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Iraq

I3RF Private Sector Cluster

# **The National Agenda for Improving the Business Environment in Iraq**

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THE WORLD BANK GROUP

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## List of abbreviations

ADCs	Alternative delivery channels
AEO	Authorized Economic Operators
AI	Artificial intelligence
ASYCUDA	Automated system for customs data
BCA	Building codes for Australia
CIT	Corporate income tax
CORENET	Construction and real estate network
CPA	Coalition Provisional Authority
DB	Doing Business
DGEEU	Directorate General of Electricity and Energy Utilization
DNCC	Direction Nationale du Commerce et de la Concurrence
ERU	Economic Reform Unit
FDI	Foreign direct investment
FOREX	Currency exchange market
G2B	Government-to-business
GIRG	Global indicators of Regulatory Governance
GIS	Geographic information system
IAS	International accounting standards
IEEE	Institute of Electrical and Electronic Engineers
IFC	International Finance Corporation
ISX	Iraqi Stock Exchange
KCS	Korea Customs Service
KPIs	Key performance indicators
LABC	Local Authority Building Control
M&E	Monitoring and evaluation
MENA	Middle East North Africa
MFIs	Micro-finance institutions
MGF	Mashreq Gender Facility
MRA	Mutual recognition
NACCS	Nippon Automated Cargo and port Consolidated System
NBFIs	Non-banking financial institutions

NSW	National single window
NTP	Network trade platform
OCR	Online cash register
OECD	Organization for Economic Cooperation and Development
OGAs	Other government agencies
OSC	One Stop Centre
PCA	Post-clearance audit
PEPPOL	Pan-European Public Procurement Online
RES	Rapid Enterprise Survey
RMS	Risk management system
SAIDI	System average interruption duration index
SAIFI	System average interruption frequency index
SCADA	Supervisory control and data acquisition
SINGPASS	Single identification number
SMEs	Small and medium enterprises
SOB	State-owned bank
TBI	Trade Bank of Iraq
TIN	Tax identification number
TOR	Terms of reference
UNCTAD	United Nations Conference on Trade and Development
VAT	Value added tax
WBES	World Bank Enterprise Survey
WBG	World Bank Group
WBL	Women business and the law
WCO	World Customs Organization
WEF	World Economic Forum
WTO	World Trade Organization

## 1. Introduction

**The overall business environment in an economy depends on many factors, ranging from market size, macroeconomic conditions, and business regulations.** A number of international benchmarks and surveys identify key constraints to a country's competitiveness and private sector development. While such benchmarks only give an indication of the overall enabling environment for firms, they can help identify specific areas of business regulation in need for reform to create a more business-friendly environment for firms supporting private sector productivity and growth. Governments can play a key role by creating a regulatory environment with rules that establish and clarify property rights, minimize the cost of resolving disputes, increase the predictability of economic interactions and provide contractual partners with core protections against abuse. Simple and inexpensive business registration processes, for instance, can facilitate formal entrepreneurship, enhance job creation and economic growth,<sup>1</sup> and lower levels of corruption and informality.<sup>2</sup>

**Private sector development is required to catalyze renewed opportunities for enterprising Iraqis.** Private sector transformation includes changing the mindset from a public driven economic model fueled by oil industry to an entrepreneurial one. High informality of the private sector and weak access to markets prevent the development of the private sector. Business opportunities to serve a 40 million consumer market is one of Iraq's biggest assets. However, changing the mindset of Iraq's tomorrow requires building public-private sector trust today which has worsened due to widespread protests demanding transparency and accountability to political leaders. The fragile, conflict-affected, and low capacity situation in Iraq, as well as volatile social environment requires high levels of adaptability and flexibility. Iraq's economic condition was gradually improving following the deep economic strains of the last three years. However, the current unrest highlights the continued fragility of the country context and the high priority of improving economic opportunities, particularly for youth.

**This Report offers a Reform Memorandum and Reform Action Plan for Iraq which focuses on improving the regulatory environment for firms, leveraging the World Bank *Doing Business*<sup>3</sup> framework while also embedding a broader focus on areas where Iraqi small and growing businesses are most likely to face uncertainty, complexity, and obstruction.** The Reform Action Plan is a roadmap for reform in each reform priority area and includes the activities, steps, timing, responsibilities and the resource needs for implementation of each reform. Selected areas for additional technical assistance from the World Bank team are identified accordingly. The Reform Action Plan is based on the Reform Memorandum on Business Environment Reform also included in this Report. The Reform Memorandum covers areas under the scope of the *Doing Business* indicators, i.e. Starting a Business, Dealing with Construction Permits, Getting Electricity, Registering Property, Getting Credit, Protecting Minority Investors, Paying Taxes,

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<sup>1</sup> Fritsch, Michael and Florian Noseleit. 2013. "Investigating the Anatomy of the Employment Effect of New Business Formation." *Cambridge Journal of Economics* 37 (2): 349–77.

<sup>2</sup> Klapper, Leora and Inessa Love. 2011. "The Impact of Business Environment Reforms on New Firm Registration." Policy Research Working Paper 5493, World Bank, Washington, DC.

<sup>3</sup> *Doing Business* offers policy makers a benchmarking tool useful in stimulating policy debate, both by exposing potential challenges and by identifying good practices and lessons learned. Over the past fifteen years, *Doing Business* has been used by policy makers in an increasing number of economies to advance their business environment and competitiveness reform agendas. Since its launch in 2003, *Doing Business* has inspired more than 3,500 reforms in the 10 areas of business regulation measured by the report. Last year, the report recorded a peak in reform activity worldwide – 128 economies undertook a record 314 reforms in 2017/18. In OECD high-income countries, 16 economies implemented 23 reforms, while EU countries implemented 30 reforms in 2017/2018.

Trading Across Borders, Enforcing Contracts, and Resolving Insolvency; and other priorities areas in the Iraqi context, i.e. Women in Business, and Regulatory Governance. The last section of this report offers the Government of Iraq guidelines on institutional coordination for reforms.

**In regard to *Doing Business* covered areas, a virtual data collection mission was organized and concluded with 8-days of workshops from October 12 to 22, 2020.**<sup>4</sup> The detailed discussions with Iraqi counterparts, which included representatives of public agencies, the Central Bank, courts, chamber of commerce and private sector lawyers, were based on lessons from past years' experience and focused on ways to improve Iraqi business environment in all the DB indicators in a coordinated way. Building on other countries experience, a detailed Business Environmental Reform Memorandum and Action Plan was discussed (summarized below), with the assumption that it will be driven by indicator-specific Technical Working Groups, comprising of relevant experts, reporting on a regular (weekly/monthly) basis in order to measure the progress.

The workshops' participants observed that eliminating and combining procedures in order to reduce steps and time at various stages of business application process remains a common denominator for most the *Doing Business* indicators and is definitely the most urgent action to be taken in the coming months. There was a mutual understanding among participants that simplicity and transparency would encourage more business registration, encouraging a lot of entrepreneurs to come out of the informal sector, resulting in job creation and more revenue for the country through tax payments.

Detailed analysis of the **quality of regulatory framework** revealed an urgent need to amend relevant laws and regulations in order to build trust among entrepreneurs in relation to the reliability of business registration, property titles and maps, stability of electricity supply, facilitating international trade and integrity of Iraqi courts and overall state administration. Workshop participants have been presented with examples of business-friendly solutions which proved efficient in high performing countries both in the Middles East and North Africa region, as well as globally.

**Using the published data in *Doing Businesses 2020* and the discussions from the different workshops with Iraqi stakeholders, the Reform Memorandum and Action Plan provide preliminary recommendations in business environment.** According to the *Doing Business 2020* report, Iraq ranks 172 (out of 190) in terms of ease of doing business – down one spot from the previous year and has no legal infrastructure to attract private equity investments or support innovative businesses.<sup>5</sup> A Rapid Enterprise Survey (RES) of Iraqi firms undertaken in by the World Bank between November 2018 and January 2019 found that the following top three constraints are more significantly impacting small firms (employing less than 20 employees): access to finance (32 percent), business service problems (18 percent), and physical damage and insecurity (17 percent). Iraq's private sector is characterized by low dynamism, and it has not adequately played its role as a creator of jobs.<sup>6</sup> Iraq's annual number of new entrants fell from 5,293 firms

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<sup>4</sup> Previous consultations on business environment reforms validation were held in October 2019 with key Iraqi stakeholders in Baghdad. This workshop helped the WB team confirm the existing regulatory requirements for doing business and familiarize with key reforms being implemented in the country. In August 2020, the WB team delivered the draft Business Environment Reforms Memorandum, which detailed specific recommendations for reforms aim to stimulate the national economy by supporting the private sector, simplifying procedures for its engagement, and providing non-financial assistance to it.

<sup>5</sup><https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf?sequence=2&isAllowed=y>

<sup>6</sup> WBG Analytical Note: Bringing Business Back in Iraq, 2018.

in 2008 to 2,020 firms in 2016, according to the World Bank Doing Business Entrepreneurship Data.<sup>7</sup> A lack of entrepreneurship (in the formal economy) reduces the pool of young firms, which have been identified as the engine of job creation in other countries.<sup>8</sup> In a context where firms do not grow over their life cycle, the result is an ecosystem with a large number of small and medium old firms, leading to low firm turnover, and a lack of creative destruction.

**In respect to the other areas of Iraq’s business environment, i.e. women in business, and regulatory governance, the Reform Memorandum and Action Plan also identifies areas of improvement based on World Bank previous assessments, World Bank indicators and discussions with Iraqi relevant stakeholders.** In the case of Women in Business, according to the Women Business and the Law indicators (2020), the private sector in Iraq has poor gender balance. Only a fifth of Iraqi women participate in the nation’s workforce, indicating widespread exclusion from economic life. Women-owned and women-operated businesses are scarce—only 7% of firms had a female owner while only 2% had a female top manager. This is consistent with the findings of the Rapid Enterprise Survey deployed in 2018, which also showed that only 9% of industry employees are women. The services sector is the main employer of women, with gender-related barriers thwarting the economic potential of women both as employees, entrepreneurs and business-owners. There is a growing body of literature and international experience that suggests female ownership of firms enhances productivity.<sup>9</sup> The reform priorities in women in business build on the Women Business and the Law indicators (2020) as well as on the assessment conducted under the Mashreq Gender Facility (MGF).<sup>10</sup>

**Reforms to improve the business environment in a given country cannot be undertaken in an effective fashion if not performed under a regulatory governance that will allow competing interests to be balanced.** Regulation has rapidly expanded as demands on governments have increased, and as budget constraints shifted government action to off-budget expenditures. Yet most governments experience frequent regulatory failures that undermine the capacity to achieve policies important to citizens and consumers, and that also increase the costs and risks of commercial activities. Failures are due to persistent and common patterns of over-regulation, under-regulation, poorly designed regulation and implementation, and weak institutional capacities. In this context, the Reform Memorandum and Action Plan offer an assessment and reform priorities for Iraq in regard to regulatory governance based on the World Bank Global Indicators of Regulatory Governance (GIRG). Iraq ranks extremely low in the World Bank GIRG which covers transparency rule making, public consultation in rule making, impact assessment, and accessing laws and regulations, which are hindering private sector development in the country.

In sum, the objective of this Report is to provide the Government of Iraq with the tools to undertake a comprehensive reform agenda in different relevant areas aiming at improving the business environment in the country. The World Bank stands ready to support the Government of Iraq to implement the regulatory reforms contained in this Report.

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<sup>7</sup> This number refers to limited liability of formal private sector firms, which have been sourced from the Iraqi Ministry of Trade.

<sup>8</sup> OECD - Oslo Manual 2018.

<sup>9</sup> WBG Analytical Note: Bringing Business Back in Iraq, 2018

<sup>10</sup> Women’s Economic Participation in Iraq, Jordan, and Lebanon, State of the Mashreq Women Flagship 1, Report No. AUS0001349, World Bank (2020).

## 2. Reform Action Plan

IRAQ	Action	Agency	Timeline	Details/Notes (if any)
<b>Starting a Business</b>				
1	<b>Remove the requirement of husband's permission for a woman to leave the house.</b>	<ol style="list-style-type: none"> <li>1. Economic Reform Unit ERU, Prime Minister Office.</li> <li>2. Ministry of Justice.</li> </ol>	Short term: June 2021	<p>According to the Doing Business methodology, it is considered a separate procedure, if the law states that a woman needs to obtain husband's approval to leave the house, even if such law is not applied in practice in most cases.</p> <p>Amend the Personal Status Law, Article 188 of 1959, Article 25, pursuant to which a woman is not entitled to the alimony if: (A) she left her husband's household without permission and no legitimate reason. However, paragraph (A) indicates only a situation when a wife leaves her husband's household permanently and not for a short period or for work.</p> <p>Therefore, currently this article is hardly ever applied in practice, thus amending it to reflect the contemporary reality would be advisable.</p>
2.	<p><b>Eliminate the double requirement to reserve the unique company name at the Baghdad Chamber of Commerce and at the Federation of Chamber of Commers.</b></p> <p><b>Create the possibility of online payments.</b></p>	<ol style="list-style-type: none"> <li>1. Baghdad Chamber of Commerce.</li> <li>2. Federation of Chamber of Commers.</li> </ol>	Short term: March 2021	<p>Currently, pursuant to Trade Law no. 30 On 1984 <a href="https://iraq.eregulations.org/procedure/63/step/410?!=ar&amp;embed=true&amp;includeSearch=true">https://iraq.eregulations.org/procedure/63/step/410?!=ar&amp;embed=true&amp;includeSearch=true</a>, there is a requirement to register company's name first with the Baghdad Chamber of Commerce, receive a letter confirming that the name is available and then go to the Federation of Chambers of Commerce. This makes the process long and very costly.</p>

				<p>The forms to check the uniqueness of a company name are currently available online at: <a href="http://www.iraqitic.com/iraqiTIC_instruction_en.php">http://www.iraqitic.com/iraqiTIC_instruction_en.php</a>. There is no system in place to check the availability of the name online, however, Iraq government continues to use the paper form</p> <p>These obstacles can easily be circumvented by either:</p> <ul style="list-style-type: none"> <li>(i) eliminating the need to register with the Federation of Chambers of Commerc ; or</li> <li>(ii) creating an electronic link between the two institutions, so that once the registration is performed at the Baghdad Chamber of Commerce, a relevant notification will automatically go to the Federation of Chambers of Commerce for checking the name availability.</li> </ul> <p>Create an online system which would facilitate identification of reserved names by wide public.</p> <p>An alternative solution would be to create a one-stop shop where the potential entrepreneur would need to only visit one window and a clerk would do the searches by himself. In this case, those two procedures would be considered as a one single procedure as there would be only one interaction with the administration</p>
3.	<p><b>Make lawyers' involvement in signing incorporation documents optional.</b></p> <p><b>Introduce standard articles of association.</b></p>	Companies Registrar, Ministry of Trade	Short term: March 2021	Currently lawyers are involved in certification of drafting and signing of Articles of Association, confirming the participation of all the company founders, and completing the registration process. The lawyers drafting and signing the

				<p>articles of association are usually licensed by the Companies Registrar as Companies Registrar Agents.</p> <p>Relevant laws, including the Law on the Syndicate of Lawyers (Iraqi Bar Association governed by modified practicing law code Number 173 for the year 1965), as well as any other related laws, need to be amended in order to eliminate this requirement, thus eliminate obligatory involvement of lawyers.</p> <p>Similarly, any involvement of accountants in the company registration process should be eliminated.</p>
4.	<b>Eliminate the minimum paid-in capital requirement.</b>	Companies Registrar, Ministry of Trade	Short term: June 2021	<p>According to Article 28 of Law No. 21 of 1997 (as amended in 2004) and Ministry of Trade Instruction No. 196 dated March 15, 2004, entrepreneurs in Iraq must deposit 1,000,000 dinars (US\$ 963) in a bank account as initial capital for establishing a limited liability company. The capital will be blocked in the bank account under the name of the company and subsequently withdrawn upon the issuance of the certificate of registration.</p> <p>It is necessary to amend the law in order to eliminate this requirement which practically serves no purpose but constitutes an unnecessary procedure and is time consuming. It also bears the costs of up to IQD 25,000.</p> <p>A temporary solution in the form of a Decree suspending the requirement of paid-in capital till 2021 will not be taken into account by the DB methodology.</p>

5.	<p><b>Review the required registration documents and streamline the application process in order to shorten the registration time.</b></p>	Companies Registrar, Ministry of Trade	Short term: June 2021	<p>Currently overall 8 documents need to be submitted along with the registration application, even though applicants can submit their registration application online on the Companies Registrar (portal (tasjeel.mot.gov.iq):</p> <ul style="list-style-type: none"> <li>(I) Chambers of Commerce Union letter (to ensure the consistency of the company or trade name with other registrations) - digitalize</li> <li>(II) Certified letter of capital deposit from the bank - eliminate</li> <li>(III) Iraqi identify cards, and Proof of Iraqi certified citizenship</li> <li>(IV) Ration card revocation (food distribution form) by the Ministry of Trade (although not legally required, asked for in practice) - eliminate</li> <li>(V) Lease or ownership agreement - eliminate</li> <li>(VI) Phone number(s), email address(es), and P.O. box number(s) of the company's founder(s)</li> <li>(VII) Power of attorney - eliminate</li> <li>(VIII) Articles of Association</li> </ul> <p>The processing time takes at least two weeks.</p> <ul style="list-style-type: none"> <li>• Consider amending relevant laws in order to eliminate certain documents (e.g. ration card revocation, lease or ownership agreement, power of attorney)</li> <li>• Create an online one stop shop where applicants can file all the documents for all the agencies in one place, without</li> </ul>

				<p>the need to bring hard copies to the Companies Registrar</p> <ul style="list-style-type: none"> <li>• Create a simplified standardized form of Articles of Association</li> </ul>
6.	<b>Consolidate government approvals and payment of fees at one access point.</b>	<ol style="list-style-type: none"> <li>1. Companies Registrar, Ministry of Trade</li> <li>2. Tax Authority</li> <li>3. Baghdad Chamber of Commerce,</li> <li>4. Federation of Chambers of Commerce,</li> <li>5. Social Security Authority (Ministry of Labor and Social Affairs)</li> </ol>	<p>Medium to long term: December 2021</p>	<p>Currently entrepreneurs must interact with five different government agencies when registering their businesses, including:</p> <ol style="list-style-type: none"> <li>(i) Registrar of Companies,</li> <li>(ii) Tax Authority (Ministry of Finance),</li> <li>(iii) Baghdad Chamber of Commerce,</li> <li>(iv) Federation of Chambers of Commerce,</li> <li>(v) Social Security Authority (Ministry of Labor and Social Affairs).</li> </ol> <p>Streamline the registration with the Federation of Chambers of Commerce, Baghdad Chamber of Commerce, Tax authority and Social Security authority into the registration process with the Companies Registrar, so that registration can be done through submitting a unified single application form to the Companies Registrar. Creating a one-stop service area for new company registration, first physical and/or digital – where all agencies would be represented in one place will enable this process.</p> <p>Similarly, consider consolidating all related fees, which should preferably be paid electronically.</p> <p>Considering introducing service delivery standards and deadlines to limit the amount of time available for Companies Registrar officials to consider and process applications. The Companies Registrar, for instance, could publicly commit to</p>

				carry out registrations within three days from the submission of the application.
7.	<b>Eliminate the requirement of using a company seal by businesses and government agencies.</b>	Companies Registrar, Ministry of Trade	Medium to long term: December 2021	<p>Article 202 of Law No. 21 of 1997 (as amended in 2004) requires that every company have a special seal with which to stamp its “businesses, correspondence, documents, certificates, and any other statements it issues.”</p> <p>As it is an outdated practice, it is recommended to amend the above article and eradicate the practice of using company seal.</p>
8.	<b>Integrate registration of employees for social security into the one-stop shop, envisaging it be online in the future</b>	<ol style="list-style-type: none"> <li>1. Companies Registrar, Ministry of Trade</li> <li>2. Social Security Authority (Ministry of Labor and Social Affairs)</li> </ol>	<p>Medium term to change the law (End of December 2021) to long term to enforce the awareness campaign: End of 2022</p>	<p>As mentioned above, integrate Social Security Office in the one-stop shop (physical/digital).</p> <p>Consider diminishing the Fees: Although Pension and Social Security law for workers no. 39 of 1971 (As Amended) does not stated on any fee to be paid for registering an employee at the social security, yet when the registration completes, a monthly contribution must be paid each month according to employee’s monthly wage.</p>
9.	<b>Introduce a unique business identifier for interactions with all government agencies</b>	<ol style="list-style-type: none"> <li>1. Companies Registrar, Ministry of Trade</li> <li>2. Tax Authority</li> <li>3. Baghdad Chamber of Commerce,</li> <li>4. Federation of Chambers of Commerce,</li> <li>5. Social Security Authority (Ministry of Labor and Social Affairs)</li> </ol>	<p>Medium term to change the law (End of December 2021) to long term to enforce the awareness campaign: End of 2022</p>	<p>Currently there are different numbers for a company in the Companies Registry, Tax authorities and Chamber of Commerce.</p> <p>Integrate the different numbers into one unique business identifier to facilitate interactions of the entrepreneurs with the authorities. This will be fundamental to enhancing the efficiency of inter-agency communication and improving the exchange of data electronically. The effect of this reform would go beyond what is measured by the Doing Business’ starting a business indicator</p>

10.	<b>Carry out outreach campaigns</b>	Companies Registrar, Ministry of Trade	Short term and long term: First phase by December 2021	Once relevant amendments in the law and procedures are made, launch an intensive outreach campaign to inform all market players and administrative officers of the new rules.
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**Dealing with Construction Permits**

1.	<b>Improve information availability on pre-approvals needed to obtain construction permits.</b>	Baghdad Municipality	Short term: February 2021	<ol style="list-style-type: none"> <li>1. All-in-One. Issue a regulation that includes all provisions regulating obtaining a construction permit in Iraq (such as a list of all pre-approvals, technical requirements to carry out construction works, procedures of issuing a permit, violations and penalties), in order to create a single reference for all those concerned with construction permitting.</li> <li>2. Centralize all the documents relevant for construction permits in a single website of the Baghdad Municipality.</li> <li>3. Publish a list of required pre-approvals of the drawings/plans by the relevant agencies (i.e. electrical, water, sewerage and environmental), along with a fee schedule for the administrative services they provide.</li> <li>4. Consider creating a developers' guide complete with procedural steps, documentation requirements, fee schedules, and relevant legislation</li> </ol>
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				<ol style="list-style-type: none"> <li>5. Make instructions more user-friendly</li> <li>6. Conduct an evaluation of the ICT capabilities of construction permit offices in Baghdad (and later in other cities in Iraq)</li> <li>7. Establish the gap between current infrastructure and capabilities and those required for a successful implementation of the Construction Permit Administration System</li> </ol>
2.	<b>Analyse the process and improve collection of information necessary prior to applying for construction permit.</b>	Baghdad Municipality Real Estate Directorate, Tax office	Medium term: June 2021	<ol style="list-style-type: none"> <li>1. Analyse the process in each agency (e.g. Real Estate Directorate, Tax office) in order to identify the causes of delays for each procedure.</li> <li>2. Introduce electronic verification of such information through the linked websites (including real estate registry, cadastre, tax office, etc.)</li> <li>3. Develop land-use plans initially by prioritizing urban areas</li> <li>4. Introduce legislation imposing a maximum time limit for local municipalities to adopt local development plans.</li> </ol>
3.	<b>Integrate all the GIS systems in Baghdad</b>	Real Estate Directorate, Baghdad Municipality	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Integrate all the existing GIS Systems hosted by various governmental agencies.</li> <li>2. Digitalize all maps and titles in Baghdad Real Estate Directorate</li> </ol>
4.	<b>Establish risk-based guidelines for obtaining a location clearance from the regional authority and</b>	Baghdad Municipality	Medium term: June 2021	<ol style="list-style-type: none"> <li>1. Introduce a risk-based approval system for projects that require location clearances from the regional authority,</li> </ol>

