience of all sectors to improve the business climate in order to raise competitive rates and growth rates, and through the preparation of a comprehensive integrated system designed to evaluate and implement government policies and reform the relevant business environment.

Keywords: Investment climate in Iraq, strategy to develop the business climate.

Business Climate Development Strategy

To formulate a strategy to develop the business climate that we have mentioned in the introduction to number of tables that set specific criteria for the classification of different countries according to five levels and analyze the situation of the business climate of each country according to those standards which was classified into three main groups, namely:

Foreign investment policy

This consists of twelve indicators to analyze the overall policy adopted in the country towards foreign investment, which varies between:

Restrictions to national treatment for investments which are defined as the government's commitment to provide an equal treatment for investments that belong to the individual citizens and residents of another country.

Approval procedures for investments within the framework of specific legislative and specific goals to be set in most to avoid the local economy unwanted fluctuations related to sudden foreign capital movement.

Procedures for the entry of foreign businessmen and foreign direct investment, which operates to test whether the government imposes administrative procedures at foreign institutions, and whether the procedures to allow the temporary entry of individuals with limited knowledge in support of foreign institutions in specific sectors.

Transfer of capital related to foreign direct investment, where it is the ability to freely transfer capital on investments and including the transfer of profits and capital issue, is one of the important matters for investors who seek to work and run their investments in another country[(1)]. Governments should periodically review the procedures that restricts the transfer of capital related to foreign direct investment in the form that does not restricts the flow of international investment. There are also international obligations on governments require to free the movement of capital, such as the Convention on the International Monetary Fund (Article VIII, acceding to the movement of capital)[(2)], it appears the government's commitment to free movement of capital related to investments.

Incentives for FDI: This indicator tests whether the government provide adequate incentives to attract foreign direct investment on equal standard, transparently and

(1) OECD, PFI: User's Toolkit, Investment policy-section on non-discriminatory treatment for national and foreign investors.

(2) Under Section VIII (paragraphs 2-4) that does not take any restrictions on the transfer of or payment for international transactions and does not allow any of its financial discriminatory action against any financial transactions without the approval of the International Monetary Fund.

with the objectives of this incentive program are explained clearly to individuals.

Terms of business performance and the index are testing the application of the country with the terms of business performance on foreign direct investment, both those provided by a specific law or a legislation, whether it is declared, and the state reviews the terms of their performance and whether there was any analysis of costs and benefits to study the impact of those actions on the goals set for them. As well as test the abstention by the government for the introduction of new restrictions on foreign investment and whether the conditions of reduced business performance if it has entered into commitments under bilateral agreements or regional or international.

Ownership of land:This index is testing whether the land rights granted by national laws or institutions that there is a recording of the territory independent. It also tests whether foreign investors and their investments have the same rights enjoyed by citizens of the country in the ownership and registration of land, and if not is it the case to what extent depends on the nature of the land (e.g. rural areas, or residential or industrial) or the purpose of the use of earth, as the pointer over the fact that the test registration procedure is more expensive for foreigners than locals.

Ownership of land: This indicator to test whether information about rural and urban land may be integrated. The index measures the extent of human impact on the nationalization of property and compensation within the fair value of market values.

Intellectual property rights and to test the cursor over the government's introduction of legislation and laws to protect intellectual property and the extent of the state's obligation under international treaties, and how the Commission apply its own laws, and testing of this indicator over the presence of the office for the registration of intellectual property and the existence of mechanisms for civilian and others to address the disputes over intellectual property. If irregularities were taking place on the intellectual property clauses, they will be reviewed and verified by government agencies.

Safeguards in cases of confiscation of this indicator is tested over the state to keep the policy effective compensation for any confiscation, which should be based on an assessment based on market mechanisms for investments confiscated. As this indicator is to examine the restrictions and obligations set by the government on their actions to confiscation and authority to impose it and the extent of the legal mechanisms to challenge the government action such as this.

International investment agreements, which work to encourage cross-border investment by offering foreign investors the minimum limits of protection according to international legal standards and make the obligations and rights of various parties and more pronounced. The agreements can take several forms, including: bilateral investment agreements or free trade agreements that contain materials related to investment or multilateral conventions relating to the investment.

International arbitration to handle disputes between the investor and the government tries this indicator to examine whether the country has signed international treaties that the President in this area and its compatibility with the contents of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) in the conventions of international investment and whether she was referring to international arbitration in investment laws.

Investment Promotion and Facilitation

Strategy of investment promotion puts the index of investment by the Organization for Economic Cooperation and Development in 2006 (OECD Investment Reform Index)[1]. Three indicators are key and should contain a strategy for investment promotion as a vision for the country concerned and the diagnosis of specific places that the country can compete and road map of the competition and achieve the goals. It should also determine the main lines of this strategy for implementation to determine the organizational structure, human resources and financial requirements for the implementation of the strategy, and should also have a specific timetable for their implementation at specific stages.

Executive institutions of this indicator is working on testing the extent to which the government should establish an institution for investment promotion of the implementation of a strategic plan to promote and encourage investment and whether the institution found support from the presence of decision-makers in the public and private sectors, if it is the authorization the official implementation of the strategy of investment promotion. The indicator looks at the structure and internal organization and staff and budget of the investment promotion and the extent and mechanism of the internal plan of the institution (if the schedule of events and ceilings of time and a mechanism to track statistical information resources) to strengthen the effectiveness of the executive.

Monitoring and evaluation frameworks of this indicator is to test the extent of the structural monitoring and evaluation of the foundation for the promotion of investment and whether the assessment and monitoring is performed periodically.

Local and regional cooperation, and the indicator measuring the extent to which within the institutions,

(1) OECD (2010); Investment Reform Index 2010, monitoring investment policies and institutions for direct investment in South-East Europe.

investment promotion has a clear division of responsibilities and whether the procedures are reviewed periodically to make sure investors are not exposed to unnecessary bureaucratic hurdles.