	<b>consolidate location clearances by updating zoning regulations and digitizing city zoning maps</b>			<p>pursuant to the risk the new building projects pose on public health and safety</p> <p>Consider introduction of 3 types of permits (residential, commercial and industrial) to simplify the process.</p> <ol style="list-style-type: none"> <li>2. Revise and make clear zoning rules for developers' verification</li> </ol>
5.	<b>Improve the risk-based classification of buildings based on their intrinsic features and intended use and incorporate these principles into the new inspection regime and the online portal</b>	Baghdad Municipality	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Conduct a risk assessment of the stock of existing buildings in Baghdad to create a risk-based system for building permits applications and pre/post construction inspections</li> <li>2. Review the existing construction regulations to differentiate areas that warrant more attention from those that warrant less, in order to established risk categorizations and reduce the procedures and the time to obtain building permits</li> <li>3. Based on the above, create fast-track options to speed up the building authorization process</li> </ol>
6.	<b>Analyse the process for obtaining project clearance in the Civil Defence agency</b>	Civil Defence	Medium term: June 2021	<ol style="list-style-type: none"> <li>1. Analyse the internal processes in detail in order to identify the bottlenecks</li> <li>2. Introducing indicators to measure and monitor performance.</li> </ol>
7.	<b>Implement a one-stop shop and an online platform to issue building permits</b>	Baghdad Municipality	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Centralize all the clearances in one location and make the technical approvals an in-house process at the Municipality, including submission of all required documents to the municipality</li> </ol>

				<p>in one step at the beginning of the process</p> <ol style="list-style-type: none"> <li>2. Introduce an online submission and tracking of applications for construction licenses or notifications, renewals, appeals processes, inspections, occupancy certificates</li> <li>3. Create an automated workflow for construction permit approval, renewal, inspection activities</li> <li>4. Extend approval of connections with utility companies (water, sewage) and allow the payment of respective fees through submission one online form along with the design plans</li> <li>5. The Baghdad Municipality could consider coordinating with the National Center of Construction Laboratory to issue a consolidated final approval on newly constructed buildings</li> </ol>
8.	<b>Streamline the process for obtaining a clearance on completed construction approval from the Baghdad Municipality</b>	<ol style="list-style-type: none"> <li>1. Baghdad Municipality</li> <li>2. National Center of Construction Laboratory</li> </ol>	Medium term: December 2021	<p>Currently the final inspection takes 14 days and a completion certificate 30 days.</p> <ol style="list-style-type: none"> <li>1. Verify the process and bottlenecks in order to conduct inspections within 48 hours from the builder's notification of the completion</li> </ol>
9.	<b>Analyse the process of applying for clearance from the Water and Sewage Directorate in the Ministry of Construction, Housing, Municipalities and Public Works, as well as connection to the water and sewage system</b>	Water and Sewage Directorate	Medium term: June 2021	<p>Currently the final inspection takes 45 days to obtain clearance and 45 days to get connection.</p> <ol style="list-style-type: none"> <li>1. Verify the process and bottlenecks in order to process the application within 48 hours and 1-2 weeks to get connected to water and sewage system.</li> </ol>

10.	<b>Improve the overall building quality process by implementing the following steps</b>	Baghdad Municipality	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Respect the delays imposed by law on the issue of building permit – as mentioned above, map the process and identify the bottlenecks;</li> <li>2. Amend the law to make engineers, architects, construction companies and/or inspector responsible for structural flaws once the building is in use and introduce mandatory insurance requirement to cover structural defects.</li> </ol>
<b>Getting Electricity</b>				
1.	<b>Create a “Technical Working Group for Getting Electricity Reforms” to include all relevant stakeholders to cover all topics listed in the reform action plan.</b>	<ol style="list-style-type: none"> <li>1. Ministry of Electricity</li> <li>2. Baghdad Electricity Distribution agency</li> </ol>	Short term: January 2021	The Working Group should include representatives from the following agencies: Ministry of Electricity and Baghdad Electricity Distribution agency. In addition, the Technical Working Group should include members of the private sector in order to obtain a more comprehensive view on this area (i.e., electrical engineers; construction companies; etc.).
2.	<b>Introduce a tracking system for electricity connection applications.</b>	<ol style="list-style-type: none"> <li>1. Ministry of Electricity</li> <li>2. Baghdad Electricity Distribution agency</li> </ol>	Short term: Action a) February 2021  Action b) June 2021	a) Relevant measures to be considered as part of this Reform Action: b) Create a manual excel based tracking system for new electricity connection applications. Medium to long-term reform action: Develop an automatic tracking system for electricity connection applications and make it publicly available if possible.
3.	<b>Provide the option to pay connection fees in installments and charge interest if needed.</b>	<ol style="list-style-type: none"> <li>1. Ministry of Electricity</li> <li>2. Baghdad Electricity Distribution agency</li> </ol>	Short term: February, 2021	Relevant measure to be considered as part of this Reform Action:  Conduct a diagnostic to assess if providing the option to first time customers that want to get a

				new electricity connection in Baghdad to pay in installments will be feasible.
4.	<b>Reduce the outage time considered for calculation of the SAIDI (system average interruption duration index) and SAIFI (system average interruption frequency index).</b>	Ministry of Electricity	Short term: March 2021	<p>Relevant measures to be considered as part of this Reform Action:</p> <ul style="list-style-type: none"> <li>• Change the calculation standard currently used by the Ministry of Electricity to measure SAIDI and SAIFI performance indicators from 30 minutes to 5 minutes or less.</li> <li>• Publish this data on the website and public boards of the Ministry of Electricity and distribution local agencies.</li> </ul> <p>Study the possibility of including penalty clauses if outages exceed 12 outages a year (equivalent to an outage of one hour each month) in the SAIDI and SAIFI indexes.</p>
5.	<b>Review and streamline the procedure for electricity connections by introducing an online platform.</b>	<ol style="list-style-type: none"> <li>1. Ministry of Electricity</li> <li>2. Baghdad Electricity Distribution agency</li> </ol>	<p>Short term: Actions a) and b) March 2021</p> <p>Actions c) June 2021</p> <p>Actions d) and e) When action c) is implemented</p>	<p>Relevant measures to be considered as part of this Reform Action:</p> <ol style="list-style-type: none"> <li>a) Conduct an assessment of the current procedure for obtaining a new electricity connection in order to identify bottlenecks and areas of improvement (i.e., it takes almost one month from the moment the local distribution utility receives an application for a new electricity connection until the planning department of the distribution utility issue a report deciding on the availability and capacity to accommodate the customer's demand).</li> <li>b) Revise the legal framework (including the Ministry of Electricity internal regulations) to ensure the physical copy</li> </ol>

				<p>of the application to obtain a new electricity connection is no longer requested.</p> <p>c) Develop an automated application process for new electricity connections; e-payments; and, scheduling of the external inspections to check whether the wiring is done properly and is ready to be connected to the distribution network; identify the nearest connection point; and, determine the material required to carry out the connection works.</p> <p>d) Train the staff of the local distribution utilities from the Ministry of Electricity to operate through the new procedure. Conduct a communication campaign to the private sector to raise awareness of the new online platform for new electricity connections, including mystery shopper techniques and customer satisfaction surveys.</p>
6.	<b>Establish an independent regulator to monitor the utility's performance on reliability of power supply.</b>	Ministry of Electricity	Short term: May 2021	<p>In this regard, the following minimum conditions must be satisfied: 1) legal oversight over the distribution utility; and, 2) a separate management structure.</p> <p>Relevant measures to be considered as part of this Reform Action:</p> <ul style="list-style-type: none"> <li>• Enact a regulation establishing an independent energy regulatory agency with a clear list of functions, responsibilities and obligations.</li> </ul> <p>Establish a communication strategy to promote the independent energy regulatory agency.</p>

7.	<b>Introduce financial deterrents to limit power outages, for example, the distribution utility must compensate customers experiencing more than 12 hours of outages according to a predetermined fee schedule.</b>	Ministry of Electricity	Short term: May 2021	<p>Relevant measures to be considered as part of this Reform Action:</p> <ul style="list-style-type: none"> <li>• Conduct a feasibility study and establish different financial deterrents for different type of connections (penalties or compensation schemes).</li> <li>• Establish a predetermined fee schedule.</li> <li>• Issue a circular or regulation creating this compensation mechanism.</li> </ul> <p>Conduct a communication strategy to advertise the existing of the new compensation scheme.</p>
8.	<b>Introduce Geographic Information System (GIS) for the electricity distribution network to further streamline the procedure to obtain electricity connection by eliminating site visits to approve a request.</b>	Ministry of Electricity	Short term: May 2021	<p>The GIS system should include the distribution network and connection points.</p> <p>Relevant measure to be considered as part of this Reform Action:</p> <p>Conduct an assessment of the current GIS system used in Baghdad (SCADA, single line, service stations, substations, etc.), including the level of exchange of information with other agencies, for example, with the cadaster, municipality, etc.</p>
9.	<b>Introduce a program to rehabilitate and modernize the distribution grid and reduce power outages.</b>	Ministry of Electricity	Short term: May 2021	<p>Relevant measures to be considered as part of this Reform Action:</p> <ul style="list-style-type: none"> <li>• Conduct an evaluation of the current distribution grid.</li> <li>• Invest in modern smart grid technologies (smart grids, smart meters and automatic reclosers) to replace the current electricity meters, with the aim to improve service restoration, prevent short-circuits, reduce customer interruptions and the frequency and total duration of power outages as measured by SAIDI and SAIFI indexes.</li> </ul>

10.	<b>Modernize the Utility’s complaint mechanism. Relevant measures to be considered as part of this Reform Action:</b>	Ministry of Electricity/Complaints Centre	Short term: May 2021	<ul style="list-style-type: none"> <li>• Expand the current channels to file a complaint at the Complaints Center of the Ministry of Electricity (in person and through a call center), and include online applications, SMS and mobile applications.</li> <li>• Conduct a study of the current human and financial resources at the Complaints Center of the Ministry of Electricity to allocate resources in a more efficient manner.</li> <li>• Develop guidelines for complaint handling procedures and establish service time standards and publish them in the public boards of the Ministry of Electricity and local distribution utilities (online if possible).</li> <li>• Develop a Code of conduct for all staff working at the Complaints Center of the Ministry of Electricity and create periodic training courses.</li> </ul>
<b>Registering Property</b>				
1.	<b>Conduct a review of all current processes and legal requirements to transfer a property and amend and harmonize all relevant laws and regulations in order to analyse which procedures can be combined or eliminated. Consider “fast-track” procedures</b>	Ministry of Justice	Short term: March2021	<ol style="list-style-type: none"> <li>1. Map the process to identify redundant procedures and bottlenecks</li> <li>2. Design “fast-track” procedures which could combine some steps identified during the mapping process as proposed above</li> </ol>
2.	<b>Unify the valuation of properties completed by the Real Property Registry and the tax authority and establish standardized ways of valuing properties</b>	<ol style="list-style-type: none"> <li>1. Ministry of Justice</li> <li>2. Tax Authority</li> </ol>	Short term: April 2021	<ol style="list-style-type: none"> <li>1. Develop a standardized schedule of property values and make them publicly available</li> <li>2. Assigned a fixed rate per square meter for each area of the Baghdad</li> </ol>

3.	<b>Transition cadastral maps and property deeds into a fully digital, searchable, format ensuring the quality and accuracy of the digital databases. Create an electronic platform offering the possibility of online property transfers, as well as for checking for encumbrances (liens, mortgages, restrictions, etc.)</b>	<ol style="list-style-type: none"> <li>1. Ministry of Justice</li> <li>2. Real Property Registry</li> <li>3. Cadaster (mapping agency)</li> </ol>	Medium term: December 2021	<p>As centralized land registration system does exist in Iraq, the following steps are necessary to upgrading the existing system to be able to effectively manage land titles and the cadastre which contain information on ownership and land use:</p> <ol style="list-style-type: none"> <li>1. As first step, start scanning all the maps of registered land plots and property deeds to create a complete digital archive; Issue missing property titles for registered land</li> <li>2. Involve the local authorities and land administration departments in collecting information for the national system.</li> <li>3. Acquire relevant software to download the digitally archived information and create a centralized land registry</li> <li>4. Offer electronic registration through digital platforms</li> </ol>
4.	<b>Computerize municipal property records</b>	Baghdad Municipality	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Scan and computerize all property record, including information on value, renovations, and borders</li> <li>2. Create an electronic link to the Real Property Registry for mutual verification of records</li> </ol>
5.	<b>Investigate the option to lower the fees to register properties or introduce a flat fee for property registration</b>	<ol style="list-style-type: none"> <li>1. Ministry of Justice</li> <li>2. Real Property Registry</li> </ol>	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Prepare a cost estimate report in order to bring the fees down to basic registry maintenance costs, expressed as a flat fee and not as a percentage of the property value, This is to ensure that transaction fees are limited to cover the costs of administration of a system that provides secure tenure, however</li> </ol>

				discourage temptations to use transaction fees as a general revenue collection device 2. Make relevant adjustments to the fee schedule and publish the update fee schedule online.
6.	<b>Create a single-access point for property transactions</b>	Real Property Registry or Municipality	Medium term: December 2021	1. Create one-stop shop which would be connected to Real Property Registry, Municipality and Income Tax Authority. At first, the connection could be by having a repetitive of each agency in one single-access point, and subsequently, an electronic connection should be created.
7.	<b>Improve the exchange of information on land ownership, land use, and cadastral information between the Real Property Registry and the Cadaster and introduce a single identification number for properties, in addition to the digitalization process recommended above.</b>	1. Ministry of Justice 2. Real Property Registry	Medium term: December 2021	1. Introduce a single identification number for each plot of land which will be used by the Real Property Registry and Cadastre for related land title and map to improve the exchange of data between the land registry database, maintained by the Ministry of Justice, and the cadastre, maintained by the municipalities (project underway)
8.	<b>Increase the transparency and quality of service at the Real Property Registry by introducing service delivery standards accompanied by specific and separate mechanisms to file complains on the services received. Organize related awareness campaign</b>	1. Ministry of Justice 2. Real Property Registry	Medium term: December 2021	1. Amend relevant legislation to allow for public access to the land records 2. Amend relevant legislation to define time limits for land registry and cadastre administration to respond to public inquiries 3. Issue relevant legislation to create two complaint mechanisms which will be specifically devoted to handle (i) complaints about a problem that occurred at the agency in charge of

				<p>immovable property registration and (ii) complaints about a problem that occurred at the mapping agency, each being separate from the land registry and mapping agency</p> <ol style="list-style-type: none"> <li>4. Publish online a list of documents required for a property transaction.</li> <li>5. Publish statistics tracking the number of transactions on the Real Property Registry website</li> </ol>
9.	<b>Increase the geographic coverage of the Real Property Registry</b>	Real Property Registry	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Working with local municipalities, launch and complete registration of every single plot of land in Iraq in order to provide complete geographic coverage of the territory, following Baghdad experience</li> </ol>
10.	<b>Introduce a specific compensation mechanism to cover for losses incurred by parties who are engaged in good faith in a property transaction based on erroneous information certified by the land registry. Organize related awareness campaign</b>	Ministry of Justice	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Issue relevant legislative instrument to compensate for losses caused by land registry.</li> <li>2. Inform the public through all available media</li> </ol>
11.	<b>Create a national database to verify the accuracy of government issued identity documents</b>	Ministry of Justice	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Create a task force team to focus on establishing control system and ITC rules to run checks of ID documents.</li> <li>2. Create an electronic ID verification system.</li> </ol>
12.	<b>Reduce time to obtain decisions on land disputes from the General Court</b>	Ministry of Justice	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Refer to recommendations in the Enforcing Contracts action plan on how to reduce time to solve land disputes in the General Court.</li> </ol>
13.	<b>Increase the transparency of the land administration system by collecting and compiling statistics for land disputes at the Civil Court of First Instance</b>	The Ministry of Justice	Medium term: December 2021	<ol style="list-style-type: none"> <li>1. Designate personnel to compile statistics on land disputes in the past year and publish them on the Civil Court</li> </ol>

				of First Instance website with the link to the Real Property Registry
14.	<b>Introduce service delivery standards at the Real Property Registry and Cadastre, as well as ensure that they are publicly available and binding</b>	Ministry of Justice	Medium term: December 2021	1. Enact relevant decree to define time standards of the delivery by personnel in the Real Property Registry and the mapping agency (cadastre)
<b>Getting Credit</b>				
<b>Getting Credit – Credit Info</b>				
1.	<b>Establish a complete credit information system within the Central Bank and/or through a private bureau.</b>	Central Bank of Iraq	Short term: June 2021	<p>The main focus should be on increasing the coverage of the collected data, defined as the number of individuals and firms listed in a credit registry or a credit bureau's database of January 1, 2020 (for DB2022), with information on their borrowing history within the past five years, plus the number of individuals and firms that have had no borrowing history in the past five years but for which a lender requested a credit report from the credit registry or bureau in the period between January 2, 2021 and January 1, 2020.</p> <ol style="list-style-type: none"> <li>1. Create a Working Group comprised of members of the Central Bank, Ministry of Justice, Baghdad Chamber of Commerce to perform the tasks below.</li> <li>2. Analyze the gaps in collecting credit information in the credit registry held by the Central Bank, including the CBS system.</li> <li>3. Establish new credit reporting strategy by amending relevant laws, including the Instructions for the Exchange of Credit Information No. 9/4/290 issued on 21/10/2014:</li> </ol>

				<p><b><u>Phase 1</u></b> –</p> <ul style="list-style-type: none"> <li>• Amend legislation on credit reporting (see 8 areas discussed in the Reform Memo to be included in the amended legislation)</li> <li>• Issue Bylaws</li> <li>• Draft Request for Proposals for international provider selection</li> <li>• Issue a license of the first credit bureau of Iraq</li> <li>• Provide training on provider selection for Central Bank</li> <li>• Provide training on credit bureau Supervision for Central Bank</li> <li>• Organize 6 workshops for the lending system on credit reporting, credit scoring, consumers protection and data privacy</li> <li>• Organize 2 public debates on the law</li> <li>• Organize a study tour for Central Bank (e.g. Morocco, Bundesbank, ECB)</li> <li>• Establish financial education program (credit reporting dedicated link created on Central Bank's website, publication of articles, studies analysis)</li> </ul> <p>Issue a brochure on consent and rights designed for the consumers</p> <p><b><u>Phase 2</u></b> :</p> <ul style="list-style-type: none"> <li>• Revamp Public Credit Registry system</li> </ul>
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				<ul style="list-style-type: none"> <li>• Provide training for all department users of Central Bank's credit registry users on how to use granular credit reporting data for micro &amp; macro prudential regulation, financial stability, monetary policy and statistics</li> <li>• Launch psychometrics pilot scoring model development for MFIs</li> <li>• Prepare a financial education video</li> <li>• Consider a Digital Market Place Platform for MSME lending and agri-finance</li> </ul> <p>4. Upgrade the Credit Registry IT systems</p>
2.	<b>Design the process and consent requirements for commercial credit reporting and ensure that commercial entities are separately defined (from private entities) and that no consent is required to collect and distribute their credit information.</b>	<ol style="list-style-type: none"> <li>1. Ministry of Justice</li> <li>2. Central Bank of Iraq</li> </ol>	Medium term: December 2021	1. Amend legislation, including the Instructions for the Exchange of Credit Information No. 9/4/290 issued on 21/10/2014, to allow for issuing a consent by consumers to collect private data often protected by safeguards on data privacy which often apply to commercial entities (e.g. owners'/directors' personal information) and individuals.
3.	<b>Implement credit information sharing between credit bureaus, once created.</b>	<ol style="list-style-type: none"> <li>1. Ministry of Justice</li> <li>2. Central Bank of Iraq</li> </ol>	Medium term: December 2021	1. Include relevant clauses in the legislation of private bureaus operations
4.	<b>Include alternate public data sources into the Iraqi credit reporting infrastructure</b>	<ol style="list-style-type: none"> <li>1. Ministry of Justice</li> <li>2. Central Bank of Iraq</li> </ol>	Medium term: December 2021	As above.
5.	<b>Expand the exchange of cross border data</b>	<ol style="list-style-type: none"> <li>1. Ministry of Justice</li> <li>2. Central Bank of Iraq</li> </ol>	Medium term: December 2021	1. Engage in close cooperation with other central banks through data exchange systems

<b>Getting Credit – Legal Rights</b>				
<b>1.</b>	<b>Establish a regulatory and institutional framework for secured transactions</b>	<ol style="list-style-type: none"> <li>1. Ministry of Justice</li> <li>2. Central Bank of Iraq</li> </ol>	Medium Term: December 2021	<p>1. Create a Working Group solely focused on legislative work and establishment of a collateral registry and discuss the following issues, in addition to the recommendations below:</p> <ul style="list-style-type: none"> <li>• Discuss necessary changes to the Civil Code, bankruptcy regulations, tax regulation</li> <li>• Alternatively, discuss a separate secured transactions law</li> <li>• Discuss the hosting institution for one centralized collateral registry (Central Bank, Ministry of Justice, an independent agency?).</li> </ul>
<b>2.</b>	<b>Unify all forms of security in movables and adopt best practice legal framework for secured transactions</b>	Ministry of Justice	Medium Term: December 2021	<p>1. Amend relevant legislation as agreed by the Working Group (Civil Code vs. new secured transactions law) to unify rules for creation, publicity and enforcement of all types of security interests in movable assets, including functional equivalents such as:</p> <ul style="list-style-type: none"> <li>• fiduciary transfers of title</li> <li>• financial leases</li> <li>• account receivables</li> <li>• sales with retention of title</li> </ul>
<b>3</b>	<b>Establish clear rules for creation of security interests to include generic property rights that secures any present or future obligation.</b>	Ministry of Justice	Medium Term: December 2021	The Working group to amend or draft a new definition of security interest to assure that secures present and future obligations, including conditional and non-conditional, monetary and non-monetary and any other type of obligation.
<b>4.</b>	<b>Establish clear and detailed rules of perfection for possessory and non-possessory security interests</b>	Ministry of Justice	Medium Term: December 2021	The Working Group to discuss the methods of perfection of security interests, i.e. rules for

				registration of security interests in the collateral registry with guarantees of priority based on the date of registration. Draft relevant legislation, including Rules for Collateral Registry operations
5	<b>Introduce a comprehensive system of priority rules for security interests.</b>	Ministry of Justice	Medium Term: December 2021	The Working Group to amend existing legislation, including the Civil Code, Bankruptcy Law, labor code and tax law in order to ensure an absolute priority for secured creditors in case the debtor defaults on loan repayment or in insolvency proceedings.
6.	<b>Ensure that the secured transactions law has the same priority and publicity provisions for liens of the government, landlords, and judgment creditors as the existing provisions for taxes and wages</b>	Ministry of Justice	Medium Term: December 2021	The Working Group to discuss policy priorities and amend relevant legislation to assure absolute priority for secured creditors, if agreed, ahead of tax authorities and labor claims.
7.	<b>Allow for automatic stay of execution of security interests by secured creditors.</b>	Ministry of Justice	Medium Term: December 2021	The Working Group to draft rules of suspension of enforcement of security interest (automatic stay) in order to assure that secured creditors cannot immediately enforce their collateral when the debtor declares insolvency and give a chance for restructuring, bearing in mind, however, the time limit (e.g. 3-6 months) on such suspension and allowing for exceptions for perishable assets and assets which are not indispensable for on-going concern.
8.	<b>Assure extra judicial and judicial enforcement of security interests over movable assets</b>	Ministry of Justice	Medium Term: December 2021	The Working Group to draft amendments to the existing legislation to allow for an out-of-court enforcement in case when parties (debtor and creditor) agree contractually to enforce security interest once the debtor defaults on payments, without turning to court.
9.	<b>Establish a geographically centralized, unified for all types of movable assets, notice-based registration system, which is also accessible online for</b>	Ministry of Justice	Medium Term: December 2021	The Working Group to discuss the creation of the collateral registry taking into consideration which institution is best equipped to be the host

	registrations, modifications and cancelations of security interests, as well as searches by debtor's identifier available to wide public.			(Central Bank, Ministry of Justice, an independent agency?)
10.	Collect statistical information on the registered notices	Ministry of Justice	Medium Term: December 2021	Install a software for collecting data on registered security interest to gather information on types of secured creditors (banks, individuals, men, women, etc.), as well as efficiency of priority rules.
<b>Protecting Minority Investors</b>				
1.	Create a "Technical Working Group for Protecting Minority Investors Reforms" to involve relevant stakeholders, including, but not limited to Iraq Stock Exchange and the Central Bank of Iraq.	1. Iraq Stock Exchange 2. Central Bank of Iraq	Short term: January 2021	Soliciting the input of the relevant private sector representatives (e.g. Chamber of Commerce, and corporate law firms) on future reform initiatives. This can be done by either soliciting their attendance to the Working Group's meetings or receiving their written comments ahead of time (frequency of the Working Group meetings should be monthly).
2.	Organize a workshop on each of the six pillars measured by Doing Business (Disclosure; Director liability; Shareholder suits; Shareholder rights; Ownership and control; and, Corporate transparency) in order to explain the Working Group members each of the international best practices measured by the WBG report; its methodology; why it matters and global best practice examples.	1. Iraq Stock Exchange 2. Central Bank of Iraq	Short term: January/February 2021	
3.	Prepare a Legal Gap analysis on each of the six pillars to identify the legal gaps on all the topic areas (review applicable laws and regulations).	1. Iraq Stock Exchange 2. Central Bank of Iraq	Short term: January – April 2021	a) Revise the Companies Law of Iraq (Law No. 21 of 1997) and/or the Rules for Stock Holdings on the Iraqi Stock Exchange (as to include the following best practices in corporate governance.

				<ul style="list-style-type: none"> <li>• Require an independent review of related-party transactions prior to their approval.</li> <li>• Require a detailed disclosure of the conflict of interest in the annual report.</li> <li>• Provide shareholders with the possibility of holding company directors liable for damages caused by unfair or prejudicial related-party transactions.</li> <li>• Introduce remedies for prejudicial related party-transactions. For example, damages, repay profits and disqualification remedies.</li> <li>• Grant shareholders the right to approve the election and dismissal of the external auditor.</li> <li>• Require the board of directors to include both independent and non-executive board members.</li> <li>• Introduce legal provisions to ensure that all shareholders are offered an exit option in case of major takeover of the company.</li> <li>• Require joint stock companies to pay dividends within a maximum period of time set by law after the declaration date.</li> <li>• Prevent subsidiaries from being able to acquire shares issued by their own parent company.</li> <li>• Require disclosure of direct and indirect beneficial ownerships representing 5% or more of the share capital of a joint stock company.</li> <li>• Increase protection of investors by requiring disclosure of information</li> </ul>
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				<p>about board members' primary employment and directorships in other companies.</p> <ul style="list-style-type: none"> <li>• Require disclosure of information about the compensation of directors and high-ranking officers of a company, including bonuses and incentive schemes on an individual basis.</li> <li>• Require the notice of general shareholder meetings to be published and sent to shareholders at least 21 calendar days in advance and contain sufficient information on the matters to be discussed during the meeting.</li> <li>• Ensure that shareholders representing 5% of the issued capital can include additional items on the general meeting agenda.</li> <li>• Require immediate disclosure of information regarding related party-transactions to the public (or to the market regulator).</li> </ul> <p>b) Revise the Evidence Law No. 107 of 1979 as to:</p> <ul style="list-style-type: none"> <li>• Allow parties to a trial to request categories of documents from the opposing party without identifying specific ones.</li> <li>• Allow plaintiffs to directly question the defendant and witnesses during the trial.</li> </ul> <p>c) Revise the Civil Code No. 40 of 1951 as to:  Allow shareholders to recover legal expenses regardless of the outcome of their legal action under specific conditions, only once the court has accepted jurisdiction and provided that the lawsuit is legitimate, filed in good faith (i.e. not</p>
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				abusive, frivolous or brought with an intent other than adjudicating the claimed disputes), and the case is decided by the court on its merits
4.	<b>Increase transparency of the rulemaking process by implementing public consultations with the private sector.</b>	<ol style="list-style-type: none"> <li>1. Iraq Stock Exchange</li> <li>2. Central Bank of Iraq</li> </ol>	Short term: May 2021	<p>Relevant measures to be considered as part of this Reform Action:</p> <ul style="list-style-type: none"> <li>• Publish the Legal Gap analysis prepared by the working group on the website of the Iraq Stock Exchange (<a href="http://www.isx-iq.net">http://www.isx-iq.net</a>) and/or any other relevant official website to solicit comments on the proposed amendments from the general public.</li> </ul> <p>Reply to the general public comments and publish both the comments and the answers in the relevant websites</p>
5.	<b>Strengthen the implementation of the corporate governance framework by providing outreach campaign and training.</b>	<ol style="list-style-type: none"> <li>1. Iraq Stock Exchange</li> <li>2. Central Bank of Iraq</li> </ol>	Ongoing	<p>Relevant measures to be considered as part of this Reform Action:</p> <ul style="list-style-type: none"> <li>• Conduct awareness campaigns after the introduction of any amendments to provisions related to corporate governance.</li> </ul> <p>Design training courses on corporate governance / seminars or workshops.</p>
<b>Paying Taxes</b>				
1.	<b>Publish all laws, regulations and rules related to taxation online.</b>	General Commission of Taxation	Short term: February 2021	Although the basic laws are available on the website of the Federal Tax Commission, the taxpayers rules and regulations are not as accessible. Such rules and regulations should also be provided on-line, at the Tax Authority and with chambers of commerce to increase taxpayer awareness. Developing a charter of

				taxpayer rights and a code of conduct for tax officials would also result in more transparency
2.	<b>Introduce an option to pay social security on a quarterly (rather than monthly) basis for those firms that would so prefer.</b>	General Commission of Taxation	Medium term: December 2021	Currently social security contributions is very time-consuming, resulting in 288 hours. This can be reduced by synchronizing payments.
3.	<b>Streamline filing and audit procedures to reduce administrative burden for the taxpayer as well as tax administrators.</b>	General Commission of Taxation	Medium term: December 2021	In the post-filing process, companies in Iraq are very likely to be audited in case they declare an auto-correction. First, introduce risk-based selection process to only audit companies which statistically make mistakes. Second, implement electronic filing and payment system, so that companies can complete all formalities from their computers, without visiting the tax office and bringing all the documents in support of the autocorrection.
4.	<b>Introduce electronic filing and payment of all taxes.</b>	General Commission of Taxation	Medium term: December 2021	In elaborating the new electronic filing and payment system, work with other organizations, such as banks and potentially telecommunications companies, to ensure that payment systems are widely accepted and are available in a format that is convenient to the taxpayer. First, introduce computers to tax offices to guide less computer-savvy taxpayers in operating the new electronic system. Second, launch an educational campaign which would include not only instructions but also reasoning behind the advantage of online tax payment system.
5.	<b>Introduce VAT</b>	1. Prime Minister's office 2. General Commission of Taxation	Medium term: December 2021	Involve private sector, e.g. Chamber of Commerce, in the designing process to open a discussion on the rationale of VAT and selection

				of goods and services which should be subject to VAT.
6.	<b>Awareness and education campaign</b>	General Commission of Taxation	Medium term: December 2021	The campaign should target both general public and tax officers. The general public could be targeted by TV, press, social media, as well as trained officers in the tax office to guide entrepreneurs in filing fiscal declaration online. The education campaign for fiscal personnel could include a study tour to a country which is comparable of tax system to Iraq and which scores high in the ranking (e.g. Bahrain).
<b>Trading across Borders</b>				
1.	<b>Create a “Technical Working Group or Committee” for Trade Facilitation Reforms which should include all relevant stakeholders to cover all topics listed in the reform action plan.</b>	General Authority of Iraqi Customs	Short term: January 2021	The Technical Working Group should include representatives from the General Authority of Iraqi Customs, Umm Qasr Port, Ministry of Trade and Investment, Ministry of Transportation and Commerce, Ministry of Agriculture, etc.) among others. In addition, members of the private sector should be also invited to be part of the Technical Working Group (freight forwarders, custom brokers associations, transportation and logistics companies).  A memorandum of understanding should be signed between the respective government agencies stating a) each agency’s role and commitments; b) timeline of completion; c) frequency of meetings (ideally on a monthly basis); d) follow up mechanism; and, e) any other vital clause to be included.

2.	<p><b>Conduct a diagnostic of the existing documentary requirements and procedures in order to identify opportunities for reducing the time, streamlining and simplifying the process to export and import goods through the Umm Qasr port and the Turkey-Iraq border crossing.</b></p>	<ol style="list-style-type: none"> <li>1. General Authority of Iraqi Customs</li> <li>2. Umm Qasr Port</li> <li>3. Turkey-Iraq border crossing</li> </ol>	<p>Short term: March 2021</p>	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Map the legal and administrative requirements of the agencies involved in each procedure of exporting and importing goods, including, but not limited to the Umm Qasr Port; the Turkey-Iraq border crossing; General Authority of Iraqi Customs;</li> <li>• Assess which procedures and processes could be streamlined or simplified;</li> <li>• Once procedures and processes have been streamlined, create updated step-by-step guidelines on procedures and documentary requirements to import and export the above-mentioned products;</li> </ul> <p>Publish all the relevant updated guidelines on procedures and documentary requirements in an accessible and visible place in the Iraqi Customs offices and at the ports and border crossings.</p>
3.	<p><b>Develop an inventory of all fee schedules to identify possibilities for reducing the administrative costs linked to importing and exporting goods through the Umm Qasr Port and through the Turkey-Iraq border crossing.</b></p>	<p>General Authority of Iraqi Customs</p>	<p>Short term: March 2021</p>	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Once the inventory has been developed and the areas for cost reduction (if any) have been identified, proceed to amend the relevant fee schedules or create new fee schedules.</li> </ul> <p>Publish the new fee schedules in an accessible and easy-to-find place on the Customs agency boards and in the ports and border crossings, and in the relevant websites (if applicable). For example: <a href="http://www.customs.mof.gov.iq/">http://www.customs.mof.gov.iq/</a></p>

4.	<p><b>Improve inter-agency coordination for border management and clearance processes. (Agriculture) to identify opportunities for data sharing.</b></p>	<p>General Authority of Iraqi Customs</p>	<p>Short term: March 2021</p>	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Conduct a diagnostic to identify all the agencies that are involved in cross border trade and streamlining processes for customs and non-customs controls; joint inspections; harmonizing requirements, procedures and documents among the entities involved in the process of exporting and importing.</li> <li>• Draft a Memorandum of Understanding between the General Authority of Iraqi Customs with all the agencies that are involved in the process of exporting and importing in order to share and exchange information between them (including, but not limited to the Chamber of Commerce and Industry, Ministry of Finance, Ministry of Transport, Kurdish Ministry of Trade and Investment, Ministry of Agriculture, the Umm Qasr Port, etc.).</li> <li>• Set up regular meetings (ideally on a monthly basis) between the agencies above-mentioned to share and exchange information and reduce the over-lapping of responsibilities (designate a focal point from each of the agencies to attend this meetings).</li> <li>• Review policies and legal and administrative frameworks of the General Authority of Iraqi Customs and other technical inspection agencies (such as the Ministry of</li> </ul>
5.	<p><b>Introduce key performance indicators (KPIs) to measure the performance of customs services, port handling and border management processes.</b></p>	<ol style="list-style-type: none"> <li>1. General Authority of Iraqi Customs</li> <li>2. Umm Qasr Port Turkey-Iraq border crossing</li> </ol>	<p>Short term: March 2021</p>	<p>KPIs to be considered include:</p> <ol style="list-style-type: none"> <li>a) Customs clearance time;</li> <li>b) Percentage of goods examined and interdicted;</li> <li>c) Employee satisfaction survey;</li> <li>d) Client satisfaction surveys; and,</li> </ol>

				e) Number and type of complaints.
6.	<b>Consider transitioning from a WTO observer status to a formal membership status of the World Trade Organization.</b>	<ol style="list-style-type: none"> <li>1. Ministry of Foreign Affairs</li> <li>2. Ministry of Trade</li> </ol>	Short term: March 2021	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Conduct a diagnostic to identify the pros and cons to officially become a formal member of the WTO.</li> </ul> <p>Designate a focal person representing the Government of Iraq to start the process and negotiations to become a formal member of the WTO.</p>
7.	<b>Continue with the plan of establishing a National Single Window (NSW) for trade (ASYCUDA World).</b>	General Authority of Iraqi Customs	Medium term: April 2021 (diagnostic)	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Conduct a diagnostic to identify and eliminate challenges in the process of electronic import and export declarations, manifests and other trade related documents, such as, technical certificates and permits, including the level of interconnectivity and automation of all the relevant government agencies involved in the process of exporting and importing.</li> </ul> <p>As a medium to long-term step, the Government of Iraq needs to ensure the data sharing between the regulatory agencies and the central database if fully electronic. i) Connect all relevant agencies to the central system. ii) Eliminate the paper-based submission of documents; iii) Introduce or increase the use of risk management techniques; and, iv) Improve the existing laws and regulations to support the exchange of such documents.</p>

8.	<p><b>Introduce risk-management principles for import/export procedures to reduce the amount of physical inspections.</b></p>	<ol style="list-style-type: none"> <li>1. General Authority of Iraqi Customs</li> <li>2. Umm Qasr Port</li> <li>3. Turkey-Iraq border crossing</li> </ol>	<p>Medium term: May 2021</p>	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Conduct a detailed technical assessment of the different types of goods and traders, so it is possible to classify risks, determine risk criteria and allocate goods and traders into a certain risk category during the application submission process.</li> <li>• Create risk profiles that will allow customs authorities to apply physical inspections corresponding to the potential risk of consignments.</li> <li>• Publish the risk profiles in the public boards of customs, ports and border crossings and online if possible.</li> <li>• Make the necessary legislative amendments to ensure that Risk Management-based examination provisions comply with contemporary international best practices (i.e. yellow, red and green channels).</li> <li>• Invest in X-Ray machines and/or mobile scanners at the Umm Qasr port and border crossings to limit the need to physically open containers.</li> <li>• Medium to long-term action: Establish an electronic risk-based inspection system.</li> </ul> <p>Implement Post Clearance Audit (PCA) system</p> <ul style="list-style-type: none"> <li>• Ensure the relevant laws and regulations are amended to introduce the PCA audit policy framework in the country.</li> <li>• Develop standard operating procedures for PCA.</li> <li>• Publish the criteria for and the process of PCA on the General Authority of Iraqi Customs, ports and border crossings public boards and online if possible.</li> </ul>
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				<ul style="list-style-type: none"> <li>• Provide training to customs staff that will be in charge of the PCA system.</li> </ul> <p>Create a Trusted Traders / Authorized Economic Operators (AEO) regime program.</p> <p>Establish the criteria that trusted traders or authorized economic operators will need to meet in order to be part of this program (i.e., having an appropriate record of customs compliance; financial viability; and satisfactory system for managing commercial records). Consider allowing certain level of flexibility on the application of eligibility criteria thus avoiding the imposition of barriers to entry for SMEs;</p> <ul style="list-style-type: none"> <li>• Establish trusted trader's benefits prior to the launch of the AEO program (i.e., simplified procedures for exporting and importing; pre-arrival processing of information; simplified declaration; valuation; clearance at locations convenient for the trader, etc.).</li> <li>• Design a simple, transparent and time-bound application process to the AEO program</li> <li>• Publish the criteria that will be used by the authorities in order to be considered a trusted trader or authorized economic operator and the benefits of the program in the public boards of the General Authority of Iraqi Customs, border crossings and online (if possible).</li> </ul> <p>Implement pre-arrival processing of all document requirements electronically.</p> <ul style="list-style-type: none"> <li>• Conduct an assessment to review the current processes, IT systems, and capacities in place to receive, process and reject the trade documents in advance.</li> </ul>
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9.	<b>Provide continuous training to customs and port staff (and other government officials) in charge of the daily operations and educate trade operators on the new procedures and processes.</b>	<ol style="list-style-type: none"> <li>1. General Authority of Iraqi Customs</li> <li>2. Umm Qasr Port</li> <li>3. Turkey-Iraq border crossing</li> </ol>	Ongoing	<p>Relevant measures to be considered as part of this reform action:</p> <p>Design courses / online learning courses / seminars / webinars / workshops.</p> <p>Carry out peer-to-peer learning events with Customs and Port authorities of other countries.</p>
<b>Enforcing contracts</b>				
1.	<b>Create a “Technical Working Group for Enforcing Contracts Reforms to include all relevant stakeholders to cover all topics listed in the reform action plan.</b>	<ol style="list-style-type: none"> <li>1. Higher Judicial Council</li> <li>2. Ministry of Justice</li> </ol>	Short term: January 2021	<p>The Working Group should include representatives from the following agencies: High Judicial Council; Supreme Court of Iraq; Baghdad First Instance Court; Baghdad Commercial Court; and, Ministry of Justice. In addition, the Working Group should include members of the private sector in order to obtain a more comprehensive view on this area of legal reform (i.e., litigants in commercial and civil law and experts on alternative dispute resolutions mechanisms).</p>
2.	<b>Conduct an in-depth assessment of court processes (especially for commercial cases) to identify and address the underlying causes of delays.</b>	<ol style="list-style-type: none"> <li>1. Higher Judicial Council</li> <li>2. Supreme Court</li> <li>3. Baghdad First Instance Court</li> <li>4. Baghdad Commercial Court</li> </ol>	Short term: February 2021	<p>The assessment should include:</p> <ul style="list-style-type: none"> <li>• A detailed description of internal actions and court processes necessary for cases to flow, especially in commercial cases. Record the time associated with each procedure and step.</li> <li>• A description of all the steps required by law and the steps needed in practice in commercial cases.</li> <li>• A detailed description of the current court structure, staffing, performance and infrastructure to inform planning and budget for judicial support such as: law clerks, additional administrative</li> </ul>

				<p>staff, offices/chambers for judges. The assessment should help identify where resources need to be allocated to enhance efficiency and cost effectiveness.</p> <ul style="list-style-type: none"> <li>• Collect data from private sector litigants in commercial and civil law.</li> </ul> <p>The mapping exercise should use comparative, statistical, computational or qualitative methods to define the needs for a new court in charge of hearing solely commercial cases between Iraqi nationals.</p>
3.	<b>Develop performance measurement mechanisms for judges.</b>	<ol style="list-style-type: none"> <li>1. Higher Judicial Council</li> <li>2. Supreme Court</li> <li>3. Baghdad First Instance Court</li> </ol> <p>Baghdad Commercial Court</p>	Short term: March 2021	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Map the existing statistics and performance measurement reports collected by the Judiciary as a whole and per individual court.</li> <li>• Based on the information provided by the above-mentioned mapping exercise, collect tailor-made statistics from every court, especially from the Baghdad First Instance Court and the Baghdad Commercial Court. For example, collect statistics on the time each court takes to disposition/adjudicate cases; statistics on the number of cases resolved versus the number of incoming cases; a snapshot of all pending cases according to case type, case age, last action held and next action scheduled); and, produce single case reports, which should provide a snapshot of the status of one single case.</li> </ul>

				<ul style="list-style-type: none"> <li>Publish those performance measurement reports at the public boards of every court in Baghdad, especially, at the Baghdad First Instance Court. (If possible, this information should also be available online).</li> </ul> <p>Issue an internal Supreme Court circular to determine the publication requirements, the periodicity of the publication (recommended to be quarterly) and the website where the publication must occur if applicable.</p>
4.	<b>Systematically publish judgments rendered by commercial courts in Iraq starting with judgments rendered in commercial cases by the Baghdad First Instance Court, Baghdad Commercial Court and the Supreme Court of Iraq.</b>	<ol style="list-style-type: none"> <li>Higher Judicial Council</li> <li>Supreme Court</li> <li>Baghdad First Instance Court</li> <li>Baghdad Commercial Court</li> </ol>	Medium term: May 2021	<p>Relevant measure to be considered as part of this reform action:</p> <p>Issue an internal Supreme Court circular to determine the publication requirements, privacy concerns should be addressed by designing a redaction mechanism to limit private information in case is needed, the periodicity of the publication (recommended to be quarterly) and the location or means of publication (official gazettes, newspapers and/or on the internet).</p>
5.	<b>Revise the Iraqi Rules of Civil Procedure to consider ways to improve the flow of cases through stricter rules on time standards and adjournments (i.e., regulate the maximum number of adjournments and continuances that can be granted and limit them to exceptional circumstances); and, introduce, Pre-trial conference in civil and commercial cases to discuss the following issues: i) scheduling (including the time frame for filing motions and other documents with the court); case complexity and projected length of trial; iii) possibility of settlement or alternative dispute resolution; iv) exchange of witness list; v)</b>	<ol style="list-style-type: none"> <li>Higher Judicial Council</li> <li>Supreme Court</li> </ol>	Medium term: May 2021	<p>In addition, the Rules of Civil Procedure should be revised to allow the commercial processes to be conducted by electronic means.</p> <p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>Prepare a Legal Gap analysis on all these topics and propose amendments to the Rules of Civil Procedure to include these international best practices.</li> <li>Socialize those amendments with private sector litigants; experts in the field of civil and commercial law; and,</li> </ul>

	evidence; vi) jurisdiction and other procedural issues; and, vii) narrowing down of contentious issues.			<p>key stakeholders from the legislative branch to receive their feedback.</p> <ul style="list-style-type: none"> <li>• Publish the amendments on any relevant official website to solicit comments on the proposed amendments from the general public.</li> </ul> <p>Reply to the general public comments and publish both the comments and the answers in the relevant websites.</p>
6.	Enact a mediation law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects (for example, definition, aim and scope of the application, designation of mediator/conciliator, initiation of the process, principles governing the process, enforcement, financial incentives for parties to attempt mediation, etc.	<ol style="list-style-type: none"> <li>1. Higher Judicial Council</li> <li>2. Supreme Court</li> <li>3. Ministry of Justice</li> </ol>	Medium term; May 2021 (draft Mediation Law)	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Prepare a Draft Mediation Law.</li> <li>• Socialize the draft with private sector experts in the field of alternative dispute resolution mechanisms and with key stakeholders from the legislative branch to receive their feedback.</li> <li>• Publish the amendments on any relevant official website to solicit comments on the proposed amendments from the general public.</li> <li>• Reply to the general public comments and publish both the comments and the answers in the relevant websites.</li> <li>• Develop standard forms and fee structure for mediation procedures.</li> <li>• Create a list of mediators.</li> <li>• Develop a training module for mediator candidates.</li> </ul> <p>Create Mediation centers</p>
7.	Create a small claims court or a fast track procedure for small claims.	<ol style="list-style-type: none"> <li>1. Higher Judicial Council</li> <li>2. Supreme Court</li> <li>3. Ministry of Justice</li> </ol>	Medium term: May 2021	<p>Relevant measures to be considered as part of this reform action:</p>