Links between foreign direct investment and small and medium-sized works of this indicator to test whether the organizations of the investment promotion program to strengthen linkages between SMEs and foreign investors, whether there was a priority to certain sectors of the programme of the interrelationship between them and whether there is a regulatory framework for this link. This is to test whether the program was started and conducted by the process of monitoring and evaluation and, if developed, or that the program of the link between SMEs and foreign investors unsustainable.

One stop shop to test the pointer over the design of the Jordan Investment Board to establish a unit to facilitate investment, or a one stop shop, as if they have the authority to approve the administrative requirements and technical resources required for the establishment of foreign companies. Also tested whether the one stop shop to provide assistance to foreign investors if they obtain the necessary approvals for other destinations.

Managing relationships with the consumer of this indicator is testing whether the foundation for the promotion of investment and the process was developed based on the management of relations with the consumer and what information is available for the foreign investor through this administration, and whether the foundation for the promotion of investment following the discussions and meetings with foreign investors interested.

Decision-making authority: This indicator is to examine whether the role of policy development and decision-making is determined by the strategic plan to promote investment and whether the foundation for the promotion of investment to have a unit dedicated to policy development includes a dedicated staff in the field of investment policy. Through this, it can also be determined whether that unit is consulting the journal predefined with foreign investors to a questionnaire about their views on the organizational climate to foreign investment and the extent of its delivery of these findings to the relevant officials to develop legislation on foreign investment and the extent of its preparation of an annual assessment of the impact of foreign investment.

Services after the licensing: This indicator is working to test whether the establishment of investment promotion services for foreign investors to the issuance of the license, which includes administrative services (such as licensing and visa) and operational services (such as assistance in training of personnel working and to identify local suppliers).

Economic zones is the index to test the extent and existence of a public authority with clear responsibilities and agenda of the Department of Economic Zones, and testing the extent to which the entry of firms to areas of economic depends on transparent criteria and administrative procedures simplified and the extent to which economic zones allow broader areas of economic activity, which includes the activities of the industrial and commercial and whether public authorities are encouraged to achieve greater integration between the economic zones and the local economy.

Transparency

Publications and media tools, which will test the government's commitment to print all investment laws and the ability of foreign investors to obtain printed copies of national legislation and amendments and administrative procedures relating to foreign investment and provide the information network and the extent of access to a certified translation in various languages of the laws and legislation for free or at nominal prices.

Information and prior consultation, this indicator tests whether the government is pre-announcing changes in investment laws and regulations and if they allow sending written comments on the proposed laws.

Transparency of procedures of this indicator is tested over exposing the government's investment projects to the process of approvals and auditing, and when the project is susceptible to it (for example, depending on the size of the investment or the nature of the sector within it) and whether the government provide a guide to criteria for admission to the project are available under the printed forms. Considering whether the government of investors to accept or reject the projects, either written or oral and whether the government is committed to the protection of sensitive business information provided by the investor as part of the process of granting licenses.

2. Assessing the situation of Iraq within the Business Climate Development Strategy

In order to get a realistic result, we must work on applying the current situation for doing business in Iraq within the parameters set by the Business Climate Development Strategy that set by (OECD) and try to classify it within the five levels set by it.

To do so, we will adopt the indicators that were addressed during the research, which was based on strategy, which was divided into three sections namely the policy of foreign investment, investment promotion strategy and transparency.

Foreign investment policy (Restrictions on national treatment)

We find that the Iraqi Investment Law (IIL) No. (13) of the year 2006[(1)] organize the events of investment in Iraq and is designed to encourage investment and facilitate the activities of investment and aims to encourage investment and facilitate technological transfer and development of human skills and provide job opportunities for Iraqis, as it

(1) It must be pointed out the existence of a special law for investment in the Kurdistan region number (89) of the year 2004, which provides safeguards similar to those granted by the Iraqi investment law, but it gives the foreign investor the right to own and land like a local investor.

works on a protecting the rights of investors and expand exports and improve the balance of payments, the balance of trade of Iraq. In the area of national treatment recognized in Article (10) of the law the principle of national treatment by referring to "the enjoyment of the investor, regardless of nationality, all the privileges and facilities, guarantees and is subject to the obligations contained in this law."

At the same time, there are some articles in the law refers to discriminatory treatment, we find Article (15 - III) makes the years of exemption from taxes and duties conferred by law suit direction with the increase in the participation rate of an Iraqi investor in the project to up to fifteen years if the percentage of Iraqi investor partnership in the project more than 50%. While the article (9 - VIII) refers to encourage the Iraqi investors through the providing soft loans and financial facilities for them in coordination with the Ministry of Finance and the use of banking institutions on the condition that the investor getting the loan employs a number of unemployed Iraqis commensurate with the amount of the loan.

The law also gives the right for foreign investors to deal in the Iraqi stock market for securities and the creation of investment portfolios, as the law provides the right for foreign investors to lease land required for the project to not more than fifty years, renewable (Article 11 - III), also provided a new amendment to the (IIL) under Law No. (2) of 2010 allows foreign investors have in the housing projects exclusively.[1] This puts Iraq in the third level of this indicator.

Approval procedures

Investment law puts in place specific rules for the granting of investment license that will ensure the investor is granted the investment license within a period not exceeding (45) days from the date of completion to provide required documents for this action. However the

(1) First Amendment to the Investment Law No. (13) of the year 2010, Law No. (2) of the year 2010, Article (2 - II - a).

registration of the company is not carried out by the National Investment Commission (NIC) or the investment in the province, one of the documents that require the investor to make and which should obtain it under one of the following laws:

- Trade Law No. (30) of the year 1984.
- Companies law No. (21) of the year 1997.
- Companies law No. (22) of the year 1997.
- Coalition Provisional Authority (CPA) Order No. (9) - 2003 in June, which allowed the Iraqi entities to establish partnerships with foreign entities and companies.

This issue is one of the main obstacles that stand in front of issuing the license they require from the applicant to perform many tasks and most important of which determine the nature of the project based on the descriptions found at the Registration Department and then register a trade name of a company in the Federation of Chambers of Commerce and the provision of the Company at the final stage deposit cash Iraqi dinar in one of the Iraqi authorized banks which in turn notify the Registrar of Companies.

These procedures required in Iraq are cumbersome and account to more than (11) separate actions for registration of the company, which means taken more time, which amounts on average to (77) days and cost the process of registration of the company what amount to percentage of income to capital (107.8%) to rank Iraq (174) in terms of the index for starting project within the Business Performance Index for 2011 and putting it in place the (166) for the overall index[1].

When the investor completes the registration of the company, then s/he may be able to apply for a license and investment that will require obtaining the consent of a related ministry on the project, and the fact that there is a

(1) World Bank (2010): "Doing Business 2011: Iraq making a difference for entrepreneurs", Washington, 2010, PP 7-15.

time limit in the (IIL) for a sector ministry to provide consent or refusal justification in two weeks, this is still not activated and make the license investment shrouded between several Iraqi Ministries may not be related directly to the project which added a new complexity to the issue of licensing rather than a one stop shop in order to facilitate the entry of investment.

One other regulatory obstacle that impede private investment is the multiplicity of ministries overseeing the investment and the contradiction of terms of reference with each other in some cases. In other words, the multiplicity of decision-making positions that the investor has to deal with, and the multiplicity of governmental actions relating to the licensing of investment and slowness in implementation and the deliberate delay, leading to a loss of time the investor bureaucracy in the completion of the transactions for his project.(2)

All this makes Iraq in the third level which indicates the government take action for the purpose of reviewing all procedures for approval of foreign direct investment and make it less discriminated against. All approval procedures specified by laws and regulations, instructions and administrative procedures which are applied under each case separately but that the (IIL) to allow the investor to appeal the decision taken in the granting of investment license it between the third and fourth at 3.5.

Entry of foreign businessmen and supporting staff of foreign direct investment Perhaps this is tone of the indicators that Iraq can enjoy high levels through the absence of any restrictions on the nationality of the members of the administrative Council in investment projects (if we assume that the members of the Administrative Council of the INIC who are appointed in the rank of director general by an order from the Prime Minister does not apply on them Civil Service Iraq, which requires that the employee in the civil service carries Iraqi

(2) Aysar Yassen, (PhD): "The fact of the investment climate in Iraq and ways to promote it," economic studies, Bayt al-hikma, number (23) of the year 2010, p. 31

nationality) which means the possibility that all members of the board of directors of the investment project of foreign nationals and the (IIL) in Article (12 - II) granting the right of residence in Iraq, to foreign investors and workers in the investment projects of non-ethnic and facilitate their entry and exit from it.

However, this article puts restriction on the investor's right to recruit workers from non-Iraqi is not possible to use the Iraqis have the necessary qualifications and are able to do the same task and in accordance with regulations issued by the Commission (Article 12 - first), and the fact that development of the controls referred to makes the question of assessment provide the Iraqi workforce which allows for the imposition of restrictions on the employment of labor in foreign investment projects.

All this puts Iraq in the fourth level of the index because of the limited restrictions on entry of foreigners.

Transfer of capital related to FDI

Movements of capital related to foreign investments abroad are allowed in Iraq, the investment law provides in Article (11 - first). The investor shall have the right to take out the capital he brought into Iraq and its proceeds in accordance with the provisions of this law and pursuant to the instructions of the Central Bank of Iraq in an exchangeable currency after paying all his taxes and debts to the Iraqi government and all other authorities. It is apparent that this article covers the profits, liabilities and capital on foreign direct investment, but it was not clear whether this covers the freedom of payments movement-related to expropriation process, or those associated with the procedure for disputes settlement by arbitration cases.

The Article (27-3) of the Act relating to investment disputes arising between the parties with respect to payments generated by the dispute settlement refers to the liquidating the project and depositing its value in one of the banks after paying the dues of the state or any other dues after final judgment of their entitlement is rendered, after a court ruling entitlement. Moreover, Iraq did not sign until this day to Article (8) of the texts of the International Monetary Fund agreement and has not ratified any bilateral agreement to invest despite the signing of a number of them, which can include within them procedures to facilitate the movement of capital. This makes Iraq in the third level of this indicator.

Incentives for foreign direct investment

Despite the many advantages and guarantees provided by the law on investment in many materials such as materials (10-12, 15 and 17) of IIL which define number of privileges and guarantees for potential investors:

- Foreign investors are entitled to take out the capital s/he brought into Iraq and its proceeds in accordance with the provisions of this law and pursuant to the instructions of the Central Bank of Iraq in an exchangeable currency after paying all his taxes and debts to the Iraqi Government and all other authorities.
    - Foreign investors allowed Exchanging shares and bonds listed in the Iraqi Stock Exchange.
    - Foreign investors can form portfolios in shares and bonds.
    - Allowing foreign investors to lease land needed for the project for the term of the investment project , provided that it does not exceed 50 years renewable with the agreement of the Commission, and provided that the nature of the project and its benefit for the national economy is taken into consideration when determining the period.. In addition, the draft amendment to the (IIL) that allowed foreign investors to own land in housing projects exclusively.

- Granting the foreign investor and non-Iraqis working in the investment projects the right of residency in Iraq and facilitating his/her entry and exit to and from Iraq.
- Non-seizure or nationalization of the investment project covered by the provisions of this law in whole or in part, except for projects on which a final judicial judgment was issued.
- Non-Iraqi technicians and administratio employees working in any project shall have th right to transfer their salaries anc compensations outside Iraq in accordance witl the law after paying their dues and debts to th Iraqi government and all other entities.
- ● Any amendment to this law shall not have an retroactive affect regarding the guarantees exemptions, and rights recognized above.