				Propose amendments to the Rules of Civil Procedure to include a simplified procedure for simple commercial claims (including a detailed explanation of the summary procedure; methods to summon at any time the parties and witnesses; who will be in charge of resolving the summary procedure; time standards for some key court events, such as filing of the statement of defense, hearing of the simplified procedure (it is advisable to only establish one hearing in the whole procedure), and, submission of the final judgement); and, the possibility for parties to represent themselves during this simplified or fast track procedure.
8.	<b>Create a specialized commercial court, section or division of the Baghdad First Instance courts dedicated solely to hearing commercial cases between Iraqi nationals.</b>	<ol style="list-style-type: none"> <li>1. Higher Judicial Council</li> <li>2. Supreme Court</li> <li>3. Ministry of Justice</li> </ol>	Medium term: June 2021	<p>Relevant measures to be considered as part of this reform action:</p> <ul style="list-style-type: none"> <li>• Conduct an evaluation of the necessary assignments of judges in civil and commercial courts, using reasonable caseload estimation (aligned with the assessment mentioned in the Reform Action Number 2).</li> <li>• Issue a decree to establish a specialized commercial court, section or division to hear solely commercial cases between Iraqi nationals.</li> </ul> <p>Provide adequate training to judges and court staff involve in commercial cases</p>
9.	<b>Consider introducing court automation features at the Baghdad First Instance Courts, Baghdad Commercial Courts, and at the Supreme Court.</b>	<ol style="list-style-type: none"> <li>1. Higher Judicial Council</li> <li>2. Supreme Court</li> <li>3. Ministry of Justice</li> <li>4. Baghdad First Instance Court Baghdad Commercial Court</li> </ol>	Action a) June 2021	<p>Relevant measures to be considered as part of this reform action:</p> <ol style="list-style-type: none"> <li>a) Design a plan for court automation to be implemented in a period of several years.</li> </ol>

			<p>Actions b) to i)</p> <p>Implementation of court automation measures: Several years depending on resources</p> <p>Action j) Ongoing</p>	<ul style="list-style-type: none"> <li>b) Make investments in electronic infrastructure for the Judiciary of Iraq.</li> <li>c) Introduce an electronic system which could allow for automated and random assignment of cases.</li> <li>d) Develop an advanced electronic case management system for the use of judges and lawyers. The following actions should be available through the electronic case management system: (i) to access laws, regulations and case law; (ii) to automatically generate a hearing schedule for all cases on their docket; (iii) to send notifications (for example, e-mails) to lawyers; (iv) to track the status of a case; (v) to view and manage case documents (briefs, motions); (vi) to assist in writing judgments; (vii) to semi-automatically generate court orders; (viii) to view court orders and judgments in a particular case; (ix) to access forms to be submitted to the court; and, (x) to file briefs and documents with the court.</li> <li>e) Allow the automatic generation of performance measurement reports such as: (i) age of pending cases (providing a snapshot of all pending cases according to case type, case age, last action held, and next action scheduled); and (ii) single case progress (providing a snapshot of the status of one single case).</li> <li>f) Allow the initial complaint to be filed electronically via a dedicated platform.</li> <li>g) Allow electronically service of process for claims filed before the first instance courts.</li> </ul>
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				<p>h) Build in the tools for the system to accept electronic payment of court fees.</p> <p>i) Consider investing in electronic court kiosks to improve efficiency and promote the e-court systems.</p> <p>Training judges, court staff and litigants on the electronic systems before they officially launch those systems</p>
<b>Resolving Insolvency</b>				
1.	<b>Amend the existing law or enact a comprehensive new Insolvency Law.</b>	Ministry of Justice	Short term: June 2021	<p>Create a Working Group consisting of Ministry of Justice, Banking Association, Lawyers' Syndicate, Federal/Baghdad Chamber of Commerce in order to discuss new legislative changes to the insolvency framework. The Working Group shall discuss rights of creditors and debtors to:</p> <ul style="list-style-type: none"> <li>* declare insolvency and request reorganization,</li> <li>* ensure rights of individual creditors to request detailed information on the insolvent company,</li> <li>* follow other recommendations below and draft necessary amendments.</li> </ul>
2.	<b>Insolvency administrator's regulations, including by the enactment of an Officeholder Code of Ethics (Trustee).</b>	Ministry of Justice	Medium term: December 2021	<p>The Working Group to establish Insolvency Administrator's Code and licensing regulations to build a groundwork for reorganization proceedings in order to allow for second chance to insolvent companies. An example of Insolvency Administrator's Code of Ethics can be found here:</p> <p><a href="C:\Users\mchiquier\Desktop\ISCodeEthics.doc">C:\Users\mchiquier\Desktop\ISCodeEthics.doc</a></p>
3.	<b>Facilitate access to insolvency proceedings in the law.</b>	Ministry of Justice	Medium term: December 2021	<p>The Working Group should include rights of both debtor and creditor to file for liquidation, as well</p>

				as reorganization proceedings in the draft amendments.
4.	<b>Improve fiduciary duties in the eve of insolvency</b>	Ministry of Justice	Medium term: December 2021	The Working Group to propose amendments to the existing legislation, including the Bankruptcy Law, the duties of company directors on the eve of insolvency in order to secure the best value of assets which will affect the recovery rate for creditors.
5.	<b>Fully develop an “adequate protection” system for secured creditors.</b>	Ministry of Justice	Medium term: December 2021	The Working Group to propose amendments to the existing legislation, including Bankruptcy Law, the following protections for secured creditors: <ul style="list-style-type: none"> <li>(i) Allow for post-commencement financing and assure priority of secured creditors who provide such financing;</li> <li>(ii) Allow creditors to vote on the proposed reorganization plan;</li> <li>(iii) Assure that as a resulting of voting, the dissenting creditors in reorganization receive at least as much as what they would obtain in a liquidation</li> <li>(iv) Grant the creditors a right to approve the sale of substantial assets of the debtor</li> </ul>
6.	<b>Improve the information provided to creditors with the restructuring proposal.</b>	Ministry of Justice	Medium term: December 2021	The Working Group to draft relevant change to the legislation to assure access to clear, credible and relevant information, including financial, personnel, marketing, on the company in distress. They should mandate the inclusion of: <ul style="list-style-type: none"> <li>a) a clear and complete identification of the creditors who would be affected by the plan;</li> </ul>

				b) the effects of the proposed restructuring on individual debts or classes; and,
7.	<b>Incorporate a provision on creditors' role in the selection of Officeholders (Trustees).</b>	Ministry of Justice	Medium term: December 2021	The Working Group to expand the option to select the officeholder (insolvency administrator) by creditors.
8.	<b>Launch trainings for judges and an awareness campaign for businesses and lawyers.</b>	Ministry of Justice	Medium term: December 2021	Once the draft amendments are completed, the Working Group to design and launch trainings for judges and insolvency administrators, as well as launch an awareness campaign for all stakeholders in involved (business, banks, lawyers)
<b>Women in Business</b>				
1.	<b>Consider reforms to improve legal equality for women based on the <i>Woman, Business and the Law</i> indicators.</b>	Ministry of Women's Affairs/other relevant agencies	Medium term: December 2021	<ul style="list-style-type: none"> <li>▪ Eliminate constraints on women's freedom of movement.</li> <li>▪ Modify laws and regulations affecting women's pay. Allow women access to employment in all jobs like men</li> <li>▪ Modify affecting women's work after having children. Amend legislation to shift responsibility for paying maternity leave benefits to the government. Introduce legislation or amendments providing for paid paternity and parental leave. Prohibit dismissal of pregnant workers.</li> </ul>

				<ul style="list-style-type: none"> <li>▪ Eliminate constraints to starting a and running businesses. Introduce legislation or amendment prohibiting gender-based discrimination by creditors in access to credit.</li> <li>▪ Modify laws affecting women’s pensions. Equalize age at which men and women can retire with full pension benefits. Equalize mandatory retirement age for men and women.</li> </ul>
2.	<b>Close the gap between the law as written and the law as observed.</b>	Ministry of Women's Affairs/other relevant agencies	Long-term: Ongoing	<ul style="list-style-type: none"> <li>▪ Strengthening the laws and regulations, as well as enhancing legal supervision. This could mean establishing compliance processes and mechanisms in relevant government agencies. All legal reforms proposed above will require that relevant government agencies develop processes and mechanisms to ensure compliance. These include, among others, improving labor inspection processes, mechanisms to deal with complaints on harassment and processes to address wage discrimination</li> <li>▪ Measure the de jure–de facto gap, tracking public awareness and measure monitoring compliance and enforcement. This can be done for example through regular surveys that assess awareness of laws and the rights</li> </ul>

				and obligations under them. Monitoring can also be assessed by tracking and analysis of judicial or arbitration outcomes.
<b>Regulatory Governance</b>				
1.	<b>Establish a participatory system for the meaningful and effective participation of the private sector in the legislative proposal-making and rule-making process through initial public comments periods.</b>	Office of Prime Minister	Medium to long term	No single law governs the legislative proposal-making process in Iraq, and the existing process does not include the private sector's participation in the related policy development, deliberations, drafting, and commenting phases; consequently, the adopted legislation often requires multiple amendments since it is inconsistent with the original legitimate interests of stakeholders due to the lack of an initial rule-making public comments period.
2.	<b>Amend the Official Gazette Publication Law No. 78 of 1977 to require the publication of all Iraqi legislation and Iraqi government decisions related to business environment in the Official Gazette of Iraq, and mandate that all legislation must include an adequate self-justification section.</b>	Office of Prime Minister	Medium to long term	Currently, Iraqi legislation lacks adequate explanations of the justification for their adoption; moreover, all official decisions that impact the private sector should be timely published in the Official Gazette of Iraq in their original form without any alteration prior to publication.
3.	<b>Implement the Electronic Signature and Electronic Correspondence Law No. 78 of 2012 to ensure the accuracy, ease, and expeditiousness of government communication and correspondence as between various ministries, departments and agencies.</b>	Office of Prime Minister	Medium to long term	Official government correspondence assumes specific forms and procedures and is subject to complicated and often inaccessible rules; additionally, official correspondence still must be handled through official government mail, by official hand delivery in certain cases, or by regular mail, and necessitates repeated follow ups and verifications. The application of Law No. 78 would allow for most correspondence to be

				effectuated via rapid electronic mail between the various ministries, departments and agencies. Law No. 78 has not been applied since its adoption.
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### 3. Reform Memorandum

#### 3.1. Starting a Business

**Efficient and effective business regulations support firm creation and productivity.** Economies that have efficient business registration processes also tend to have a higher entry rate by new firms and greater business density.<sup>i</sup> Faster business registration is associated with more businesses registering in industries with the strongest potential for growth, such as those experiencing expansionary global demand or technology shifts.<sup>ii</sup> Empirical evidence also suggests that more efficient business entry regulations improve firm productivity and macroeconomic performance.<sup>iii</sup> Another recent study found that higher entry costs are associated with a larger informal sector and a smaller number of legally registered firms.<sup>iv</sup> Furthermore, higher compliance costs cut into firm profits and discourage entrepreneurs, which in turn reduces job creation in the economy.<sup>v</sup>

**The *Doing Business* “Starting a Business” indicator measures the number of procedures, cost, time and paid-in minimum capital necessary for a domestic entrepreneur to register and formally operate a new business.** *Doing Business 2020* reported that to start a business in Baghdad, entrepreneurs must go through 8 procedures (9 for a woman), which take 26 days (27 days for a woman) and cost on average 34.2 percent of Iraq’s per capita income. Paid-in minimum capital in the amount of 14.6 percent of income per capita is required. Globally, Iraq ranks 154<sup>th</sup> out of 190 economies in *Doing Business 2020* on the ease of starting a business and 16<sup>th</sup> out of 20 economies ranked in the Middle East North Africa (MENA) region and receives 77.3 of the Ease of Doing Business score (out of 100).<sup>vi</sup>

**As reported in *Doing Business 2020*, the procedures to start a business in Iraq are the following:**

- (i) Obtain husband's approval to leave home (applies to women only);
- (ii) Reserve a unique company name at the Baghdad Chamber of Commerce;
- (iii) Reserve a unique company name at the Federation of Chambers of Commerce;
- (iv) Hire a lawyer to draft articles of association;
- (v) Deposit the initial capital at a commercial bank and Obtain proof thereof;
- (vi) Apply for registration at the Companies Registry;
- (vii) Obtain the registration certificate;
- (viii) Make a company seal; and
- (ix) Register employees for social security.

Table 1 provides an overview of Iraq’s performance in this area as compared to the top performing economies.

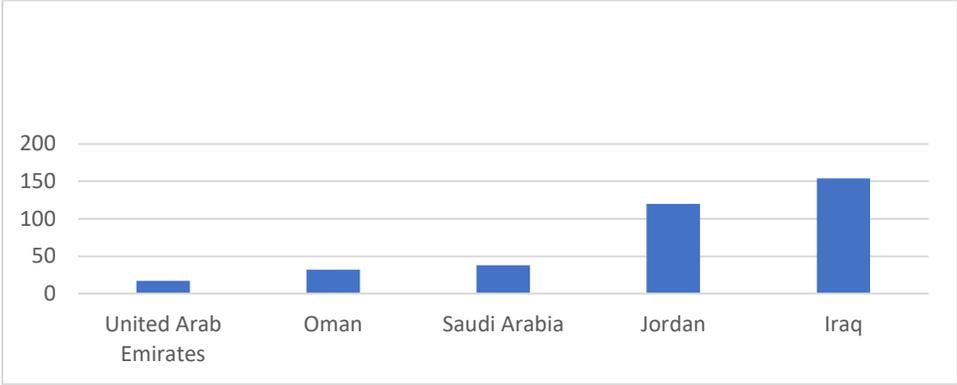
**Table 1 - Starting a Business ranking and best performers**

<b>Starting a Business</b>	<b>Iraq</b>	<b>MENA average</b>	<b>Global best performer</b>
Procedures (number)	8 (9) <sup>11</sup>	6 (7.1)	1 (New Zealand, Georgia)
Time (days)	26 (27)	19.7	0.5 (New Zealand)

<sup>11</sup> Data in parenthesis is for women.

Cost (percent of income per capita)	34.2	16.7	0 (Rwanda, Slovenia, United Kingdom)
Paid-in Min. capital (percent of income per capita)	14.6	8.9	0 (134 countries)

**Figure 1. Ranking - Starting a Business in Iraq and comparator economies**



**Starting a business over time**

Over the past 10 years, Iraq has undertaken two reforms affecting its performance in business registration as depicted by *Doing Business*. In *Doing Business 2018*: Iraq made starting a business easier by combining multiple registration procedures and reducing the time to register a company. However, in *Doing Business 2012*, Iraq made starting a business more expensive because of an increase in the cost to obtain a name reservation certificate and in the cost for lawyers to draft articles of association. In the past year, no significant improvements have been accomplished mainly due to the need to prioritize other areas of economic life in Iraq, like a challenging security situation and COVID19-related sanitary crisis.

**Short-term recommendations**

**1. Remove the husband’s permission for a woman to leave the house.** According to Personal Status Law No. 188 of 1959, Article 25, there is no alimony if a woman leaves her husband’s household without permission and for no legitimate reason. Even though in practice, no such permission is required if a woman leaves the household during regular course of the day, such a permission is counted as a procedure, defined by *Doing Business* as any interaction of the company founders with external parties or spouses, due to the fact that the law states so. In Iraq, under the Sharia law, a woman may lose entitlement to financial alimony when she fails to obtain the permission or support of her husband in leaving the home or starting a business as this action done against the will of the husband could be considered by the husband as leaving the “marriage”. This falls under the case when by failing to obtain her husband’s approval to leave home a woman will suffer consequences under the law, such as the loss of right to financial maintenance. As mentioned above, even though in practice no such approval is

required, it is recommended to officially remove this requirement from the law, especially that the High Judicial Council supports such approach and interprets that an approval by husband is needed, unless there is a legitimate reason for a woman to leave the household. Registering a business, similarly to visiting a doctor or other daily activities, are considered legitimate business. This interpretation could be a basis for implementation of this approach in the law.

**2. Conduct a review of all current legal requirements to start a business and amend and harmonize all relevant laws and regulations in order to analyze which procedures can be combined or eliminated.**

Currently it takes 8 procedure for men and 9 procedure for women to register a company. It is recommended to analyze the process and see if any of the procedures could be eliminated or streamlined. For instance, the reservation of company's name requires two different procedures in two different agencies, the Baghdad Chamber of Commerce and in the Federal Chamber of Commerce. By unifying the register electronically, or even on one website, the reservation of the name could boil down to one procedure and potentially reduce time from two days to half-a-day, if performed on-line.

Currently in Baghdad, a special department at the Chamber of Commerce starts by searching the suggested name through their system to see if the name is already taken or reserved by another company. Once a name is agreed upon and available, the name is reserved upon payment of a nominal fee. The Federation of the Chambers of Commerce is informed in order to ensure that the chosen name is not taken through other Iraqi chambers of commerce. This procedure likely requires more than one visit to both chambers and client coordination, ending with filing the name with the Registrar. The forms to check the uniqueness of a company name are currently available online at: [http://www.iraqitic.com/iraqiTIC\\_instruction\\_en.php](http://www.iraqitic.com/iraqiTIC_instruction_en.php). However, there is no system in place to check the availability of the name online. An integrated, online system would allow entrepreneurs to immediately know whether their chosen company name was available, thus allowing for speedier registration.

An alternative solution would be to create a one-stop shop where the potential entrepreneur would need to only visit one window and a clerk would do the searches by himself. In this case, those two procedures would be considered as a one single procedure as there would be only one interaction with the administration. Such one-stop shop could then further be developed in order encompass other procedures discussed below.

**3. Introduce standard articles of association and make lawyers' involvement in signing incorporation documents optional.**

Currently in Iraq, the law requires that articles of association must be drafted by a lawyer, who often also are in charge of completing the registration process. Such lawyer must also be licensed by the Company Registrar as a Company Registrar agent. This imposes a number of obstacles to produce even the simplest articles of association. Standardizing incorporation documents can especially benefit small businesses, because it frees them from the need to consult a lawyer. Simpler documents mean fewer errors and omissions—saving hassle for registries and entrepreneurs alike. Many countries rely on standardized documents to speed up the incorporation process. In Mauritius, the use of standardized documents means that only about 8% of applications are rejected and companies can be incorporated in a matter of hours. Eliminating the requirement to have incorporation documents signed by a lawyer would represent a significant cost saving for small businesses, while larger companies, with

more complex structures, could still resort to professional consultation. In 2008/09 Syria made the involvement of lawyers optional when it adopted a new commercial code.

**4. Eliminate the minimum paid-in capital requirement.** Since 2003, *Doing Business* has tracked paid-in minimum capital requirements in 190 economies. Since then, 106 economies enacted 143 regulatory reforms reducing or eliminating paid-in minimum capital requirements<sup>12</sup>. Today 120 economies worldwide do not require entrepreneurs to put up a set amount of capital or have a symbolic minimum capital requirement before starting registration formalities.<sup>13</sup> Iraq is not one of them.

According to Article 28 of Law No. 21 of 1997 (as amended in 2004) and Ministry of Trade Instruction No. 196 dated March 15, 2004, entrepreneurs in Iraq must deposit 1,000,000 dinars (US\$ 963) in a bank account as initial capital for establishing a domestically owned limited liability company.<sup>14</sup> The confirmation receipt from this deposit must be included in the application for company registration submitted to the Registrar of Companies. The capital can be withdrawn immediately after the incorporation certificate is issued. Recently, a new companies and associations code entered into force in Belgium and now entrepreneurs can freely determine the capital of their company since there is no longer any paid-in minimum capital requirement.

The minimum capital requirement finds its roots in continental Europe of the 19<sup>th</sup> century. Back then, the minimum paid up capital was stipulated by law and its primary legislative purpose was to protect creditors and nurture confidence in financial markets. Nowadays, despite the financial burden that minimum capital requirements impose on potential entrepreneurs, some argue that they protect investors and consumers from new firms that are set up carelessly, might not be financially viable and will likely close soon after launching. Advocates of this argument claim that minimum capital requirements enable prospective investors to consider investments more cautiously. But this regulatory fix does not adequately address the problem. Paid-in minimum capital is often a fixed amount that does not consider firms' economic activities, size or risks. In some cases, it is the same for different types of companies as well.<sup>15</sup>

With a variety of start-up expenses—from incorporation costs to purchasing materials and equipment to paying salaries—the requirement to pay in a certain minimum capital necessitates additional cash that entrepreneurs must generate and be able to set aside. These costs may negatively affect an entrepreneur's decision to start a business. Data suggest that higher requirements for paid-in minimum capital are associated, on average, with lower new business entry<sup>16</sup>. Furthermore, *Doing Business* data show that economies requiring businesses to pay in 100% of income per capita or more upon

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<sup>12</sup> United Nations. 2019. "UNCITRAL Legislative Guide on Key Principles of Business Registry." Vienna: United Nations.

<sup>13</sup> World Bank Group. 2019. "Doing Business 2020: Comparing Business Regulation in 190 Economies." Washington, DC: World Bank Group.

<sup>14</sup> Pursuant to Coalition Provisional Authority (CPA) Order 64, dated March 3, 2004, certain amendments have been effected to Company Law No. 21 of 1997. Instruction No. 196 implements these changes pursuant to Article 208 of that Law.

<sup>15</sup> World Bank Group. 2013. "Doing Business 2014: Understanding Regulations for Small and Medium-Size Enterprises." Washington, DC: World Bank Group.

<sup>16</sup> World Bank Group. 2019. "Doing Business 2020: Comparing Business Regulation in 190 Economies." Washington, DC: World Bank Group. Data from World Bank Entrepreneurship Database.

incorporation tend to have a recovery rate<sup>17</sup> that is 17 cents lower, on average, than economies that require less capital. Economies with lower paid-in minimum capital requirements also tend to have, on average, stronger legal frameworks for the protection of minority investors.<sup>18</sup> Some researchers also argue that high minimum capital requirements distort healthy competition by putting at disadvantage entrepreneurs with less financial capacity.<sup>19</sup> The requirement to deposit 1,000,000 dinars in Iraq is an additional administrative hassle that wastes 2 days of an entrepreneur's time and provides no guarantees to creditors or investors.

Countries in the Middle East and North Africa (MENA) region have been particularly active in reducing and eliminating the minimum capital requirement. As a result of these reforms, 13 economies out of 20 in the region have eliminated the requirement of paid in minimum capital<sup>20</sup>. Consequently, the average paid-in minimum capital requirement in the region dropped from 104% in 2010 to 8.3% of income per capita. This group has also seen some of the biggest spikes in new company registrations. In the year after Jordan reduced its requirement from JOD 30,000 to 1,000, the number of newly registered companies in the country increased by 18%. Morocco is now considering abolishing the requirement altogether. In many of the economies that did so, such as Egypt and Yemen, companies are more likely to declare their actual capital.

Iraq should follow suit. Abolishing the minimum capital requirement would eliminate the administrative hassle of making the payment and presenting the proof of it to the Registrar of Companies. The law could be amended so that it leaves the opportunity for businesses to declare the initial capital on an optional basis in case they need to do so for other purposes.

**5. Ensure that the Companies Register streamlines the registration process in order to shorten the registration time.** The Companies Register circulates the registration certificate to Al Rashed Bank, Al Rafidian Bank, Social Security Agency, Ministry of Trade, Ministry of Planning, the Central Bank, the tax authority, and other relevant agencies (including labor and so forth). The Companies Register issues the Tax Identification Number (TIN) with the certificate of incorporation. Once the CR is issued, a company should be able to start business in any location in the Iraq.

The following documents and information must be presented to the Register:

- (i) Chambers of Commerce Union letter (to ensure the consistency of the company or trade name with other registrations)
- (ii) Certified letter of capital deposit from the bank
- (iii) Iraqi identify cards, and Proof of Iraqi certified citizenship

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<sup>17</sup> The recovery rate is recorded as cents on the dollar recovered by secured creditors through judicial reorganization, liquidation or debt enforcement (foreclosure or receivership) proceedings.