Despite the advantages provided by the investment law and mechanisms and procedures it provided, the absence o analysis of costs and benefits accrued of incentives makes i stand in the third level of the index above.

Terms of business performance

There are no specific requirements for busines performance in Iraq except those stipulated by the laws ir force and there is no periodic review of them, but througl the amendment of laws in addition to the absence of ar analysis of costs and revenues to them and the achievemen of the objectives set, and this puts Iraq in the second leve of this indicator.

Land ownership

The fact that most of the lands in Iraq are owned by th state, which owns 80% of land [1] , it might be appropriat to assume that the one stop shop act on the followin issues:

(1) USAID Tijara Provincial Economic Growth Program. 2009. Investor Roadmap of Iraq. www.tijarairaq.com/?pname=open&f=doc100867_TR026_investor_roadmap_of_iraq_oct2009.pdf&id=867&ty pe = file &

- Assess risks expressed by investors in terms of obtaining lands.
- Uniformity of the law and the approval procedures of the relevant ministries for the acquisition of land.
- Explain the procedures and standards on decisions to sell or lease land.
- Providing the latest information about the current real estate available and the dates of auctions.

This issue is very important in the Iraqi context because it does not have foreign investors the right to own land in most cases.

Foreigners are not allowed to own land in Iraq, however investors may lease land for up to 50 years renewable. But still under the Investment Law regulation no. (7) of the year 2010 they can own the lands belonging to the state and the public sector for the purpose of establishment of housing projects the same as the Iraqi investors but A lien is marked on the property bond till the investor meets his obligations as well as for projects submitted through the (NIC), whether industrial, agricultural and service sectors, tourism, leisure and more. (2) All of this puts Iraq in the second level of this indicator.

Land titling and surveying

There is no central point of managing industrial zones in Iraq, where the management of these distributed on a number of sectoral ministries and a number of government institutions:

- Ministry of Industry and Minerals / by each of the Directorate General of Industrial Development and the Foundation for Geological Survey and Mines and Quarries.
- Ministry of Labour and Social Affairs / by the Department of Labour and Social Security responsible for the projects of industrial services.

(2) System for sales and rental of property of the State and the public sector for investment purposes (7) of 2010 articles 6 and 8.

- Municipality of Baghdad and local government departments and municipalities in the provinces, which manage services such as water, sewage and granted licenses to develop land for industrial projects and industrial parks.

Traditionally, these state departments above refer cases to the sectoral ministries or to the cabinet when you do not have sufficient powers to decide cases before them. In the case provides the powers to be decided on the issues presented by the department or the ministry concerned, for example, gave the law 30 years old 2000 on the organization of industrial land, returning to the province or municipality if the actual land use by the project inconsistent with the license or project if the project is turned off from work.

However, the changes in Iraq in recent years showed a large amount of issues of unresolved land ownership in the light of the courts, property disputes, which are governed by the law of the supreme body of the property disputes of 2005 and amended in 2009 and most of the issues that they deal with returns in time to several decades ago is not likely to be completed soon, which is reviewing the level of Iraq in the index to a low level of the first level.

Intellectual Property Rights

This section deals with the processes required for the registration of patents, trademarks, industrial designs and copyrights in Iraq:

- Patents: The law and the procedures for registering a patent in Iraq are very similar with international procedures of registration of a trademark. The government grants and registers patents based on domestic law and guidelines of the World Trade Organization. The Ministry of Industry manages the patent industrial designs and undisclosed information Law, integrated circuits and plant varieties. This law covers inventions and creative ideas in technology, products and manufacturing processes.

- Trademarks: Iraq issued its first law on trademark in 1931, and continued the Trade Marks Act No. 21 of 1957, subsequent valid until April 2003. The government amended the Law of Trademarks by the Coalition Provisional Authority (CPA) Order No. 80 of 2004, to rename it (the law of trademarks and geographical indications). The investor may transfer the ownership of a registered trademark, he/she may also license the use of the trademark. This law protects Iraq's registered trademark for a period of ten years, renewable in the last year for ten years. The owner can apply for renewal within six months from the effective date.
- Industrial designs: The approval of the request for registration of industrial designs or models will be granted when the design or industrial design is new or innovative. A design or industrial design is not accounted as an innovative in the following cases:

- If it was exhibited, description, or describe its use to the public before filing the registration application.
- If it was exhibited or described in another state after the submission of the application for registration in Iraq if this other state deal on the basis of the principle of reciprocity.
- It has been offered at national or international fairs, or at a public conference and through scientific papers within a period not exceeding six months prior to the date of submission of application for registration in Iraq.
- If it does not contains essential differences to another former industrial design or model, or devoted to another type of product is different from the product that had previously scored his industrial design or model.

- Copyright: Copyright laws of Iraq aim to meet international standards currently applicable and introduction of the standards of the World Trade Organization. The intellectual property committee of the Ministry of Culture is responsible for copyright registration. The authors of creative works in the arts and the arts and sciences are protected under the current rules. The protection Includes of the translate workbook, or review or to convert. If the workbook is an innovative account of another person, the rights revert to the author unless there was agreement to the contrary.
- New coming legislations related to trade: Iraq is currently preparing a new law to intellectual property rights in line with the World Trade Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS), but the final structure of this legislation and related legislation is still under action, including:

- Intellectual Property: In Iraq draft a comprehensive law on intellectual property law in line with the requirements of the WTO Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS Agreement). Legislation is subject to final review and ratification by the Council of Representatives. Iraqi government has given the (ACC / 9) and the draft intellectual property law to the WTO.