<sup>18</sup> World Bank Group. 2019. "Doing Business 2020: Comparing Business Regulation in 190 Economies." Washington, DC: World Bank Group.

<sup>19</sup> Chan 2009. Chan, Gordon Y. M. 2009. "Why Does China Not Abolish the Minimum Capital Requirement for Limited Liability Companies?" *Company Lawyer* 30 (10): 306–11.

<sup>20</sup> Algeria, Djibouti, Egypt, Iran, Kuwait, Tunisia, Morocco, Oman, Saudi Arabia, Qatar, United Arab Emirates, Yemen, West Bank and Gaza.

- (iv) Ration card revocation (food distribution form) by the Ministry of Trade (although not legally required, asked for in practice)
- (v) Lease or ownership agreement
- (vi) Phone number(s), email address(es), and P.O. box number(s) of the company's founder(s)
- (vii) Power of attorney
- (viii) Articles of Association

Applicants can submit their registration application online on the company registration portal [tasjeel.mot.gov.iq](http://tasjeel.mot.gov.iq). Upon confirmation of acceptance of the application, applicants visit the Register office to provide hard copies of the necessary documentation and for identity check. It is recommended to eliminate the requirement of submitting the hard copies.

### Medium- and long-term recommendations

**6. Consolidate government approvals and payment of fees at one access point.** Currently entrepreneurs must interact with five different government agencies when registering their businesses, including the Registrar of Companies, Tax Authority (Ministry of Finance), Chamber of Commerce, Social Security Authority (Ministry of Labor and Social Affairs). The Chamber of Commerce is involved at the start of the process in checking the uniqueness of the company name. The Registrar of Companies is the main agency responsible for incorporating companies. Article 19 of Law No. 21 of 1997 (as amended in 2004) establishes a statutory time limit of 10 days to approve incorporation applications. Practitioners in Baghdad, however, report that the process usually takes an average of 14 days.

Once the Companies Register issues the registration certificate, the company must report to the Tax Authority to get a tax registration number (2 days, 450,000 dinars, US\$ 433) and the Social Security Authority to register employees for social security (3 days, 20,000 dinars, US\$ 19).

Creating a one-stop service area for new company registration would speed up the process and make it easier for entrepreneurs to meet each agency's requirements post-incorporation.

To form a one-stop shop, representatives from all of the agencies involved would be placed at a single site where they would receive and process applications. The applications should consist of one consolidated form that fulfills the requirements of all agencies involved. There should also be a single window, which would serve as a contact point with all the agencies. This would allow an entrepreneur to complete company formation in one trip and would significantly reduce the hassle and time involved. An even better solution is to identify one key agency that can accept and process the application on behalf of other agencies. The Registrar of Companies could be a good place to start in the case of Baghdad. Other agencies could be then given access to the registration database for the type of information they need. In addition, all fees need to be consolidated in a single fee, which will then be split accordingly between the agencies involved behind the counter.

The key to successful reforms is giving officials at the one-stop shop decision-making power for their respective agencies. Without it, delays will continue as the documents travel to agency headquarters and back. They could even increase. In addition, parallel processes at the other agencies must be shut down.

Countries that fail to do this see their one-stop shop becomes “one more stop” in the company registration process.

It is recommended to strengthen collaboration between all agencies involved in the start-up process by redefining legal mandates and intensifying the exchange of company-related data. As mentioned above, creating a one-stop shop would greatly encourage a strong collaboration between all agencies involved in the startup process.

**7. Eliminate the requirement of using a company seal by businesses and government agencies.** Article 202 of Law No. 21 of 1997 (as amended in 2004) requires that every company have a special seal with which to stamp its “businesses, correspondence, documents, certificates, and any other statements it issues.” In Baghdad, obtaining a company seal takes an average of 2 days and costs 20,000 dinars (US\$ 19). Companies frequently use the seal on contracts, shareholder resolutions, management resolutions and all official letters and notices. All communications with government agencies also require documents to be put on official company letterheads and to be stamped. Seals are also widely used in interactions with companies and banks.

In other countries, modern legislation has replaced the company seal with provisions under which a company validly executes a document. To further implement this reform and make it common practice, Iraq could benefit from: 1) disseminating a new regulation and inform government officials and businesses that using a company seal is no longer needed; 2) conducting a thorough legal review to ensure the harmonization of all laws requiring or referencing the use of a company seal. These laws include the Civil Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, which require seals in order to prove the validity of contracts or official documents.

Over the past 5 years, many countries including UAE, Georgia, Thailand have abolished the requirement of obtaining a company seal in order to start a business and taken similar measures to ensure the reform’s full implementation.

**8. Integrate registration of employees for social security into the one-stop shop, envisaging it be online in the future.** As mentioned above, the certificate of registration of a company is sent to the Social Security Office upon registration of the company. Potentially, this procedure could be merged with the registration of the company if a one-stop shop is created.

**9. Introduce a unique business identifier for interactions with all government agencies.** To achieve greater integration of registration and post-registration services, the Iraq could introduce legally and technologically a single business identification number, which businesses would use as a unique identifier for all interactions with government agencies. It would reduce the risk of errors in identifying the same companies and facilitate enforcements of policies.

In order to successfully implement the single identifier (ID), a common database and interoperable ICT systems of relevant government agencies has to be developed, which would transmit and share business information among all agencies. Such organization makes it easy for businesses to deal with different regulations, and for different government agencies to effectively monitor and regulate business activities and provide for government-to-business (G2B) services. When Norway introduced a single ID, the Ministry

of Finance was a powerful supporter of the reform. The Ministry and the tax authorities aimed at a more efficient tax reporting system and saw that they would benefit from the exchange of business information by a common unique identifier.<sup>vii</sup> This kind of reform does not necessarily require introducing an entirely new ID. The Belgian government, for example, refrained from introducing a new number but rather changed the old VAT ID number into an enterprise number.

Two approaches to implementing this reform are most common. First, business registration is the initial step and includes the allocation of a unique ID, which is then reused by other authorities, such as the tax authorities or social security agencies. In Australia, for example, business registration is the first step in the process and includes the allocation of the company ID. Norway takes another approach, as entrepreneurs are allocated a unique ID before they proceed to register their business. The ID and the identifying information are then made available and re-used by all agencies involved in the registration process.

Introducing a common ID for businesses requires mapping and conversion of existing identifiers. It is a comparatively complex and cost-intensive reform. Nonetheless, a growing number of countries have introduced such common IDs to increase efficiency within the public sector and reduce the administrative burden on businesses. In 2009, Singapore introduced a single identification number (SINGPASS) for all business-to-government transactions.

### 3.2 Dealing with Construction Permits

**Sound and functioning building control process can help ensure safety standards that protect the public while making the permitting process efficient, transparent and affordable for both building authorities and the private professionals who use it.** Besides enhancing public safety, well-functioning building permitting, and inspection systems can also strengthen property rights and contribute to the process of capital formation<sup>21</sup>. However, if procedures are too complicated or costly, builders tend to proceed without a permit.<sup>22</sup> Complex procedures could also increase opportunities for corruption. Analysis of World Bank Enterprise Survey data across all countries shows that the share of firms expecting to give gifts in exchange for construction approvals is correlated with the level of complexity and cost of dealing with construction permits.<sup>23</sup>

**Robust construction permitting frameworks share key features.** Many good practice jurisdictions such as Denmark, Hong Kong, Singapore and New Zealand work on eight major policy areas to achieve a sound and functioning building control process: i) building codes (including performance based codes<sup>24</sup>; ii) building and occupancy permits; iii) independent third-party review; iv) sound and transparent urban planning requirements; v) professional standards and oversight mechanisms; vi) product certification systems; vii) liability and insurance systems; and viii) conflict resolution mechanisms. Working in all eight

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<sup>21</sup> World Bank Group. 2013. "Good Practices for Construction Regulation and Enforcement Reform: Guidelines for Reformers." Investment Climate, World Bank, Washington, DC.

<sup>22</sup> Moullier, Thomas. 2009. "Reforming Building Permits: Why Is It Important and What Can IFC Really Do?" International Finance Corporation, Washington, DC.

<sup>23</sup> World Bank. 2009. Doing Business 2010: Reforming through Difficult Times. Washington, DC: World Bank Group

<sup>24</sup> Performance-based codes provide more flexibility and support innovation by focusing on outcomes to be achieved rather than prescribing how the building must be constructed. The use of performance-based codes, however, requires a higher level of technical competence to enforce than do other approaches.

policy areas simultaneously is not always necessary, but all these areas affect building-code compliance, permitting authorities' transaction costs, private building professionals and end users, and, most importantly, regulatory outcomes.<sup>25</sup>

**Reforms that make regulation of constructions more efficient and transparent can help reduce corruption and informality, while encouraging construction companies to go through formal channels and ensuring compliance with important standards, such as those impacting safety or mitigating climate change.** Good regulations, combined with sound enforcement mechanisms, ensure safety standards that protect the public while making the permitting process efficient, transparent and affordable for both building authorities and the private professionals who use it. A recent study shows that long delays to obtain permits could lead to higher transaction costs and less transactions.<sup>26</sup>

**The payoff of construction permitting reforms can be significant, as they support investment in the construction sector and thus promote job growth.** In 2005, a PriceWaterhouseCoopers study found that accelerating permit processes in the United States could permanently increase government revenues.<sup>27</sup> Examining the impact of building permit reforms on new income generation, for every 10 jobs directly related to a construction project, another 8 jobs are created locally.<sup>28</sup> These impacts yield not only additional income for the community, but also additional investments and tax revenues. Similarly, a recent study from the International Labor Organization estimates that in emerging market economies, an investment of US\$1 million in the construction sector creates more than 150 new jobs. Beyond economic returns and the pay-off in attracting more investment, the most important benefit of building permit reforms is to protect public safety.

*Doing Business* records the procedures, time, and cost required to build a warehouse and connect it to water and sewage services in Baghdad following all the official requirements (Table 2).

**Table 2. Dealing with Construction Permits, ranking and best performers**

Dealing with Construction Permits indicator	Iraq	Regional average	Regional best performer	Global best performer
Procedures (number)	11	15.7	9 (Bahrain)	7 (Denmark, Marshall Islands)

<sup>25</sup> World Bank Group 2013

<sup>26</sup> Sonia Hamman, "Housing matters, Volume 1," World Bank Policy Research Working Paper 6876, 2014. In particular, the paper mentions that "Mayer and Somerville's (2000) study of U.S. regulations estimates that a metropolitan area with a 4.5-month delay in approval and two different types of growth-control restrictions would have about 45% less construction than a metropolitan area with a 1.5-month delay and no growth management policy."

<sup>27</sup> For a single building project, accelerating permit processes provides a temporary acceleration of property tax collections. For a representative series of projects, the study shows that these revenue increases could reach 16% over a period of 5 years. "Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues" PriceWaterhouseCoopers, December 2005.

<sup>28</sup> PricewaterhouseCoopers. 2005. "Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues." Report prepared for the American Institute of Architects, Washington, DC.

<b>Time (days)</b>	167	123.6	47.5 (United Arab Emirates)	27.5 (Korea)
<b>Cost (% of warehouse value)</b>	0.3	4.4	0.1 (Qatar)	0.1 (Qatar, Mongolia, Trinidad et Tobago, St. Vincent and the Grenadines)
<b>Building Quality Control index (0–15)</b>	5.5	12.5	15 (United Arab Emirates)	15.0 (6 economies)

Source: World Bank Group, *Doing Business 2020 data*

*Doing Business 2020* reported that on average, it takes 11 procedures, 167 days, and costs 270,000 dinars (US\$ 2.262,56) to obtain a construction permit. Iraq ranked 103<sup>rd</sup> globally on the ease of dealing with construction permits, and 10<sup>th</sup> in the MENA region this year.

Iraq's low ranking on this indicator is partly due to the absence of reform or improvements. Meanwhile, other countries in the region have been actively reforming, completing 15 reforms in 6 years (DB2014-2020). Reforms that make regulation of construction more efficient and transparent can help reduce corruption and informality in the sector. By encouraging construction companies to go through formal channels, governments can reap the returns on investments made in reforming the sector. Good regulations ensure safety standards that protect the public while making the permitting process efficient, transparent and affordable for both building authorities and the private professionals who use it.

### Dealing with Construction Permit over time

**The Ministry of Housing, Reconstruction, Municipalities and Public Works is responsible for the policymaking related to the issuance of the construction permits.** More directly, the Real Estate Registration Directorate, Baghdad Mayoralty and Water and Sewage Directorate, are specifically responsible for processing such permits.

***Doing Business* has recorded one reform on Dealing with Construction Permit in the past 10 years.** In the period 2015/2016, Iraq made getting construction permits easier by allowing the simultaneous processing of utility clearances and building permit applications.

Below are short-term and medium-term recommendations which could help accelerate the process of obtaining a construction permit, but also improve the quality of the Building Quality Control index, in which Iraq currently scores 5.5 out of 15 points.

### Short-term reform recommendations:

**1. Improve information availability on pre-approvals needed to obtain construction permits.** Ensuring open access to relevant regulations can act as a powerful tool to strengthen accountability in both the private and public sectors while it limits corruption and abusive practices prevalent in opaque business environments. According to a case-study published in *Doing Business 2013*, economies with greater access

to regulatory information tend to have more efficient regulatory processes and lower regulatory compliance costs<sup>29</sup>.

How easy it is to access construction regulations varies from one economy to another. The documents made available can range from copies of building laws to simplified checklists of documents and approvals to be obtained before applying for a building permit. Some economies centralize all the documents relevant for construction permits in a single website, making targeted and comprehensive information available to users. The United Kingdom, for example, provides an online portal where all legislation, as well as good practices, can be easily accessed, in addition to guidelines on how to get approval for a building project. To convey changes in regulation and inform professionals of new standards and laws, it is also important that published documents be updated in a systematic and timely fashion.

Nowadays, 179 economies have made all or parts of their building regulations available to the public through various channels—172 have published them online—making it easier to understand the different requirements of the construction permitting process and to comply with applicable regulations. Iraq is not one of these economies, thus authorities should follow-up on the plan to make information on pre-approvals available via the proposed amendments to the national building code.

The currently applicable regulations are available free of charge on the municipality website. Fee schedules and administrative guidelines for the services rendered by the Baghdad Municipality are published on the website, as well. However, the instructions are unclear and could be made more user-friendly. The local authorities and utility service providers should consider publishing a list of required pre-approvals of the drawings/plans by the relevant agencies (i.e. electrical, water, sewerage and environmental), along with a fee schedule for the administrative services they provide. A developers' guide complete with procedural steps, documentation requirements, fee schedules, and relevant legislation would contribute to improving the administration of development permission applications. It would also ensure that developers know their rights and enable them to counter potential corruption or payment of bribes.

**2. Analyze the process and improve collection of information necessary prior to applying for construction permit.** Pursuant to the Building Code, a builder must request an ownership certificate and a site map delineating the boundaries from the Real Estate Directorate. In addition, the entrepreneur must obtain property tax clearance, each procedure taking 7 and 2 days respectively. It is necessary to analyze the process in each agency in order to identify the causes of delays for each procedure. In long-term, such information should be verifiable electronically, once all maps and titles in Baghdad Real Estate Directorate are digitalized.

Authorities could consider developing land-use plans initially by prioritizing urban areas subject to high growth and rapid transformation and targeted for investment. Consider imposing a maximum time limit for local municipalities to adopt local development plans. Dedicated electronic platforms should be

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<sup>29</sup> World Bank 2012. How transparent is business regulation around the world? <https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB13-Chapters/DB13-CS-Transparent-business-regulations.pdf>.

developed to allow interested parties to review the detailed conditions of development down to specific land use conditions associated with land plots.

**3. Integrate all the GIS systems in Baghdad.** A Geographic Information Systems (GIS) is an integrated system of computer hardware, software, and trained personnel capable of assembling, storing, manipulating, and displaying topographic, demographic, utility, facility, image and other resource data that is geographically referenced. To be fully functional, the implementation of a robust GIS must be linked to the appropriate master plan and all the relevant agencies. The accessible maps should contain all relevant zoning, infrastructure and construction information to allow designers to proceed with their plans without having to contact authorities for further details (Box 1).

**Box 1 - An example of the GIS system in North Shore City Council, Auckland New Zealand**

Key to the success of the NSCC GIS program has been their commitment to distribute access to the map data and associated council information to the various stakeholders. The online 'GIS Viewer' initiative has been especially well-received. Anyone with access to a standard web browser can create their own maps from available data including color aerial images, boundary lines, water pipes, manholes, hydrants and even property values and zoning information. North Shore City Council can have anywhere from 500 up to 10,000 maps being produced in a single day, typically from house hunters. Real estate agents, surveyors, designers, architects and lawyers are also high users.

*Source: North Shore City Council.*<sup>30</sup>

As the GIS system is already a popular tool in different government agencies in Baghdad, it is recommended to integrate all such individual GIS systems into one master GIS system to facilitate communications among the agencies and limit separate visits to each agency by the developer. This integration process could be part of the project that will create an atlas of all Iraqi roads.

**4. Establish risk-based guidelines for obtaining a location clearance from the regional authority and consolidate location clearances by updating zoning regulations and digitizing city zoning maps.** In addition to the above two procedures, builders in Bagdad must submit he preliminary drawings, including the ownership certificate, the site map and the property tax clearance in order to request the planning permission and location clearance, all this before they can even apply for a construction permit. Generally, these types of approvals are needed to ensure that the land that is to be developed is correctly zoned for commercial construction and that no previous construction or other constraining factors exist on the specific plot of land. In the medium term, one option to streamline this process is to have more updated and digitized zoning maps (see recommendation below). In the short-term, however, Iraq could consider changing the requirements for which type of projects require so many levels of location clearance.

International good practice is moving increasingly towards "risk-based" regulations. These are regulations that differentiate projects based on the risk they pose on public health and safety. The Government of Iraq could consider introducing a risk-based approval system for projects that require location clearances

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<sup>30</sup> <http://www.northshorecity.govt.nz/SERVICES/PROPERTYINFORMATION/GISVIEWER/Pages/default.asp> Note: The NSCC GIS system is built using the Environmental Systems Research Institute (ESRI) as the platform. <http://www.esri.com/>

from the regional authority. That way, simpler residential or commercial projects that are in the appropriate zone would not require multiple levels of location clearance.

In addition, clear zoning rules make it easier for investors to determine which activity is allowed and where. These are also important to preserve the public goods of buildings, residential or commercial developments in appropriate locations, and avoid random and inconsistent developments within the city. One way of streamlining these procedures is to make one agency responsible for all issues related to location clearance and to incorporate the checks on zoning requirements in the building permit application itself. Rwanda did this in 2009 by allowing builders to apply for a location clearance in the same form as the building permit application. Another way to ensure a more streamlined and speedier review of planning permissions or location approvals is to have updated and digitized zoning maps. In Honduras digitization of zoning maps and the introduction of risk-based mechanisms in the zoning regulations cut the time to obtain a location permit from 2 weeks to just 2 days.

**5. Improve the risk-based classification of buildings based on their intrinsic features and intended use and incorporate these principles into the new inspection regime and the online portal.** International good practice shows that not all building projects are associated with the same economic or environmental risks and as a result, not all construction plans require the same degree of scrutiny. Efficient governments have implemented rigorous yet differentiated construction permitting processes to treat buildings according to their risk level and location.

Baghdad Mayorality conducts site inspections prior to accepting an application for the building permit to ensure that the boundaries match what is on the site map. Although it is a requirement, such inspections do not always happen in practice.

In order to shorten the time and simplify the process of obtaining a construction permit, as well as time of inspections before, during and upon completion of the construction, it is recommended to conduct a risk assessment of the stock of existing buildings in Baghdad which would serve as basis for a risk-based system for building permits applications and pre/post construction inspections, and a review of existing construction regulations to differentiate areas that warrant more attention and direct controls from the building authorities from those that warrant less. This exercise would allow the competent authority to streamline and prioritize the issuance of building permits in a responsible manner. It would provide the basis for actions that could reduce the procedures and the time to obtain building permits in the future.

Modern best practices have established risk categorizations typically associated with the footprint of the building, the building's size, and its intended purpose. This classification determines the level of checks required for each building type and creates a predictable framework for building authorities and building professionals. The Building Code of Australia outlines 10 key classes of building development, along with respective subclasses. These classes of buildings are outlined in Table 3.<sup>31</sup>

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<sup>31</sup> See for example the Guidelines of the Government of Queensland Australia on inspections depending on the risk category of buildings. <http://www.hpw.qld.gov.au/SiteCollectionDocuments/guidelines-inspection-of-class-2-to-9-buildings.pdf>

**Table 3. Ten classes of building developments according to the Building Code of Australia**

<b>Class 1</b>	<b>Class 1a</b>	<b>A single dwelling being a detached house, or one or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, town house or villa unit.</b>
	<b>Class 1b</b>	A boarding house, guest house, hostel or the like with a total area of all floors not exceeding 300m <sup>2</sup> , and where not more than 12 reside, and is not located above or below another dwelling or another Class of building other than a private garage.
<b>Class 2</b>	A building containing 2 or more sole-occupancy units each being a separate dwelling.	
<b>Class 3</b>	A residential building, other than a Class 1 or 2 building, which is a common place of long term or transient living for a number of unrelated persons. Example: boarding-house, hostel, backpacker’s accommodation or residential part of a hotel, motel, school or detention center.	
<b>Class 4</b>	A dwelling in a building that is Class 5, 6, 7, 8 or 9 if it is the only dwelling in the building.	
<b>Class 5</b>	An office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9.	
<b>Class 6</b>	A shop or other building for the sale of goods by retail or the supply of services direct to the public. Example: café, restaurant, kiosk, hairdressers, showroom or service station.	
<b>Class 7</b>	<b>Class 7a</b>	A building which is a car park.
	<b>Class 7b</b>	A building which is for storage or display of goods or produce for sale by wholesale.
<b>Class 8</b>	A laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing or cleaning of goods or produce is carried on for trade, sale or gain.	
<b>Class 9</b>	A building of a public nature.	
	<b>Class 9a</b>	A health care building, including those parts of the building set aside as a laboratory.
	<b>Class 9b</b>	An assembly building, including a trade workshop, laboratory or the like, in a primary or secondary school, but excluding any other parts of the building that are of another class.
	<b>Class 9c</b>	An aged care building.
<b>Class 10</b>	A non-habitable building or structure.	
	<b>Class 10a</b>	A private garage, carport, shed or the like.
	<b>Class 10b</b>	A structure being a fence, mast, antenna, retaining or free-standing wall, swimming pool or the like.
	<b>Class 10c</b>	A private bushfire shelter.