- Services: Iraq is currently reviewing the service system and looks forward to further reforms to open services sectors. Iraq is also in the process of preparing the (ACC / 8) for the sectors of tourism services, finance, telecommunications and transport

- Iraq also a member of several international treaties relating to intellectual property and also member of regional and bilateral agreements includes:

The Paris Convention for the Protection of Industrial Property (Law 1967) ratified by Law No. 212 of 1975.

Treaty of the International Organization for Intellectual Property, ratified by Law No. 212 of 1975. Iraq has become a member of the International Organization for Intellectual Property Organization (WIPO) in January 1976.

Arab Convention for the Protection of Copyright ratified by law No. 41 of 1985.

Treaty of the Arab Intellectual Property Rights (Law No. 41 of 1985).

All of this puts Iraq in the third level of the index because of not establishment of a specialized body to monitor the crimes relating to intellectual property and a national office for intellectual property and mechanisms to settle disputes on intellectual property to this day.

Safeguards in cases of expropriation

The article 23-3 prevented the constitution of any confiscation, except in the case of achieving public benefit in return for fair compensation. But we have to say that the Iraqi constitution implies on Iraqi investors only[1]. In addition, Article (12 - III) of the Investment Law refers to the non-confiscation or nationalization of the investment project covered by the provisions of that law in whole or in part, except for projects on which a final judicial judgment was issued. Law does not refer to any compensation and leaves it up to legal action, but the Iraqi Constitution guarantees that there is no confiscation without cash compensation based on the fact that the provisions of the Constitution apply to the rest of the laws. This put Iraq in the third level of this indicator due to not adoption of Iraq the international arbitration mechanisms, including the forfeiture in Iraqi law.

(1) MENA-OECD Investment programme (2010), investment reforms in the MENA Region: Country Progress 2006-2009.

International Investment Agreements

Iraq one of the least countries in the region signed agreements on international investment, Iraq has signed three agreements with Kuwait -1964, Morocco-1990 and Syria -2002, and the agreement with Kuwait is the only ratified one. Iraq signed trade agreement with the United States on August 11, 2008 and signed a strategic cooperation agreement with Turkey in 2010 designed to improve the flow of trade and investment between the two countries.

It is also a party to the multilateral agreement to ensure that investment (MIGA) and is currently Iraq observer in the World Trade Organization. Iraq has signed number of projects for international agreements relating to the promotion and protection of investment with both Italy and France and Germany plus a range of other agreements which has been issued legal advice to the Council of State and presented before the Council of Ministers for authorization to sign it with Lebanon, Oman, Jordan, Czech Republic and Slovakia.[1]

Therefore, Iraq is the site at the first level of this indicator despite the investment agreements with trading partners, even these few signatories are not part of a strategic targeting policy to attract foreign direct investment.

International arbitration to handle disputes between the investor and the government

The Code of Civil Procedure and the Iraqi Trade No. 83 of 1969 Arbitration Rules of the articles 251 to 276 put the roles for dealing with disputes that are subject to Iraqi law (the Rules of Procedure) all of the conflicts located in Iraq, whether national or a foreign element where the Iraqi jurisdiction implies in accordance with Article 25 of the Civil Code. Either international commercial arbitration has stated in the (IIL) No. 13 of 2006. As well as Article 27/4 of its which states (if the parties to the dispute shall be subject to the provisions of this law, they may agree when signing their agreement on the mechanism of solution for disputes, including resort to arbitration in accordance with Iraqi law, or any other internationally recognized party), which makes

(1) National Commission for Investment: "Achievements of the National Investment of the year 2009", 2010, p. 11.

international commercial arbitration is compulsory when stated in the contract of the investment, this to encourage foreign investors by providing a good investment climate in Iraq. Note that the International Commercial Arbitration implies only to the foreign investors, while Iraqi investor will not implies to arbitration and will be subject to Iraqi national law and will not be entitled to recourse to international commercial arbitration because it is subject to national sovereignty, where required (m / 14) of the Iraqi Civil Code [(1)]that Iraqis might be sued in front of Iraqi courts even for rights originated abroad, while foreigners will not subject to Iraqi rule. [(2)]

However, the Iraqi legislature ban arbitration roles and their decisions issued by the bodies of the International Jury in accordance to the Revolution Command Council dissolved No. 124 of 1990 which provided for (m / 6) provides that "refrain courts and arbitral tribunals Iraqi consideration in any proceeding in Iraq against the government Iraqi or its institutions or its subsidiaries or any governmental entity or any person Iraqi natural or legal person in contravention of the provisions in the above. nor shall be no law or decision of whatever nature made or issued by any court, arbitral tribunal or any other abroad in this regard and take sides related to the consequences of the implementation of any law or decision is contrary to this law. "

Iraq is also working on the reform its laws of arbitration to take into account recent trends in international arbitration, a committee has been established to draft a new law based on international treaties is composed of representatives of the State Consultative Council and academics.[(3)] Also, domestic arbitration is provided in Articles 251-276 of the Civil Code of Iraq that the arbitration agreement is in writing. The bodies of local arbitrators in Iraq are available through the Iraqi Union of Engineers and the Federation of Iraqi Industries, arbitrators from the private sector.

(1) Iraqi civil law No. (40) of the year 1951, the facts of Iraq, the number (3015) of the year 1951, p. 249.

(2) Zuhair al-Hassani (PhD) (2010): "The legal regime for international commercial arbitration of investment disputes", Journal of the legislation and eliminate the second year for the second edition was issued (April, May, June) of the year 2010 (http://tqmag.net/body.asp?field=news_arabic).

(3) Authman salman Al-aboodi (PhD): "International commercial arbitration and aspirations of its introduction in the Iraqi legal system", in Journal *of the legislation and eliminate* the second year for the second edition was issued (April, May, June) of the year 2010, available via the Internet at: (http://tqmag.net/body.asp?field=news_arabic)

The fact that Iraq is not a member of New York and Washington Treaties in addition to its non-recognition of foreign arbitral orders and not applied by local courts, make it in the first level of this indicator.

2.2. Investment Promotion and Facilitation

Investment promotion strategy

(NIC) Operate to develop a strategy for investment promotion, which is based on three steps[1]

2.2.1.1. Assessing the needs and possibilities of investment, where the strategy of promotion for the commission as a promotional marketing plan by which investors determine the target and thus the quality of the promotional activities that must be introduced in this context must determine the following steps to start the marketing process:

- Identify development goals for Iraq and therefore the objectives of the (NIC)
- Identify the global and regional trends prevailing on foreign direct investment
- Analyze the strengths and weaknesses of the situation in Iraq
- Analyze the strengths and weaknesses of the competing countries

2.2.1.2. identification of industrial sectors and sources of investment targeted where it is to complete the quartet analysis we can made up a picture about the strengths and weaknesses of Iraq and the location of its rivals and based on this information to determine the industrial sectors which the country may succeed in the attraction followed by a detailed promotional strategy in accordance with the specific needs of targeted companies, which active in these industrial sectors.

2.2.1.3. Develop the promotional strategy

Completion of the first two steps will help in selecting industry sectors targeted in the short, medium terms and then targeting sites of major geographical for these

(1) Aysar Yassen Fahad (PhD): "The strategy of investment promotion in Iraq," a working paper presented to the Board of Directors of the (NIC), 2010, p. 3-6.

industries which means to clearly identifiable "who" should the promotional activities focus on, and where are these promotional activities should take place and then specify "how" to implement this Centralized targeting and the need to change or modify the program of work. These changes should be systematic and comprehensive for all aspects of the activities of the (NIC) should specifically:

- Modify the focus of the promotional strategy of the (NIC)
- Evaluate the functions and responsibilities of the staff of (NIC).
- Evaluation of partnerships that (NIC) is establishing.
- Assessing the impact of the promotional focus on the budget of (NIC).
- The final outcome document will emerge that shape the strategic plan of action for the coming years on the basis of strategic focus that draws the plan of action for the coming years on the basis of strategic focus and evolve in light of various changes and modifications.

However, this strategy is still in the process of preparing the instructions for implementing it, and hasn't been adopted by the executive bodies even after its ratification by the Board of Directors of the (NIC), which puts the index at the third level.

Foundation Executive

(NIC) was established in 2007 under the (IIL) No. (13) of the year 2006 and run by the Board of Directors from nine members, four of them selected as representatives of the private sector and was appointed by the Prime Minister in line with Article IV of the law, the (NIC) as directly associated with the Prime Minister's Office. Each of the Iraqi provinces has its own commission of investment. The structure of these commission have been modified in 2009 giving them more autonomous, and represented by its President or his nominee, and funded from the budget of the region or province and have the powers of granting investment licenses, and investment planning, investment promotion headed by an experienced and competent appointed person with the rank of Director General for five-year upon the proposal of the province and with the consent of the Council of Ministers. The one stop shop works to facilitate investor access and granting them investment licenses, enabling them to be granted duty-free access but it does not register the companies. It also provides logistics services (such as hotels, visa to enter Iraq) and to provide information about investment opportunities, the same role played by investment authorities in the provinces.

Organization of investment does not hold exclusive federal authority and therefore, each of the regional government in Kurdistan Region and the federal government have the right to regulate investment. One example is the Government of the Kurdistan Region Investment Law No. (4) issued on 07/03/2006, one of the main differences between the law of the Kurdistan Regional Government and the investment law is the Federal government is that the first one allows foreigners to own land. Under the constitution, and when there is a contradiction between the national and regional legislation, the regional law becomes the only one applicable in the region.

However, the lack of internal planning mechanism in the (NIC) to enhance the capacity of its implementation include on the agenda of events and ceilings as well as the time to inventory statistically accurate, put Iraq in the fourth level of this indicator.

Monitoring and Evaluation

The (IIL) allowed unique combination in Iraqi institutions in terms of the formation of the investment commission in each of the regions and provinces which have the powers of granting investment licenses and investment planning and investment promotion (Article 5 - first) and that there should be consultation with the (NIC) as the central body, which is running its Chairman as a minister granted by law, but this unique installation has been used improperly by provisional investment commission (PIC) through its monopoly of the decision to grant licenses without taking into account the main trend to investment set by the national investment policies, which the (NIC) is responsible for under (Article 5 - I) which intern create inconsistencies and duplication of work carried out in various bodies of the investment and inconsistent with national policy for investment.

Linking the (NIC) to the Council of Ministers under the text of the (Article 4 - III - h) made it out of survey and control that the rest of the Iraqi ministries operate within the framework of it and to the periodic review of its functions and continuous evaluation of them.

The fact that the (NIC) is applying a mechanism for monitoring and evaluation of its undertaken activities and evaluate their feasibility in terms of cost and effectiveness in attracting investments to Iraq, makes it in the third level of this indicator.

Local and regional cooperation

The novelty of the experience of the Investment bodies in Iraq have not had the way to activate the relationship between them and the rest of the institutions of regional investment despite the start of some sort of coordination between the (NIC) and the Arab Institution for Investment Promotion, which includes most of the bodies and investment institutions in Arabic countries, to find ways to demonstrate their capabilities and improve coordination between its activities in the promotion of investment, in addition to its bid in the issuance of the identity of the Arab investor that will allow the customers with any of the Arabic registered investors from entering other Arab countries.

All of these signs put Iraq in the first level of the index because of the lack of a clear division of tasks between the institutions of national investment promotion and regional and there is no clear coordination in the events in large investment projects.