Source: *Building Codes of Australia (BCA) Classes of buildings*

Today many economies have a risk-differentiated approach to building regulation.<sup>32</sup> Under the “Smart Regulator” program, Hong Kong reduced the time to deal with construction permits by 36 days and eliminated or merged 8 procedures related to inspections and preapprovals. In the European Union, the European Standard EN 1990 sets three “Consequence Classes” determined by the risks to users as well as

<sup>32</sup> Doing Business database.

social and economic consequences. Each category requires a different and proportionate degree of scrutiny from building authorities (Table 4).<sup>33</sup>

**Table 4. EN standard 1990. European approach to risk categorization, using “Consequence Classes”**

Definition of Consequences Classes		
Consequence Class	Description	Example of Buildings and Civil Engineering Works
CC3	High consequence for loss of human life; high consequences for economic, social, or environmental consequences	Grandstands, public buildings where consequences of failure are high (e.g., a concert hall)
CC2	Medium consequence for loss of human life; considerable economic, social, or environmental consequences	Residential and office buildings, public buildings where consequences of failure are medium (e.g., an office building)
CC1	Low consequence for loss of human life; small or negligible economic, social, or environmental consequences	Agricultural buildings people do not normally enter (e.g., storage buildings), greenhouses
Control at the Design Stage (Design Supervision Levels, or DSL)		
Design Supervision Levels	Characteristics	Minimum recommended requirements for checking of calculations, drawings and specifications.
DSL3	Extended supervision	Third party checking: Checking performed by an organization different from that which prepared the design
DSL2	Normal supervision	Checking by different persons than those originally responsible and in accordance with the procedure of the organization
DSL1	Normal supervision	Self-checking: Checking performed by the person who has prepared the design
Controls by Inspectors (Inspection Levels or IL)		
Inspection Levels	Characteristics	Requirements
IL3 Relating to RC3	Extended inspection	Third-party inspection
IL2 Relating to RC2	Normal inspection	Inspection in accordance with the procedures of the organization
IL1 Relating to RC1	Normal inspection	Self-inspection

Germany’s Model Code provides a building classification that divides buildings into five building classes. All five classes of buildings are normally associated with different design requirements and different forms of administrative and legal approvals of buildings. The building permitting procedures are stipulated in Sections 62-64 of the Model Building Code and vary depending on each building category. Article 62 of the Model Building Code, for example, exempts a long list of small construction types, including structures in “building classes 1 to 3.” A simplified building permit procedure is recommended for residential buildings in classes 1, 2, and 3 (Article 63).

<sup>33</sup> Source: European Union, as summarized in “Good Practices for Construction Regulation and Enforcement Reform. Guidelines for Reformers.” Investment Climate, World Bank Group, January 2013, p. 17

**Table 5. Building Classes as Defined by the German Model Building Code**

<b>Building class 1</b>	<b>Free-standing buildings up to 7 m tall containing no more than two functional units totaling no more than 400 m<sup>2</sup> in area, and Free-standing buildings used in forestry or agriculture</b>
<b>Building class 2</b>	Buildings up to 7 m tall containing no more than two functional units totaling no more than 400 m <sup>2</sup> in area
<b>Building class 3</b>	Other buildings up to 7 m tall
<b>Building class 4</b>	Buildings up to 13 m tall and containing functional units, each not exceeding 400 m <sup>2</sup> in area
<b>Building class 5</b>	Other buildings, including underground structures

*Source: Federal Building Code (Baugesetzbuch, BauGB)*

Other jurisdictions have combined the use of risk-based approvals with the provision of fast-track options. For example, for small, low risk projects, developers of commercial buildings in Ontario, Canada, can opt for the “Commercial Xpress” permit review process which takes just 10 days.<sup>34</sup> A similar procedure is in place for further construction works in existing residential buildings. Under Article 10 of the building code, anyone who intends to construct a building may choose to apply for a fast-track procedure. Similar fast track procedures exist in the United States. For example, the New York City Department of Buildings (DOB) offers a fast-track service for simple projects called the Professional Certification Program, as it relies on self-certification mechanisms by certified private practitioners. In these cases, the process of DOB examination and approval of plans is eliminated, although the application must go through the same pre-filing payment and data entry process as normal applications. In addition, 20% of all applications will have an audit within 10 days of the building permit issuance.<sup>35</sup> As a general rule, fast-track options should only be implemented where regulations clearly spell out the requirements and enforcement is strong. This can avoid risks associated with structural flaws, as well as corruption.

In Milan, a fast-tracked procedure speeds up the building authorization process. A law of the regional government of Lombardy allows applicants to proceed with a “Starting Activity Declaration” (Super-DIA), which is a substitute for the building permit. Within 30 days of the filing of the Super-DIA, the municipality verifies all documents for formal compliance and completeness. Construction can then start. Even though the Super-DIA is a national law, implementing regulations are set at the regional level. In Milan and in the rest of the Lombardy region, the Super-DIA is allowed as an alternative to the building permit for new constructions. In the other regions, the use of the Super-DIA is more restricted. It cannot be used for new constructions, except when the town plan (Piano Attuativo) contains precise provisions regarding the size and the type of construction that can be built in a certain area.

**6. Analyze the process for obtaining project clearance in the Civil Defense agency.** At present, it takes 60 days to obtain clearance from the Civil Defense before applying for the construction permit. It is recommended to analyze the internal processes in detail in order to identify the bottlenecks which

<sup>34</sup> The following projects qualify for the Commercial Xpress service: interior alterations to assembly, business, industrial, office and retail uses, up to 300m<sup>2</sup> in area, no change of use, no change in patron area for restaurants, tents, and minor fire damage repair For more information on the project based building permitting procedures in Ontario, please visit: <http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=e7c14b1c296c0410VgnVCM10000071d60f89RCRD>.

<sup>35</sup> <http://www1.nyc.gov/site/buildings/industry/professional-certification.page>

contribute to such a delay, which ultimately prolongs the whole process of obtaining the construction permit. The efficiency at the agency can also be improved by introducing indicators to measure and monitor performance.

**7. Implement a one-stop shop and an online platform to issue building permits.** Currently, a construction company must obtain documents and approvals from several different agencies in order to obtain a building permit. Builders must complete 8 procedures before construction can begin. These procedures include:

- paying the inspection fees at the municipality;
- obtaining a location clearance and construction guidelines from the Municipality;
- obtaining a location clearance and planning permission from the regional authority;
- obtaining a lot plan from the municipality;
- obtaining project clearances from the Baghdad Electrical Company, and the Water and Sewage Directorate;
- obtaining a construction permit from the municipality.

A one-stop shop would centralize all of these clearances in one location and make the technical approvals an in-house process at the Municipality. The effectiveness of the one-stop shop will depend on having representatives from the different technical departments—with the authority to clear projects—at the Municipality. The increased efficiency would eliminate several procedures and possibly reduce overall time, once implemented.

Furthermore, every process and transaction discussed above is paper based. A comprehensive automated system could be developed initially in Baghdad and subsequently deployed throughout the whole country. The deployment of new technologies can help Iraq “leapfrog” to a more efficient and transparent building regulatory apparatus. New technologies such as e-applications (e.g. web-based software applications) or web and SMS-based tracking and notification systems can bring automation, which can substantially improve efficiency in construction-permitting administration as well as increase formality and compliance with safety requirements. Automation will require transparency with respect to regulatory agency approval processes and documentary requirements. Such a system would include:

- Online submission of applications for construction licenses or notifications, renewals, appeals processes, inspections, occupancy certificates;
- Online tracking of applications;
- Comprehensive database pertinent to construction permitting processes that shall include: legacy data of construction permit approval, renewal, rejection, related inspections, related appeals, and occupancy certification; this also includes database of registered vendors/ architects’ information;
- Automated workflow capabilities for construction permit approval, renewal, carrying out inspection activities such as planning, scheduling, risk assessment, documenting visit checklists, reports and actions, communication with business via e-mail or SMS, etc. and occupancy certification;
- Analytical reporting;
- Document management and archiving capabilities to handle attachment uploaded to the system.

Economies in the MENA region that made dealing with construction permits easier focused on introducing online services and electronic platforms. This trend was initiated in the early 1990s by some Gulf Cooperation Council countries (Bahrain, Qatar, Saudi Arabia and the United Arab Emirates).

Last year, Pakistan made obtaining a construction permit easier and faster by streamlining the approval process and by improving the operational efficiency of its one-stop shop for construction permitting. Argentina implemented an electronic platform for building permit applications and streamlining procedures.

Several countries globally already have such computerized systems in place for some time. Developers in Austria, Denmark, Iceland, Norway, Portugal and the United States can complete their building permit applications online. In Singapore, the data management system, established in 2001, enables easy access to information needed for obtaining a building permit, it allows on-line submission of plans, and it facilitate efficient permit processing. Today, builders regularly receive updates on the status of their application by either e-mail or text messaging. As a result, the time for dealing with construction permits has been reduced by two-thirds. This reform saves time for builders and government officials alike. In addition, developers can pay the fees by using an online system called CORENET (Box 2).

In its ultimate form, automation would allow for the electronic submission and review of building plans. However, automation, unlike the other reforms, would require substantial technical hardware investments. Lastly, in order to reap the full benefits of automation and new technologies, other initiatives must be undertaken. Before implementing automated solutions, it is advisable to reengineer the issuance of building permits, modernize the workflow systems and physically reorganize the office floor to mirror the steps of a simplified process.

After the full operationalization of the online application process, the Government could extend approval of connections with utility companies where applicants would be able to apply and pay the respective fees for all clearances simultaneously and all the utility connections by submitting one online form along with the design plans. Agencies can include the Water and Sewage Municipal Agency, the electricity utility companies etc. There needs to be in-built safeguard mechanisms to allow for the confidentiality and security of the information provided by building professionals. Strict digital signature protocols as well as data encryption functionalities need to be incorporated into the system.

## Box 2. Combining IT Solutions with Public-Private Collaboration in Singapore

In the early 1990s the Government of Singapore launched the IT2000 Masterplan. This initiative was designed to explore how information technology (IT) solutions could create a competitive advantage, enhance productivity, and improve the overall quality of life in Singapore. Of the 11 groups created to lead this task, one was the Construction and Real Estate Study Group.

Private-sector practitioners, professional associations, and government agencies were all part of this group. Its objective was to explore the incorporation of IT solutions to improve the productivity and efficiency of the construction and real-estate sector.

In 2001, as result of the work done and consultations conducted by the study group, the Construction and Real Estate Network (CORENET) building approval online platform was launched. This system significantly enhanced the quality and agility of construction approvals by allowing online applications and verifications.

After the system became fully operational in 2004, a survey among qualified professionals revealed that 100 percent of the respondents enjoyed savings from using CORENET. Savings were noted in printing costs by 72 percent of the respondents, in transport costs by 81 percent, in hardcopy storage expenses by 54 percent, in manpower costs by 44 percent, and in time savings by 65 percent. Public agencies also reported that online submission and electronic information sharing for building approvals saved them time and resources.

*Source: World Bank Group (2013)*

Many countries that introduced some form of single window gradually improved it by integrating more services. For example, in Malaysia, developers can now apply for pre-construction authorizations, building permits and utility connections through the new “One Stop Centre” (OSC) at the Kuala Lumpur City Hall. After the single application is submitted, the OSC refers the submissions to all the competent authorities, including the sewerage and water agencies, while it also arranges and coordinates the inspections and final connections with the utility providers <sup>36</sup>.

Building control bodies in England have introduced a national portal, called “Submit-a-Plan” for Building permit applications. This portal allows the general public and professionals to submit application forms and associated plans and drawings electronically. Submit-a-Plan was originally conceived by the City of Sunderland Building Control and was subsequently fully specified and developed in conjunction with the Local Authority Building Control (LABC) services. The application is now operated by a private contractor and is funded by the local authorities.

The City of Hamburg is another example of the implementation of a digital permit application allowing the submission of building plans. The current legislation fully enables the development of such online services. While online submission of building permit applications is not yet the norm, most German cities have however mature ICT solutions for the management of back-office procedures within municipal building departments.

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<sup>36</sup> Good Practices for Construction Regulation and Enforcement Reform. “Guidelines for Reformers.” Investment Climate, World Bank Group, January 2013, page 54.

**8. Streamline the process for obtaining a clearance on completed construction approval from the Baghdad Municipality.** Once a building is completed, builders must receive a final inspection (14 days) and a completion certificate (30 days) from the National Center of Construction Laboratory. In addition, the Municipality also conducts a final inspection on the completed construction (1 day). These procedures are important because they ensure that buildings conform to the guidelines and standards set out in the construction permit and the construction code. However, international best practice shows that this process can be done much faster. In good practice countries, inspections are usually carried out within 48 hours from the builder's notification of the completion of a particular component of the building.

Some good practice countries streamline final inspections so that all the authorities that must approve the completed construction projects inspect at one time. The Baghdad Municipality could consider coordinating with the National Center of Construction Laboratory to issue a consolidated final approval on newly constructed buildings.

**9. Analyze the process of applying for clearance from the Water and Sewage Directorate in the Ministry of Construction, Housing, Municipalities and Public Works, as well as connection to the water and sewage system.** Currently, it takes 45 days to obtain clearance from the Water and Sewage Directorate and another 45 days to get connected to the water and sewage systems at the end of construction in Baghdad. It is recommended that a thorough analysis is conducted to identify the bottlenecks in order to drastically diminish these delays.

#### *Medium-term reform recommendations*

**10. Improve the overall building quality process by implementing the following steps:**

- a. Respect the time limits imposed by law to issue a building permit. Currently, there is a time limit of 30 days imposed by law to issue a building permit, however, this time limit is not respected in practice. Doing Business records 75 days in Iraq for obtaining a building permit. Similarly, inspections required by law are not always conducted in practice. It is thus recommended to assure the relevant legal requirements are implemented.
- b. Amend the law to clarify which parties may be held responsible for structural flaws once the building is in use and introduce mandatory insurance requirement to cover structural defects.

Currently in Iraq there is not legal framework for legal liability of parties involved in the construction process in case of latent defects such as structural flaws or problems in the building once it is in use. It is a common global practice to have the following parties are held legally liable for structural flaws or future problems: the architect or engineer who designed the plans for the building, the professional or agency that conducted technical inspections, or the construction company.

In addition, any parties involved in the construction process should be required by law to obtain a latent defect liability—or decennial (10 years) liability—insurance policy to cover possible structural flaws or problems in the building once it is in use, including the architect or engineer who designed the plans for the building, the professional or agency that conducted the technical inspections, the construction company, or the project owner or investor.

Defects are often discovered only after the building has been occupied. Remedying defects at that stage can be both costly and time-consuming. Therefore, it is important that the responsible party be held liable and that the parties involved in the building design, supervision and construction obtain insurance to cover the costs of any structural defects. The current law does not set mandatory insurance requirements to cover structural defects nor hold any party responsible once the building is in use unless the building is part of a government project. Amendments to the legal framework should be introduced to align Iraq to international good practices and introduce Decennial Liability and Decennial Insurance regimes for construction projects.

Construction insurance is a major method of managing risks in the construction industry. Its primary function is to transfer certain risks from clients, contractors, subcontractors and other parties involved in the construction project to insurers to provide contingent funding in time of difficulty. Construction insurance plays an increasingly important role in guaranteeing the success of projects, with insurers sharing losses resulting from natural disasters and other contingencies.<sup>37</sup>

Having an insurance to cover the costs that arise from structural defects benefits clients as well as contractors and encourages more construction, particularly for small and medium-size construction companies. While many advanced economies also lack specific legal provisions related to insurance, they typically have standard contractual clauses that set the liability regime and insurance requirements for structural defects.

To align itself to good international practice, Iraq should define which parties are required to obtain insurance policies to cover damages caused by defects. In doing so, Iraq can follow the example of Denmark or France, both early adopters of mandatory insurance regimes, to introduce a mandatory decennial insurance requirement. In both countries the term of the insurance is 10 years. In Denmark, the mandatory decennial insurance is required for construction of new permanent dwellings. The municipality checks the validity of insurance before the issuance of the building permit and after the completion of construction, when issuing the occupancy permit. In France, the same requirement applies to all new buildings, regardless of the functional purpose, and has two levels – insurance covering defects in the constructed property (*dommage ouvrage*) taken out by the owners of the building, and decennial insurance taken out by constructors to cover possible structural flaws.

As a first step, Iraq could introduce law with long *vocatio legis* (deferred entry into force) and voluntary mechanisms in order to allow for insurance market to adapt. A public-private partnership between the government and the construction association could then identify the most relevant cases for a decennial insurance and develop standard contractual clauses. Alternatively, the mandatory decennial insurance requirement could be introduced only for major projects. For example, Italy has introduced compulsory decennial insurance for public procurement projects exceeding 10 million Euros.

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<sup>37</sup> Junying Liu, Bingguang Li, Jiong Zhang, Insurance and construction project risks: a review and research agenda.

### 3.3 Getting Electricity

**The World Economic Forum (WEF) sees infrastructure, including electricity provision, as one of the 4 pillars of competitiveness – i.e. the set of institutions and factors that determine a country's productivity.** A reliable electricity supply boosts firms' output – while also affecting societal welfare in areas like education<sup>38</sup> and healthcare.<sup>39</sup> Without a stable energy supply, businesses cannot make full use of their capital and risk under production. Where the quality and accessibility of infrastructure services is poor, companies' productivity is negatively impacted.<sup>40</sup> This holds especially true for small and medium enterprises (SMEs), as many cannot turn to captive power options (e.g. generators) due to limited resources.<sup>41</sup> Empirical research has shown that investment (domestic and foreign) tends to be attracted to countries that are able to offer a reliable supply of electricity.<sup>42</sup> Moreover, the 2018 World Bank Enterprise Surveys data reports that business owners in developing economies perceive electricity (or lack thereof) as the fourth biggest obstacle to their activities behind only access to finance, the informal sector and political instability.<sup>43</sup>

**Impediments to electricity access are not restricted to just power reliability and supply adequacy. A recent World Bank study has shown that simpler electricity connection - in terms of time, cost and procedures - positively impacts firm performance.** This is particularly the case in industries with high electricity needs, such as manufacturing motor vehicles.<sup>44</sup> The same study also finds that the hurdles related to obtaining an electricity connection are associated with several sector outcomes like electrification rates and the incidence of bribe payments to the utility. Finally, research shows that businesses that lack access to electricity connections are prevented from moving into higher-value-added activities.<sup>45</sup>

**The *Doing Business* Getting Electricity indicator measures access to electricity and the reliability of its supply, along with the transparency of commercial tariffs.** The indicator set helps to understand the challenges and potential bottlenecks firms face vis-à-vis the electricity sector. For example, it provides data on the process of obtaining a new electricity connection for local SMEs, detailing the required associated procedures along with their time and cost. This benchmark enables utilities and regulators to review the connection service and learn from best practices as efficient connection processes share key features. For instance, approvals are consolidated, and the responsibility for the safety compliance of the building's internal wiring is transferred to private electrical contractors.

**To measure the reliability of supply and transparency of tariffs, the Getting Electricity indicator presents an index scored from 0 to 8 points.** It encompasses quantitative output data on the duration and

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<sup>38</sup> Khandker, Shahidur R., Hussain A. Samad, Rubaba Ali, and Douglas F. Barnes. "Who Benefits Most from Rural Electrification? Evidence in India." *Research in Agriculture and Applied Economics*. May 2012. Web. 1 Apr. 2016.

<sup>39</sup> Adair-Rohani, Heather et al. "Limited Electricity Access in Health Facilities of Sub-Saharan Africa: A Systematic Review of Data on Electricity Access, Sources, and Reliability." *Global Health, Science and Practice* 1.2 (2013).

<sup>40</sup> Calderon and Serven (2003), Dollar et al. (2005), Eiffert (2007).

<sup>41</sup> Moyo (2013)

<sup>42</sup> Audinet and Rodriguez Pardina (2010).

<sup>43</sup> World Bank Group, *World Bank Enterprises Surveys (2002 – 16)*. World Bank, Washington, DC.

<sup>44</sup> Ramalho and Geginat 2015.

<sup>45</sup> Shaw (2014).

frequency of power outages as measured by SAIDI and SAIFI<sup>46</sup> for calendar year 2018, as well as qualitative input information, i.e. the role of the energy regulator, the systems used to monitor power outages, whether financial deterrents exist to limit outages, and whether electricity tariffs and tariff changes are communicated efficiently to customers.

**Doing Business 2020 records all procedures required for a business to obtain a permanent electricity connection and supply for a standardized warehouse in Baghdad following all the official requirements.** Iraq ranks 131<sup>st</sup> globally on the ease of getting electricity and 17<sup>th</sup> out of 20 economies in the Middle East and North Africa region, with an overall Ease of Doing Business score of 61.9. According to the report, connecting to electricity requires 5 procedures, takes 51 days and costs 384.7% of income per capita. Iraq ranks better than the regional average of the MENA economies in the time and cost sub-indicators, but slightly above the regional average on the number of procedures sub-indicator. In addition, Iraq scores zero out of 8 points in the reliability of supply and transparency of tariffs indexes<sup>47</sup> (Table 6).

**Table 6. Getting Electricity ranking and best performers**

Getting Electricity indicator	Iraq	Regional average	Regional best performer	Global best performer
Procedures (number)	5	4.4	2 (United Arab Emirates; Saudi Arabia)	2 (7 economies <sup>48</sup> )
Time (days)	51	63.5	7 (United Arab Emirates)	7 (United Arab Emirates)
Cost (% of income per capita)	384.7	419.6	0.0 (United Arab Emirates)	0.0 (Japan, China, United Arab Emirates)
Reliability of supply and transparency of tariff index (0–8)	0	4.4	8 (United Arab Emirates)	8.0 (26 economies) <sup>49</sup>

Source: World Bank Group, *Doing Business 2020 data*

**According to *Doing Business* data, a firm in Iraq seeking a new medium voltage connection to the grid will need to interact a total of four times with representatives of the Ministry of Electricity.** First, the firm needs to submit in person an application for a new electricity connection to the local distribution

<sup>46</sup> *Doing Business* uses the system average interruption duration index (SAIDI) and the system average interruption frequency index (SAIFI) to measure the duration and frequency of power outages in the largest business city of each economy. SAIDI is the average total duration of outages over the course of a year for each customer served, while SAIFI is the average number of service interruptions experienced by a customer in a year.

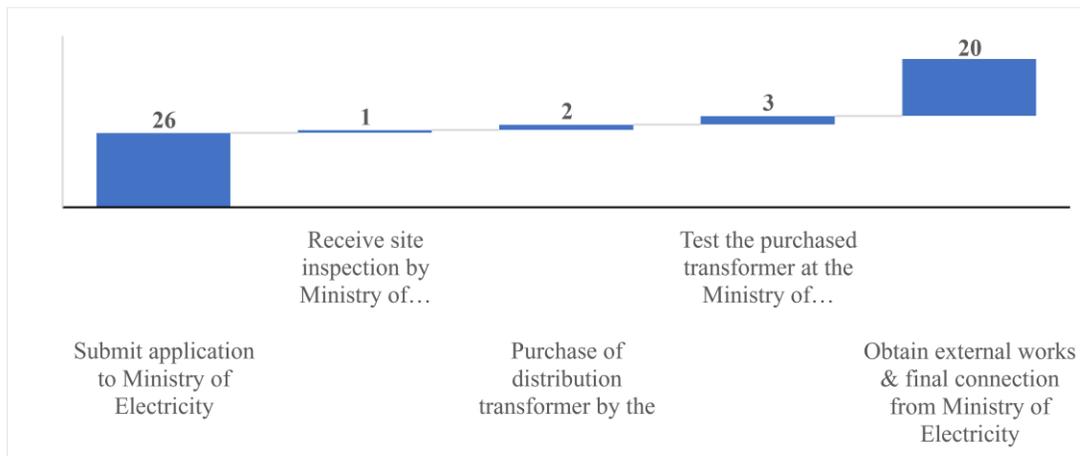
<sup>47</sup> An economy receives the status of a “no practice” economy on the reliability of supply and transparency of tariff index, if for example, outages occur more than once a month and none of the mechanisms and tools measured by the index are in place. It could also receive a score of 0 if either the SAID and SAIFI value (or both) exceeds the threshold of 100, or not all outages were considered when calculating the indices. A “no practice” economy received a score of 0 on the reliability of supply and transparency of tariff index even if, for example, there is regulatory oversight of utilities on power interruptions, among others.

<sup>48</sup> China, Armenia, United Arab Emirates, Russian Federation, Saudi Arabia, Thailand and Japan.