The linkages between FDI and SMEs

(NIC) has worked to prepare an action plan with regard to joint companies listed in the Iraqi stockmarket through the preparation of investment files and promotion to invest in them according to the mechanism of a lease between the investor who wants to invest and the joint company, where these companies according to the concept of investment a "clear opportunities" efforts should be directed towards them. And this all will work in the interest of establishing an effective institutional framework to encourage private and joint investment and through the linkage between drawing the strategy and the implementation of it through the following[(1)].

- Strengthening the role of private sector in participation of strategy and in policy- decision making.
- Increase the rates of representation of the private sector in supporting institutions for investment.
- Identify the functions, authorities and objectives of the bodies supervising investment.

This puts Iraq in the second level of the index due to lack of precise program in this pioneer area, which should include reforms for small and medium-sized enterprises and to carry out a strategy to develop their capacity to participate in the outreach program.

One-stop shop

(NIC) has set goals of the one stop shop as follows:

- The completion all paperwork of investors in one accessible venue.
- Provide a single place to answer all the questions investors regarding investments.

(1) National Commission for Investment: "Steps to investment," Working paper submitted to the Meeting of the Coordinating Group of Baghdad to the International Covenant, 2010, p. 3.

- Contribute to the reform of the routine work mechanism related to (registration, licensing, and land allocation) by increasing transparency and clarifying the legislation and improve the quality of service.
- Provide services to the investor before getting their license, such as market data, costs, incentives, local partners.
- Provide services to the investor after obtaining the license, such as the import of equipment and raw materials and work permits.

The fact that the one stop shop is responsible for providing most of the approvals and administrative procedures necessary for a project of a foreigner in Iraq and not all approvals needed puts Iraq in the fourth level of the index.

Managing relationships with the consumer

The (NIC) has expand its strategy for managing relations with the beneficiaries of its services in addition to providing basic information about the companies, which was generated through its database of companies that participated in the former conferences, as well as the (NIC) keeps track of all mutual contacts, meetings and geographical prefrontal expressed by the foreign investor.

The (NIC) always hold talks and meetings and supplementary campaigns to consistent with the requirements of foreign investors, the (NIC) using database of detailed information on the management of relations with the beneficiaries, although they still focus on foreign investors within the of limited geographical framework. It also aimed at potential foreign investors within the bigger geographical scope through regional workshops on specific sectors. All of this puts Iraq in the fourth level of the index.

Decision-making authority

This refers to the ability of investment promotion institution in formulating or changing legislative and regulatory actions with regard to foreign direct investment, which should have a role in drafting this legislation affecting the investment climate. The (IIL) No. (13) of the year 2006 allowed a significant scope for the work of the (NIC) that in consultation with foreign investors and international organizations relevant investment in an independent way and express their concerns about legislative and administrative climate to the ministries and institutions concerned with policy investment, in some cases to propose amendments to the laws in force through its direct contact with the Council of Ministers and its closeness to the decision-making, which allowed it to propose several amendments to the Investment Law and Adoption of the operational instructions of the law as well as to propose amendments in the laws related to other ministries.

Despite the foregoing, the weakness of (NIC) in holding periodic consultations with the foreign investors to explore their views about the organizational climate in Iraq which should be transferred to government officials puts Iraq in the second level of this indicator.

Services provided after granting of licenses

Through exploring the way of dealing (NIC) with investment projects that were granted investment licenses it becomes apparent that there is a reference to the service provided after the grant of the license in a strategic plan to promote investment, and the it is in the process of determining the nature of services that will be provided and offered to foreign investors. Also (NIC) is already providing the service after granting of the license of an administrative nature for foreign investors such as business licenses and work permits and find accommodation, but that the response to foreign investors needs is not within a predefined framework and the (NIC) does not provide operational services such as finding local suppliers to work with foreign investors and do not follow-up investors' questions within a specified timeframe, which puts the climate within this index in the third level.

Economic Zones

- One of the most important means to encourage investment in Iraq which is stipulated in the text of the (IIL) is working on the establishment of safe development investment zones with the consent of the Council of Ministers (Article 9 - VII), in spite of the free zones are not new idea in the Iraqi laws where it was present by two laws before:

- Law of the general institution for free zones (No. 3) of the year 1998 in order to attract capital, national, Arabic and foreign industrial investments from developed countries and the introduction of advanced technology and create new jobs and increase the volume of exports and foreign exchange resources, three free zones where established on the basis this law, they are "Fleifel" in the province of Nineveh, "Khor Zubair" in Basra, and "Al-Khim" which is based in province of Anbar, all of which are administratively linked to the Ministry of Finance.
- Industrial Investment Law No. (20) of the year 1998, which creates a range of industrial areas and supervised by the Ministry of Industry and Minerals.

  - The National investment Commission is working on a new strategy for the areas of investment cooperation with a number of international organizations, which will be based on a set of principles, namely[1]
  - Give priority to investment zones based on the local market, which will be given a package of incentives like the quality of infrastructure, security and simplified administrative procedures instead of tax and customs incentives.
  - Use of the simplified forms of partnerships between public and private sector model (Build - Operate - Transfer).

(1) Organization Development and Economic Cooperation and Development (2010): "Workshop on Strategy for Iraq's economic zones", held in Paris, 25-26/11/2010, p. 2, available at the site of the Organization in the international information network (www.oecd.org/).

- Permitting for private sector participation in the management of these zones through its presence in the administrative structure and the institutional and the governing bodies of them.

For the establishment of such areas (NIC) will have to choose between three scenarios First, (NIC) has to determine where to establish those areas based on a detailed feasibility studies and the establishment of appropriate infrastructure, including electricity, roads and transport, stores and other communication services, and the second option is for the private sector to establishment of economic zones on the basis of (Build - Management - transfer), and the third option is to establish such zones on the basis of partnership between the public sector and the private sectors.(1)

If we rely on the strategy laid down by the (NIC) for economic zones as the mind power in this indicator, Iraq holds the fourth level of it because it ask the government to create a public authority, with a clear responsibility in the management of those economic zones and corporate entries of companies to these economic zones should be based on transparent and clear preferential criteria , and simplified administrative procedures also gives the public authority equal treatment of foreign and domestic investors in the economic zones and the private sector a bigger role in the development of economic zones.

2.3. Transparency

Publications and media tools

One of the things committed by the successive Iraqi governments since the establishment of the Iraqi state is to allow for the printing and publishing of laws that are passed, all Iraqi laws do not become in force until they are published in the Official Gazette and the same thing for the rest of the legislation and operational instructions all such laws are also available on the internet in a number of government sites like the sites of the Ministry of Justice and

(1) Authman salman Al-aboodi (PhD): "International commercial arbitration and aspirations of its introduction in the Iraqi legal system", in Journal *of the legislation and eliminate* the second year for the second edition was issued (April, May, June) of the year 2010, Available via the Internet at: (http://tqmag.net/body.asp?field=news_arabic).

the Ministry of Industry and the National Investment Commission and Official Gazette of Iraq.

Most laws are available in both Arabic and English, free of charge in addition to printed copies for many of the laws related to foreign investment and a CD containing those laws and legislation. However, the Iraq laws are issued in Arabic language and no translation does of any other language will be used in courts, in spite of an effort by the Iraqi authorities to rely on translations certified by the association of Iraqi translators. This put Iraq in this index at the fifth level.

Information and prior consultation

Opinion polling before the issuing legislation of laws should promote public authority in the design of better legislation and strengthen the binding force. However, the reality of the situation and the work of the (NIC) are very far from the adoption of such mechanisms that can be described as revolutionary. Despite the conduct of a group of amendments to the (IIL) and the issuance of executive instructions affecting the investments of the individuals and companies but they are not informed prior to changes in laws and regulations relating to investment, also did not do any consulting for the views of the related parties before they are issued which puts it in the first level of this indicator.

Transparency of procedures

The Government under the investment law require from investment projects to be subject to scrutiny, although no declaration from the Commission on the criteria or guidelines used in the evaluation of investment projects, and the (NIC) informs investors if they were to refuse or accept the project and establish restricted limitations of time for reviewing period and acceptances of the project and adopt confidentiality in dealing with sensitive business information provided by the investor as part of the process of granting licenses, and the investor is entitled to appeal against the decision if his/her project was rejected of the license, something that puts Iraq in the level of 4.5 because of the lack of a reference in the (IIL) to appeal for a judicial decision to granting the license.

3. The Iraqi business climate index

Indeed, to reach a full view of the situation of the business climate we will adopt the indicators adopted by (OECD) to express them digitally and under what progress through Part II of this research.

Table (1)

Business climate in Iraq According to indicators of (OECD)

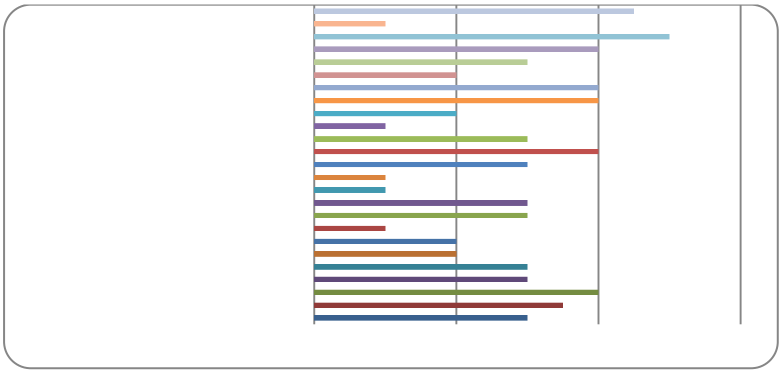
Section	Index	level
Foreign investment policy	restrictions on national treatment	3
	Approval procedures	3.5
	Entry of foreign businessmen supporters of foreign direct investment	4
	Transfer of capital related to foreign direct investment	3
	Incentives for foreign direct investment	3
	Performance requirements of work	2
	Ownership of land	2
	Estate and Land Area	1
	Property rights, property	3
	Safeguards in cases of expropriation	3
	Investment agreements, International	1
	International arbitration to handle disputes between the investor and the Government	1
Investment Promotion and Facilitation	Investment promotion strategy	3
	Foundation Executive	4
	Monitoring and Evaluation	3
	Local cooperation and regional levels	1
	Links between foreign direct investment and small and medium	2
	One stop shop	4
	Consumer Relations Department	4
	Resolution making authority	2
	Services after the grant of licenses	3
	Economic zones	4
Transparency	publications and tools Information	5
	Information and prior consultation	1
	Transparency of procedures	4.5

The table above shows us that among the main weaknesses in the business climate in Iraq is the relationship with the Iraqi authorities with international bodies, where there is weakness in the indicators of bilateral investment agreements, and international arbitration and local and regional cooperation all of which are technical measures that can be overcome through simple issuing of a legislation, law or a decision in the parliament. There was also a decline in the level of Iraq in terms of the classification of index for land titling and classification, in spite of the existence of detailed records of the type and the ownership of land in Iraq, but the many title suits that emerged after 2003 may have worked to destabilize the property and raise doubts on it.

As that dealing with the foreign investors requires a different and new mentality from those that have grown within the bureaucracy of government institutions through the adoption of new mechanisms to deal with them to treat them as a partner in the resolution, which appears very well in the mechanism of information and consultation prior to issuing instructions or amendments to the investment law, which has been drafted in isolation from the investors and without prior consultation with them.

Figure (1)

The business climate in Iraq, according to the indicators adopted By (OECD)



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