<sup>49</sup> Japan; Hong Kong SAR, China; France; Czech Republic; United Kingdom; United Arab Emirates; Finland; Malaysia; Netherlands; Sweden; Costa Rica; the Republic of Korea; Germany; Russian Federation; Lithuania; Kazakhstan; Slovak Republic; Ireland; Spain; Belgium; Slovenia; Belarus; Cyprus; Estonia; Uzbekistan; Thailand.

office, covering the area where the warehouse is located, of the Ministry of Electricity and await estimate. Then, the client receives a site visit from the technical department of the Ministry of Electricity. A site visit is required to: i) check whether the wiring (the interface to the public network) is done properly and ready to be connected to the distribution network; ii) to identify the nearest connection point to the 11 KV feeder; and, iii) to determine the material required to carry out the connection works. The inspection is followed by a report addressed to the office manager. After the site visit, the firm needs to purchase a transformer from a local store - which has to be tested for quality purposes at the Ministry of Electricity. Finally, the Ministry of Electricity after reviewing the inspection report and notes from the local office on the availability of material, then send the technical team to the site to carry out all external works, install the meter and turn on electricity<sup>50</sup>. (Figure 2)

**Figure 2. Procedures to get a new electricity connection in Iraq**



Source: World Bank Group, *Doing Business 2020* database

### Reliability of supply and transparency of tariff index

In the Reliability of supply and transparency of tariffs index, Iraq scores 0 out of 8 points.<sup>51</sup> The country obtains 0 points in the reliability of supply and transparency of tariffs index due to the fact that the minimum outage time considered for calculation of the SAIDI and SAIFI indices – which measures the

<sup>50</sup> In area assumed in Baghdad, it is assumed that the most likely case is to have an overhead connection. Therefore, no excavation permit is required.

<sup>51</sup> An economy is eligible to obtain a score on the reliability of supply and transparency of tariffs index if it satisfies two conditions. First, the utility must collect data on all types of outages (measuring the average total duration of outages per customer and the average number of outages per customer). Second, the SAIDI value must be below a threshold of 100 hours and the SAIFI value must be under 100 outages. An economy is not eligible to obtain a score if outages are too frequent or long-lasting for the electricity supply to be considered reliable- that is, if the SAIDI or the SAIFI values exceed the determined thresholds. An economy is also not eligible to obtain a score on the index if data on power outages are not collected or collected partially (for example, planned outages or load shedding are not included in the calculation of the SAIDI and SAIFI indices), and if the minimum outage time considered for calculation of the SAIDI and SAIFI indices is over 5 minutes.

duration and frequency of power outages per customer – is over 5 minutes.<sup>52</sup> In addition, Iraq hasn't established an energy regulatory agency to monitor the utility's performance on reliability of supply and does not provide for financial deterrents to limit power outages (Table 7).

**Table 7. Getting Electricity in Iraq – Measure of Quality**

<b>Reliability of supply and transparency of tariff index (0-8)</b>	0
<b>Total duration and frequency of outages per customer a year (0-3)</b>	0
System average interruption duration index (SAIDI)	---
System average interruption frequency index (SAIFI)	---
What is the minimum outage time (in minutes) that the utility considers for the calculation of SAIDI/SAIFI	30.0
<b>Mechanisms for monitoring outages (0-1)</b>	1
Does the distribution utility use automated tools to monitor outages?	Yes
<b>Mechanisms for restoring service (0-1)</b>	1
Does the distribution utility use automated tools to restore service?	Yes
<b>Regulatory monitoring (0-1)</b>	0
Does a regulator—that is, an entity separate from the utility—monitor the utility's performance on reliability of supply?	No
<b>Financial deterrents aimed at limiting outages (0-1)</b>	0
Does the utility either pay compensation to customers or face fines by the regulator (or both) if outages exceed a certain cap?	No
<b>Communication of tariffs and tariff changes (0-1)</b>	0
Are effective tariffs available online?	No
Link to the website, if available online	n.a.
Are customers notified of a change in tariff ahead of the billing cycle?	Yes

Source: World Bank Group, *Doing Business 2020 data*

### Getting electricity over time

**The Ministry of Electricity is responsible for both the policymaking and the electricity supply throughout the country.** The Ministry of Electricity was established in Iraq in 2003. Specifically, in Baghdad, the

<sup>52</sup> The minimum outage time (in minutes) that the Ministry of Electricity considers for the calculation of SAIDI/SAIFI is 30 minutes.

Baghdad Electricity Distribution company is one of the agencies of the Ministry of Electricity, which is responsible for the delivery of electrical energy to the citizens and maintenance of the electrical network, and its work covers the governorates of Baghdad, Diyala and Anbar through its seven branches scattered in those governorates.

**Doing Business has recorded one reform on Getting Electricity.** In the period 2015/2016, the Ministry of Electricity made getting electricity faster by enforcing tighter deadlines on electricity connections. The Government of Iraq could continue increasing the efficiency of the utility and the reliability of supply by reducing the outage time considered for calculation of the SAIDI and SAIFI indices from 30 minutes to 5 minutes or less; introducing financial deterrents to limit power outages; establishing an energy regulator to monitor the utility's performance on reliability of supply; creating an online application portal for new electricity connections and improving the utility's complaint mechanism. Recommendations such as these are presented below.

### Short-term reform recommendations

**1. Introduce a tracking system for electricity connection applications.** It is fundamental that the Ministry of Electricity (Baghdad Electricity Distribution agency) keeps track of the applications submitted for new electricity connections in order to identify where the bottlenecks in the process are happening. According to the *Doing Business 2020* data, once an industrial type connection application is lodged, the distribution utility takes nearly one month to review the application materials and issue a report deciding on the availability of capacity to accommodate the customer's demand and estimate the cost, which the customer is tasked to pay ahead of the external connection works. This process to receive the estimates takes up half of the total connection time in Baghdad.

The Ministry of Electricity keeps the applications in paper files, and this makes it difficult to understand how long the processes take and why there are delays. The tracking tool could initially be a manual excel based system and it would eventually turn into an automatic system once a comprehensive online application platform is established. The tracking system should be also available to customers. This will make the utility more accountable. For example: in the Russian Federation, the utility created a platform called "Personal Cabinet", where an applicant can submit the application online and track his application on every state of the process. The utility also sends notifications via text message to update the applicant on his case. The applicant can also track the status of the application through the online system.

### Medium and long-term reform recommendations

**2. Provide option to pay connection fees in installments.** Given the considerable amount customers need to disburse to get a new connection, many applicants cannot immediately finance the connection when they get the estimate. As a result, the Ministry of Electricity could consider providing the option to pay in installments – and charge interest if needed. An alternative option could be to pay a fraction of the bill immediately, but the balance could then be reported back to the first few electricity bills after the connection is finalized.

In best practice economies like South Korea, premises are energized ahead of the last installment payment, which is reported to the first electricity bill. Specifically, the distribution utility, KEPCO, charges a standard construction cost of about USD 10,000 for a 150-meter service line and 140 kW load for

underground power intake. Thirty percent of the cost is paid upfront, while the remaining 70 percent is paid in installments over a period of up to two years.

**3. Reduce the outage time considered for calculation of the SAIDI and SAIFI indices from 30 minutes to 5 minutes or less.** An economy's electricity supply is one of the main determinants of firm productivity.<sup>53</sup> It is, therefore, important for utilities to assess the reliability of the network by quantifying power outages from the perspective of customers. Utility companies do this by calculating two widely used key performance indicators, SAIDI and SAIFI. The system average interruption index (SAIDI) and the system average interruption frequency index (SAIFI) provide data from the perspective of an average customer over a calendar year and focus, respectively, on total outage duration (in hours) and frequency.

Measuring SAIDI and SAIFI data is identified as a good practice by the Institute of Electrical and Electronics Engineers (IEEE) and allows distribution utilities to compare their network reliability internationally (over two-thirds of economies worldwide use the metrics). As a result, common standards to measure SAIDI and SAIFI are necessary. Currently, the minimum outage time (in minutes) that the Ministry of Electricity considers for the calculation of SAIDI/SAIFI is 30 minutes. Most utilities that calculate SAIDI and SAIFI today capture all power outages (including load shedding) of at least five minutes or more.

**4. Review and streamline the procedure for electricity connections by introducing an online platform.** According to Doing Business, the process to obtain electricity in Iraq is relatively faster than in neighboring economies, but room for improvement remains. Entrepreneurs must complete 5 procedures, which require about 51 days, including all physical works. All applications for new electricity connections are submitted in person at the local distribution office of the Ministry of Electricity (Baghdad Electricity Distribution agency) along with all the required paperwork.

The Baghdad Electricity Distribution office could achieve marginal improvements in time by automating the application process for new electricity connections and scheduling of the external inspections. Based on the experience of other countries (see box 3), creating an online application system should benefit applicants in Iraq by lowering the time to issue new grid connections. An online portal typically prompts by default customers to submit a complete application – otherwise submission is not possible. These systems also free up human resources for utilities, which they can then allocate towards other functions. Finally, an online portal also increases transparency; customers can usually track the status of their application while the utility is able to determine in real time what are the pending applications. This initiative is among the most effective ways to reduce connection delays as long as (i) it is accompanied with an awareness campaign for users and (ii) there is a dedicated troubleshooting taskforce to address any outstanding issue and/or technical glitch in real time.

To further streamline the process to connect to the electricity grid in Baghdad, an online system should facilitate payment of all submission fees electronically using credit card or wire transfers at the time of applying for a new electricity connection. E-payment systems will reduce the cost for both the utility and customers. Customers also save on time spent in dealing with personal transaction as in traditional payment systems. Several economies have successfully automated the electricity connection process in this way in recent years. (Box 3)

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<sup>53</sup> Escribano, A., J. L. Guasch, and J. Pena. 2009. "Assessing the Impact of Infrastructure Constraints on Firm Productivity in Africa. Working Paper 9, Africa Infrastructure Sector Diagnostic, World Bank, Washington, D.C.

### Box 3. The benefits of online portals

In the past decades, several distribution utilities have recorded significant time gains for customers by rolling out online application portals. One such example is the United Arab Emirates. The Dubai Electricity and Water Authority (DEWA) introduced a 'One Window/ One Step Application for Getting Electricity' that went live in April 2012. The new system first allowed customers to submit their application and track it online. It also enabled customers to schedule the site surveys. Over the years, new features were added - such as e-payments and the possibility to schedule the internal wiring inspection – resulting in large part to the UAE setting the Doing Business best practice at 10 days for the lowest time to issue new electricity connections.

Another good example of the benefit of an online portal comes from Russia. In 2012, it took 281 days to get connected to the medium voltage grid in Moscow. In contrast, it now merely takes seventy days. MOESK, the distribution utility in Moscow, achieved the reduction through several initiatives, including the creation of a comprehensive online portal. Today, all new connection applications are submitted electronically through the website of MOESK and no visit to the client services office is required. Along with the applications form, clients need to upload several documents, including the internal wiring and equipment location plan and a copy of the license of the firm that prepared the plan. Within 7 days of the application, MOESK provides the customer with the technical conditions for the connection along with the signed connection and supply contracts. Upon signing these documents electronically, the customer makes an online payment and the external connection works can then commence. It should be noted that at every stage of the application processing, the applicant receives text-message updates. The customer can also track the status of the application through his/her online personal

**5. Establish an independent regulator to monitor the utility's performance on reliability of power supply.** Currently, in Iraq, there is no independent regulator that monitors the utility's performance on reliability of supply. Demand for electricity is typically regarded as being inelastic as firms' production capacity is largely tied to the energy needs of their machinery. At the same time, utilities – whether publicly or privately owned - typically have a monopoly over the market they serve. To safeguard customer's interests, most economies covered by *Doing Business* have set up independent regulators – i.e. a body that has legal oversight over the distribution utility, as well as a separate management structure. These two conditions are necessary to avoid any potential conflict of interest - even in economies where the distribution utility is public. Indeed, as history shows, mis-management and monopolistic behavior may occur regardless of the utility ownership type. Moreover, utility ownership type (public, private or mixed partnership) is subject to change over the years. Therefore, a strong electricity regulator has a key role to play – whether that role is undertaken directly by a Ministry or a stand-alone entity.

The overarching *raison d'être* for electricity regulators is to protect customers. This is done usually on many levels. Regulators will often fix the standards on electrical material as well as the qualifications that are necessary for professionals to carry-out electrical wiring works. Another function is on end-user electricity tariffs. Regulators typically need to approve proposed tariff increases by the distribution utility to (i) prevent price-gouging practices and (ii) make sure that electricity pricing is not subject to political considerations. Another function for regulators revolves around the reliability of supply; market incentives (and financial deterrents) can be implemented to incentivize the utility to reduce outages provided that realistic objectives are pre-determined.

In Indonesia, for instance, the Directorate General of Electricity and Energy Utilization (DGEEU) operates within the Ministry of Energy and Mineral Resources. It acts as the chief regulator of the energy sector, being responsible for the drafting of legislation, its implementation, enforcement and compliance. It also monitors the performance of Perusahaan Listrik Negara, the state-owned utility company, with regards to electricity reliability.

**6. Introduce financial deterrents to limit power outages.** Iraq could consider introducing financial deterrents aimed at limiting outages. Many economies have established a robust independent regulatory framework with the right oversight and incentives to improve the reliability of supply. Regulators, in some economies adopt a strategy to reduce outages by setting a limit on the frequency and duration of outages and then requiring utilities to pay compensation to customers if they exceed that limit. Alternatively, power distribution companies may be fined by the regulator in case the reliability of electricity supply does not meet certain standards. These measures should be imposed by law and have the objective of relieving the customer from financial losses caused by power service interruptions.

A financial deterrent for outages, as measured by *Doing Business*, is a measure to encourage utilities to provide a reliable supply, regardless if customers suffered losses or damages. In this scenario, the frequency and duration of outages are the reasons for penalties or compensations to be imposed. This type of financial deterrent is created based on the rationale that utilities must be committed to providing a reliable supply to their customers; when a utility fails to do so – that is, when outages exceed certain time and frequency thresholds –, it must compensate them for breaching this commitment. Financial deterrents may also contribute to increasing public awareness and regulatory supervision of utilities' performance. Similar requirements or penalties imposed on utilities could be introduced as mechanisms to promote a reliable electricity supply in Iraq.

Introducing financial deterrents can include penalty and/or compensation mechanisms towards customers:

- a. Penalties can be imposed on the utility. In cases when outages go over a certain limit in terms of duration and/or frequency, the utility can be fined. In many good practice countries, the fines paid by the utility go to the state budget. In Georgia, the regulator imposes penalties on utility if the frequency and duration of outages are worse this year than in the previous year, and if the utility fails to warn the customers about upcoming planned outages not less than 2 days in advance.
- b. Compensation can be paid to customers. In cases when outages go over a certain limit in terms of duration and/or frequency, the utility must compensate the customers. There can be different mechanisms for compensation, depending on the customer type, nature of electricity use, etc. In Malaysia, for example, customers receive discounts on their bills if the quality of supply fails to meet the standards set by the regulator. In the Philippines, customers get a cash payout if they experience over 25 power outages over the course of a year – or if a single power outage lasts longer than 15 hours. In Portugal, for instance, according to articles 25 and 56 of Regulation No. 455 of 2013, customers have the right to receive a compensation for the non-compliance of certain standards on the reliability of supply. Utilities must notify their customers and automatically provide them with a credit on the first electricity bill within 45 days of the event.

Seventy nine out of 84 economies where there are financial deterrents on outages (i.e. distribution utilities compensate customers or are required to pay fines if outages exceed the limits set by the regulator) have independent regulatory oversight. The size of such penalties varies across economies. Moreover, those using such compensation mechanisms had 10 power cuts on average, while economies having no financial deterrents to limit outages, had nine times more outages.

#### **7. Introduce Geographic Information System (GIS) for the electricity distribution network to further streamline the procedure to obtain electricity connection by eliminating site visits to approve a request.**

The electricity distribution companies should consider the use of a GIS system to map their distribution network and connection points throughout Baghdad and Iraq. Thanks to such a system, the Ministry of Electricity would be able to have better control over the new electricity connections and require less inspections. It is recommended that the GIS system includes the distribution network and connection points.

In other economies, utilities use Geographic Information Systems (GIS) to make it obsolete to conduct a site visit. Additional efforts can be made to further integrate the information system for the electrical grid (SCADA, single line, service stations, substations) and the cadastral information included in the GIS system. The Ministry of Electricity could also provide Baghdad Municipality with access to its information systems on the electrical grid so that the Municipality can consolidate information on the different utility networks (electricity, water, telecom) into a single multilayered system.

In Mexico, for example, the distribution utility developed a GIS to map the electricity distribution network in 2011/12 and thus no longer carries out a physical inspection before issuing the feasibility study. Likewise, with the widespread use of GIS in Turkey, the utility Boğaziçi Elektrik Dağıtım A.Ş. no longer conducts external inspections for new electricity connections. For all new connections, the utility can now check via GIS whether an additional transformer is needed to provide electricity to the new customer.

#### **8. Introduce a program to rehabilitate and modernize the distribution grid and reduce power outages.**

In order to modernize the distribution grid, the Ministry of Electricity should adopt a modern digital system to enhance its operational efficiency, reduce energy theft and enable itself to serve its customers in a better way. Antiquated equipment should be replaced with modern, smart-grid technologies that will further contribute to the overall reliability of the system.

Smart grids are energy networks that can automatically monitor energy flows and adjust to changes in energy supply and demand accordingly. When couple with smart metering systems, smart grids reach consumers and suppliers by providing information on real-time consumption. By having this accurate information, utilities can run the grid closer to its full potential and capabilities, resulting in greater efficiencies and reliability. The use of smart grid technologies will improve service restoration, prevent short-circuits, reduce customer interruptions and reduce the frequency and total duration of power outages as measured by SAIDI and SAIFI measures. Specifically, the modernization of the distribution grid through smart grid technologies, such as smart meters and automatic reclosers will enable the concept of a self-healing power distribution grid that can recover quickly and automatically from major disturbance events and restore power to as many customers as possible. The benefits smart meters can have on grid reliability are well documented<sup>54</sup> – and Doing Business has showcased the example of Mexico recently.

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<sup>54</sup> S. S. R. Depuru, L. Wang, V. Devabhaktuni and N. Gudi, "Smart meters for power grid — Challenges, issues, advantages and status," *2011 IEEE/PES Power Systems Conference and Exposition*, Phoenix, AZ, 2011, pp. 1-7.

Through 2016, the utility company in Mexico City (Comisión Federal de Electricidad) installed over 100,000 smart meters and distribution automation switches throughout the city's network. These investments coincided with a reduction in outages as measured by SAIDI and SAIFI as CFE Distribución can now detect outages and restore service faster. It also provides the utility with big data to use power resources more efficiently.

The subject of energy efficiency and sustainability is becoming increasingly important to businesses both large and small. Traditional meters can make it difficult for businesses that are looking to assess energy usage and identify real energy saving opportunities. Business also often find they lack the required control over their energy supply in order to manage their energy costs effectively. Smart meters provide businesses with the chance to fully engage with, and take control of, their energy use. With improved insight into consumption patterns provided by online smart meter reporting, businesses can identify and pursue potential new saving opportunities. In other words, with smart meters, consumers can adapt – in time and volume – their energy usage to different energy prices throughout the day, saving money on their energy bills by consuming more energy in lower price periods. Smart meters will bring an end to estimated billing, this means that businesses will only pay for the energy they use. Smart meters also represent a great advantage for utilities. The major advantage of smart meters is their connectivity. Connected smart meters can remotely report the amount of electricity used, implement outage management, collect time of use data and guard against some types of tampering. The implementation of smart meters will also reduce energy theft in Iraq.

Around the world, smart meter adoption is booming, as governments and individuals aim to increase electricity grid flexibility. For instance, the European Union aims to replace at least 80% of electricity meters with smart meters by 2020 wherever it is cost-effective to do so. This smart metering and smart grids rollout can reduce emission in the EU by up to 9% and annual household energy consumption by similar amounts. Within the European Union, Netherlands is the leading country in this field. Since 2007, the government of Netherlands has begun a rolling out smart meters across the whole country. The Intelligence Grids Innovation Programme, run by the Dutch Government is also funding 94 pilot projects aiming to improve grid technology and smart metering. There are around 8 million households in the Netherlands making the rollout of smart meters a huge task. Therefore, the rollout of smart meters has been entrusted to regional grid operators, such as Enexis Netbeheer and regulated by the Ministry of Economic Affairs. Enexis began installing smart meters in 2007 and to date has installed an approximate of 1,000,000 devices. By 2020, the company aims to have setup 2.8 million electricity smart meters.

**9. Modernize the Utility's complaint mechanism.** Today, customers of the utility, Baghdad Electricity Distribution agency of the Ministry of Electricity can file a complaint against any error or malpractice in person at their offices or through a phone call to the Complaints Center of the Ministry of Electricity<sup>55</sup>. Those complaints are managed and resolved by the utility.

Effective complaint mechanisms are a key tool to identify and prevent corruption and other malpractice. A complaint mechanism makes the utility accountable vis-à-vis its time delivery objectives on issuing new connections. By providing citizens with channels to report any incidence or malpractice, complaint mechanisms allow for the identification of problems which might otherwise not surface, and for subsequent corrective action to be taken. A proper functioning complaint mechanism allows citizens to

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<sup>55</sup> <https://www.moelc.gov.iq/home/complain?lang=ar>

file complaints in an easy and straight forward manner and that reported cases are handled efficiently and effectively. A complaint mechanism also needs to provide an adequate and timely response to the issues raised, as otherwise grievances can fester. A proper implementation of a complaint mechanism also necessitates providing sufficient human and financial resources, in addition to applying assigned roles and responsibilities defined during the set-up of the complaint mechanism. The Ministry of Electricity of Iraq could consider improving its existing complaint mechanism by publicizing complaint handling procedures and service time standards. In addition, they could consider introducing new channels to report complaints, for instance, online application, SMS and mobile applications.

The Ministry of Electricity could also consider developing a code of conduct for all staff working on complaints and continuously strengthen the code of conduct through training. The Ministry of Electricity should ensure the mechanism is appropriately staffed, and staff have the right skills to deal with the complaints. All complaints, follow-up actions and contacts with complainants should be recorded. This allows good management of the relationship with the complainant. It also helps effective management of the complaint itself; following up on time, tracing at any time the status of the complaint, providing reliable information to the referral partners, etc.

### 3.4 Registering Property

**Registered property rights are important to support investment, productivity and growth.**<sup>56</sup> Research suggests that property owners with secure ownership are more likely to invest in private enterprises and transfer land to more efficient users.<sup>57</sup> Greater land tenure security and private land rights facilitate access to external financing and promote investment.<sup>58</sup> The ability to access authoritative information on land ownership also reduces the transaction cost in financial markets, making it easier to use property as collateral.<sup>59</sup> Land registries, together with cadasters that identify the location of a property, are institutions used around the world to map, prove and secure property rights. These institutions are part of the land information system of an economy. With land and buildings accounting for between half and three-quarters of the wealth in most economies, having an up-to-date land information system matter.<sup>60</sup>

**The benefits of land registration go beyond the private sector.** For governments, having reliable, up-to-date information in cadasters and land registries is essential to correctly assess and collect tax revenues. With up-to-date land information, governments can map out the varying requirements of their cities and strategically plan the provision of services and infrastructure in the areas of each city where they are most needed.<sup>61</sup>

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<sup>56</sup> Claessens, Stijn and Luc Laeven, Financial Development, Property Rights, and Growth, *Journal of Finance*, 58 (6): 2401–36, 2003.

<sup>57</sup> Claessens, Stijn and Luc Laeven. 2003. "Financial Development, Property Rights, and Growth." *Journal of Finance* 58 (6): 2401-36.

<sup>58</sup> Karas, Alexei, William Pyle, and Koen Schoors. 2015. "A 'de Soto Effect' in Industry? Evidence from the Russian Federation." *Journal of Law and Economics* 58 (2): 451–80

<sup>59</sup> Simon Johnson, John McMillan, and Christopher Woodruff, Property Rights and Finance, *The American Economic Review*, Volume 92, Issue 5, Pages 1335-1356, December 2002.

<sup>60</sup> World Bank. 1989. *World Development Report 1989*. New York: Oxford University Press.

<sup>61</sup> Property information held in cadasters and land registries is part of the land information available to governments. Land information also includes other geographic, environmental and socioeconomic data related to land that are useful for urban planning and development.

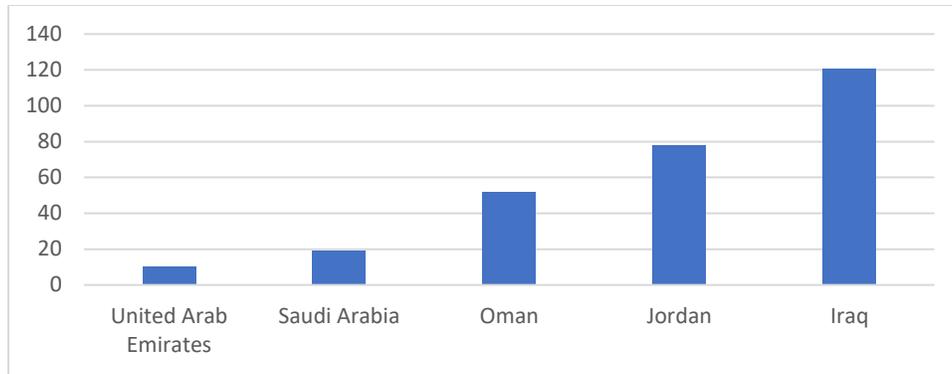
**International experience also shows that a unified computerized registry with clear titles is one of the main features of an effective property registration system.** A unified computerized registry would make information and procedures available online, offer expedited procedures, low transaction costs, set reasonable transfer fees, and respect effective time limits to complete the property transfer process. In countries with the most efficient property registry systems, such as Norway, New Zealand and Denmark, a single agency oversees all property transfers and registration. In Norway, for example, the Norwegian Mapping and Cadaster Authority maintains a single registration office for the entire country. Property registration can be done in 1 procedure and 3 days. The application is easily accessible online. In Denmark, Norway, Portugal, Belgium and New Zealand, the transfer can be done electronically. In Italy and Poland, there are strict time limits to complete property transfers, but these have been implemented along with streamlining procedures through reorganization and computerization.

**The *Doing Business* “Registering Property” indicator records the full sequence of procedures, time and cost necessary for a business to transfer a property title of a land and a building to another business in Baghdad.** In addition, it presents an index of the quality of the land administration system in each economy, based on four dimensions: reliability of infrastructure, transparency of information, geographic coverage and land dispute resolution. Iraq ranks 121st out of 190 economies in the ease of registering property and 15<sup>th</sup> out of 20 economies in the MENA region, with an overall Ease of Doing Business score of 57.3. Registering property in Iraq takes just 5 procedures, 51 days and costs 7.1% of the property value for the parties involved in the transaction. In addition, the quality of the land administration of Iraq could be significantly improved, currently scoring 10.5 out of 30 points (Table 8).

**Table 8. Registering Property rankings and best performers**

<i>Doing Business</i> Indicator	Iraq	Regional Average	Global best performer
Procedures (number)	5	5.3	1 (Georgia, Norway, Sweden, Portugal, Qatar)
Time (days)	51	26.6	1 (Georgia, Qatar)
Cost (percent of property value)	7.3	5.6	0 (Belarus, Georgia, Kiribati, Kazakhstan, Slovak Republic, Iraqi Arabia)
Quality of land administration index (0-30)	10.5	15	29 (Lithuania, Netherlands, Taiwan, China, Rwanda, Singapore)

**Figure 3. Ranking – Registering Property in Iraq and comparator economies**



As reported in *Doing Business 2020*, the procedures to registering a property in Iraq are the following:

- (i) Obtain a new form for the property title and a cadastral map at the Real Property Registry;
- (ii) Obtain an approval determining the type of the real property and zoning restrictions;
- (iii) Assessment of the property value by the Real Estate registry;
- (iv) Assessment of the property value by Tax Authorities;
- (v) Apply for registration at the Real Property Registry.

### Registering property over time

The modernization of the real estate registration system in Iraq is still a highly pending issue. Over the last ten years, no reforms have been registered by Doing Business study in the area of registering property.

### Short-term recommendations

**1. Conduct a review of all current processes and legal requirements to transfer a property and amend and harmonize all relevant laws and regulations in order to analyze which procedures can be combined or eliminated. Consider “fast-track” procedures.** Currently, the process to register a property transfer in Baghdad takes 51 days, including 7 days to obtain a new form for the property title and a cadastral map at the Real Property Registry, 21 days required for the Municipality to approve the transfer, and 10 days (each) for valuations by Real Property Registry and Tax Authorities, and finally 3 days for the final registration of the title transfer.

While a longer-term internal reorganization of processes at these agencies will help to reduce the time required for these procedures, in the short term expedited procedures can offer efficient solutions for entrepreneurs. Expedited or fast-track procedures can be offered to entrepreneurs willing to pay a slightly higher fee in return for faster processing time. Such a system would help government agencies prioritize cases in a transparent manner and give entrepreneurs a way to complete the transaction quickly if they are in a rush to invest. To build public confidence in the services of the registry, a money-back guarantee could be offered—if the office fails to meet its promised deadline, the client is reimbursed for the expedited fee.

Iraq could consider introducing fast-track procedures for each of the procedures mentioned above. Under this fast-track system, the procedure to obtain a property title (procedure 1) and the municipal approval

of the transfer (procedure 2) could be done simultaneously, further speeding up the process of transferring property.

The registry could reduce the time necessary for the property registration process by: (a) offering additional training for the registry offices' staff to improve efficiency; (b) introducing performance tracking systems for staff; and, (c) posting a sign at the registry offices displaying the average wait time to complete registration.

A comprehensive mapping should first be conducted to identify bottlenecks in the title transfer process and design solutions to remove them.

**2. Unify the valuation of properties completed by the Real Property Registry and the tax authority and establish standardized ways of valuing properties.** Upon receipt of the New Cadastral Certificate from the Municipality, a competent team is formed by the cadastre (Real Property Registry Office) consisting of a representative of the Real Property Registry Office, a representative of the Province Main Real Property Registry Office and a Representative of the State Commission of Income Tax. This inspection team will first inspect the property and then write up a report that will be used for the evaluation of the property. All documents are then sent to the Tax Authority by mail. The inspection report is used as the basis for calculating the amount of taxes to be paid. The Tax Authority might or might not object to the evaluation of the Property Registry Office. If they decide to evaluate the property with a higher price, the seller cannot object, and the tax calculation will depend on the new evaluation or whichever is higher. Payment is then made by certified check from a Government Bank for the full amount of the tax decided by the Tax Authority. The final tax-cleared Cadastral Certificate is then resent to the Property Registry Office by mail.

Combined, this two-step valuation process takes 20 days (10 days each at the Real Property Registry Office and the Tax Authority). Typically, governments introduce inspections to counter underreporting of property values. But in most countries such valuations become a source of delays and create opportunity for property owners to bribe inspectors so that they lower assessed property values.

A much simpler and more transparent method of property valuation is to develop a standardized schedule of property values that is used by both the Real Property Registry Office and the Tax Authority. In 2005 the Land Registry in Lagos, Nigeria introduced a schedule of property values and now all assessments are conducted at the desks of valuation officers, without the need for physical inspection. If Iraq were to adopt such a system, each area of the Baghdad would be assigned a fixed rate per square meter, which would then be multiplied by the size of the building and the plot. The assessment of property value could be done on the spot at the Real Property Registry Office. The schedules of rates should be publicly available, so that entrepreneurs can anticipate how much tax they would be expected to pay.

### **Medium- and long-term recommendations**

**3. Transition cadastral maps and property deeds into a fully-digital, searchable, format ensuring the quality and accuracy of the digital databases.** Create an electronic platform offering the possibility of online property transfers, as well as for checking for encumbrances (liens, mortgages, restrictions, etc.). In order to facilitate and increase the security of the process of transferring land, a nation-wide electronic system could enable purchasers to complete all necessary requirements for transferring property online. Such a platform would save resources for businesses and increase transparency.

According to *Doing Business 2020*, most maps of land plots and property deeds in Iraq are still paper-based. The transition entails the preparation of an archiving strategy and an action plan for the existing paper archives. A digital data-base will allow users to conduct quick title searches while providing protection against double registration. In addition, digital records will also provide the foundation for a centralized liens and encumbrances database and online registration. Not only do digital records have advantages over paper records (less storage space, easily shareable, etc.), electronic systems are not immune to errors but overlapping titles can be easier identified. Transferring property takes about half as much time in economies with computerized registries as in those without them. Only 79 economies worldwide have paper-based land registry records. Except for Greece, all OECD high-income economies have electronic registries. Electronic registries holding complete records and cover the full territory of the country are considered global good practice and operate under optimal efficiency. In the MENA region, Morocco, Oman and Qatar have fully digitalized records and Algeria is half-way through completing the digitization process.

At the moment, important procedures related to property registration in Iraq still require physical interactions. Also, the due diligence which needs to be carried out, e.g. cross-checks with the Municipality – could be performed through electronic means. The transfer of the property title is carried out by visiting the relevant offices in person, as no digital data is available or reliable.

Eleven economies, including Denmark, the Netherlands and New Zealand, offer electronic registration. Recently, Kenya and Mauritius finalized digitalizing their scores. In 2015, the land registry in Mauritius finalized the digitization of all its paper-based records from 1804 to 2015. Denmark is another good example of a country that transitioned from a paper-based to an electronic system. Countries with fully implemented electronic systems introduced their electronic platforms over several years. As an example, in 2009 the Danish government began modernizing its land registry by digitizing and automating property registration. Processes had to be streamlined and reorganized. The centralized land registry initiated its computerization, and records were progressively digitized. Once digitization was complete, the land registry introduced electronic lodgment of property transfers. By 2011, property transfer applications were only accepted online, and the information technology system started screening applications in a fast and efficient way. As a result, over 5 years the time to transfer a property was reduced from 42 days to 4 days. With online access to a single source of land registration data, citizens and businesses can transfer property on their own, with no need for a third party. They can also obtain information on any property. Additionally, to facilitate access to credit as well as to information, the Danish financial sector created a central hub allowing banks and the land registry to share land registration data.

New Zealand digitized its property records between 1997 and 2002 and subsequently introduced electronic registration. However, by 2005 only about half of property transactions were being submitted electronically. A final push was needed. In 2008, electronic registration was made mandatory by law. Registration can now be completed in just 2 steps and 1 day, at a cost of 0.1 per cent of the property value.

**4. Computerize municipal property records.** Currently, the Municipality Office must approve each property transfer, in order to confirm that the transfer complies with the zoning restrictions. This procedure is the most consuming step in the process of property registration in Baghdad. It also requires a physical inspection of the investigation team to confirm the property status has been unchanged. The property record, including information on value, renovations, and borders, could be computerized and

kept up-to-date, thereby eliminating the need for a separate inspection every time the property is transferred. The Real Property Registry and the Municipality could electronically link their respective records so that the latter will be directly informed about the current owner of any property in the city.

**5. Investigate the option to lower the fees to register properties or introduce a flat fee for property registration.** Businesses wanting to transfer property in Baghdad must pay a tax of 3.0% of the property value. Rather than setting the registration fee as a percentage of the value of the asset, the government could consider setting a fixed amount for property transfers.

Several economies measured by *Doing Business* charge fixed fees for registering property, independent of the property value. Such countries include Bhutan, Egypt, Rwanda and Saudi Arabia. In the past 6 years four economies switched to fixed registration fees: Egypt and Poland in 2006, Rwanda in 2008 and Cape Verde in 2009. Rwanda made a radical change, reducing fees from 6% of the property value to \$33.

Governments' administrative cost for registration is independent of the property value, so registration fees can be fixed and low. Combined with low transfer taxes, this may encourage formal registration and prevent underreporting of property values. That, in turn, supports the collection of property and capital gains taxes. Many countries have already experienced such benefits. After India cut its stamp duties from 10% to 5%, revenue jumped 20%. In Egypt, after registration fees were cut from 3% of property value to a fixed fee of about \$350, fee revenue grew by 40% in the next six months. And after Lagos, Nigeria, cut the governor consent fee from 10 to 8% of property value in 2005, the Land Bureau's revenue rose 27% the following year.<sup>62</sup>

**6. Create a single-access point for property transactions.** Parties wishing to buy and sell property in Baghdad now have to deal with several agencies—Real Property Registry, Municipality, and Income Tax Authority—to complete property registration. Iraq could improve the efficiency of property registration by strengthening the coordination of these entities and creating a unified database of information related to the property—including legal ownership records, tax value and payment history, as well as maps. A single interface for citizens would help streamline procedures and reduce the time as well as provide greater security to title certificates.

### Medium- and long-term recommendations with reference to the Quality Index

**7. Improve the exchange of information on land ownership, land use, and cadastral information between the Land registry and the Cadaster and introduce a single identification number for properties, in addition to the digitalization process recommended above.** In order to facilitate searches and identification of immovable property, it is a good global practice to introduce one unified identification number. Sixty-nine economies introduced a unique parcel ID code which is used for linkage between map and registration attributes., including Iran, Oman, Qatar, Morocco and Tunisia from among countries in the MENA region.

Iraqi authorities are currently working to improve the exchange of data between the land registry database, maintained by the Ministry of Justice, and the cadaster, maintained by the municipalities. An

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<sup>62</sup> We note that any change to the fees charged should be preceded by a fiscal analysis to understand the possible impact on government revenues.

ambitious project, headed by the Deputy Minister of Justice, aims at harmonizing the two databases by introducing a 14-digit number that will identify all real estate properties in the Iraq. In the city of Baghdad, the project is expected to be completed by 2020. This is a sound initiative which should be pursued vigorously. Having all land administration agencies use a single identification number for property is very beneficial. It allows quick identification of the legal status of a parcel, providing greater certainty for the parties engaged in a transfer of property and reducing the likelihood of mistakes. In the longer term, Iraqi authorities could consider merging the Land Registry and Cadaster functions into a single administrative agency, which should be operationally independent, government supervised, and partially or fully fee-financed.

**8. Increase the transparency and quality of service at the Real Property Registry by introducing service delivery standards accompanied by specific and separate mechanisms to file complains on the services received. Organize related awareness campaign.**

Public access and Time standards

The transparency of the Iraqi land administration system could be considerably improved. At the moment, only intermediaries and interested parties are able to obtain information on land ownership or consult maps at the Real Property Registry. In Sweden - a good practice economy in property administration - an online system allows anyone to access many information on plots going back 400 years.<sup>63</sup>

In addition, neither the Real Property Registry does not publicly commit to deliver their services within a specific time-frame nor have specific and separate mechanisms to file complains on the services they provide.

Such specific time standards should be regulated by law and published on the relevant websites or public boards, so that they are easily available to wide public.

Specific and independent mechanism to file complaints

One international best practice in transparency of information is that citizens have access to an independent and specific mechanism for filing complaints about problems that occur at the property registry and cadaster. Facilitating the correction of administrative mistakes in property registration avoids problems with property rights down the road and provides land registries with information on potential systematic mistakes in processing. Iraq currently lacks such a mechanism.

The complaint mechanism is considered specific when it is specifically designed to cover issues related to the services provided by the agency in charge of cadastral plans / immovable property registration agency. The complaint mechanism is considered independent when it is reviewed by personnel from a different agency with no relationship to the agency in charge of cadastral plans / immovable property registration agency and who has contact with the public. By contact with the public, we mean that it is essential that private sector experts are not only aware that a complaints mechanism exist, but also that they possess the knowledge about whether the mechanism is specific and independent. In other words, private sector experts should know ex ante (i) how to file a specific complaint in a platform that is exclusively designed for issues related to the agency in charge of immovable property registration, or issues related to the

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<sup>63</sup> For more on the information available, see the website of Sweden's mapping, cadastral and land registration authority (Lantmäteriet) at: <http://www.lantmateriet.se/en/Maps-and-geographic-information>

agency in charge of mapping properties; (ii) which official/agency will review this complaint, and its degree of independence from the agency/official where the issue originated; and (iii) the powers of the reviewer to find solutions to the concerns raised by the complaint.

A good practice solution for addressing administrative mistakes is the introduction of a third-party mechanism, through an agency or private company, which operates independently from the land registry/cadaster and reviews complaints about problems that occurred at the agency in charge of immovable property registration and cadaster. These mechanisms should be advertised on the land registry's website and at its premises, so that applicants are aware of the option to file a complaint if any issues arise in their interactions with the agency.

Globally, there is a specific and independent mechanism for filing complaints at the land registry in 24 of the 190 economies covered by the *Doing Business* report—and 22 economies have this type of mechanism related to the cadaster. Recently, Hong Kong SAR, China, implemented a complaint mechanism to solve disputes that arise from its land registry. On December 2016, the government of Hong Kong launched a new independent and specific complaint mechanism via the land registry's website for problems that occurred at the agency. In addition, the public may contact the land registry: (i) through calling the service hotline; (ii) by submitting the online form; (iii) by writing to the land registry offices; (iv) by fax; or (v) by email.

Within the EU, the Swedish Land and Cadastral Authority introduced in November 2015 a new mechanism for filing complaints on errors identified on maps of land plots. The mechanism is specifically designed for reporting errors on the maps and easily accessible on the main website of the authority. The introduction of such mechanism was the result of greater internal automation of the property and mortgage registration procedures and a review of the internal accountability and data reliability mechanisms.

Malaysia, a good practice economy in this area, allows users of land registry and cadaster to file anonymous complaints through their website – such complaints are then sent directly to the director of the relevant department. Measures could be taken to address such inconsistencies and bring the transparency of the Iraqi land administration system on a par with international good practice. Slovak Republic, Rwanda and the United Arab Emirates are other examples of economies which have established such separate and independent committees.

Once such committee is created in the Iraq, it is crucial to run a wide public awareness campaign to assure that private sector experts will know in advance the procedures needed to file the specific complaint, the name of the agency and the competencies of the reviewer to find solutions. Similar campaign should cover the time standards regulated by the law, as well as the fact that all the land related information, including titles and maps, are available to wide public.

Publish a clear list of documents required to complete a property transaction, as well as official statistics tracking the number of transactions on the website of the Real Property Registry

Another good global practice calls for publishing, either on public boards or on websites, the list of documents required to transfer property, a related fee schedule, as well as statistics tracking the number of transactions in order to show the quality of operations of the land registry. Transparency is a key element of the quality of a land administration system. It helps remove discrepancies in information

available to users and public officials with respect to services provided by the land administration. Consequently, it contributes to increasing the efficiency of the land market.<sup>64</sup>

With the exemption of Belgium and Poland, all EU members publish land-related information. The agencies involved in the land administration system should make all land-related information—on procedures to transact property, documentary requirements, and fees—available online and ensure that it is clear and easily accessible. Ideally, that information should be available in a user-friendly format and in a centralized location easily accessible from the website’s main page.

On the other hand, it is also important to publish statistics on property transactions. Public statistics about land transfers can serve as a data analysis tool, which help the public and policy makers in assessing the trends on the real estate market and improve transparency and access to information.

In 2019, more than 125 economies in the world published statistics on land transfers. In Japan, data on land transactions are published monthly at the municipal level. In the United Arab Emirates, numbers on land transactions in Dubai are compiled daily and published on the land registry’s web portal. In the EU, 16 out of 28 economies publish property transfers’ statistics. Iraq’s Real Property Registry could follow suit and publish annual statistics on land transactions. These statistics should be disaggregated by type of transactions and by city.

**9. Increase the geographic coverage of the Real Property Registry.** In Iraq, all land plots located in Baghdad are formally registered and mapped. However, this is not the case for the rest of the country. Where land registries do not provide complete geographic coverage of 100% of the country’s territory, companies and individuals cannot be sure whether the areas not covered at the registry might be relevant to their interest.<sup>65</sup>

Around the world, only 21% of economies have a registry with full coverage of private land—and only 47% a cadaster with complete coverage.<sup>66</sup> Several economies have increased the coverage of their land registry and cadaster by registering properties and the associated rights through either systematic adjudication or a more sporadic approach. Between 1984 and 2004 Thailand implemented one of the world’s largest land titling programs, using efficient, systematic land titling procedures and issuing more than 8.5 million titles.<sup>67</sup> Recognized as very successful, the project has served as a model for other countries in East Asia and the Pacific.<sup>68</sup>

More recently, in 2014 Rwanda completed its process of regularizing land tenure, aimed at registering all land in the country. The effort required surveying all land parcels and providing land titles to all rightful

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<sup>64</sup> One definition of a transparent business environment is one in which individuals possess essential information about the environment in which they operate, meaning that information asymmetries do not place an unjustifiable burden on public users (OECD 2002).

<sup>65</sup> Deininger, Klaus, Harris Selod and Anthony Burns. 2012. “The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector.” Washington, DC: World Bank.

<sup>66</sup> UNECE (United Nations Economic Commission for Europe). 2012. “Policy Framework for Sustainable Real Estate Markets: Principles and Guidance for the Development of a Country’s Real Estate Sector.” Geneva: UNECE.

<sup>67</sup> Burns, Anthony. 2004. “Thailand’s 20 Year Program to Title Rural Land.” World Development Report Background Paper, Washington, DC: World Bank.

<sup>68</sup> Brits, Anne-Marie, Chris Grant and Anthony Burns. 2002. “Comparative Study of Land Administration Systems with Special Reference to Thailand, Indonesia and Karnataka (India).” Synthesis paper prepared for Asia Region, Washington, DC: World Bank.

claimants. It registered 10.3 million parcels through a low-cost, community-based process starting in 2010.<sup>69</sup> With the process complete, the land registry is now able to provide information on different categories of tenure, through a database searchable by parcel across the entire country. Georgia might also serve as an example. It achieved 100% registration of privately held land plots in Tbilisi in 2015. The effort started in 2010, when Georgia introduced its Cadaster REG project. Over five years the project systematically mapped property rights throughout 12 pilot areas across Georgia, including Tbilisi. Besides expanding coverage, it unified the cadaster and property registry, introduced a single software system for both agencies, and established a single graphic web portal allowing clients to search land plots and cadastral maps.

**10. Introduce a specific compensation mechanism to cover for losses incurred by parties who are engaged in good faith in a property transaction based on erroneous information certified by the land registry. Organize related awareness campaign.** Most countries benchmarked by Doing Business (e.g. Denmark, Morocco, Poland, Rwanda, United Arab Emirates, United States of America) have a property registration system backed by a state guarantee. Iraq is one of them.

The Real Property Registration Law No. 43 of 1971 grants the right of compensation in the event of losses incurred by parties who engaged in good faith in a property transaction based on erroneous information. However, the local experts are not aware of the law specifying the procedures for receiving the compensation. In their perception, the only way to obtain compensation for errors made at the office of property registration is to file a legal suit in court, with no certainty of receiving the compensation.

The most advanced forms of guarantee indemnify individuals for losses suffered because of deficiencies in information provided by the registry. In Morocco, for example, the land registry has established an insurance fund that compensates losses due to errors by the registry. In England and Wales indemnity is also payable for losses incurred because of a mistake in an official search or an official copy. Iraq could consider enhancing its compensation mechanism as to align the Iraq to international good practice in property administration. The Real Estate Registration Law, which grants the right of compensation in the event of such errors, should specify the procedures for receiving the compensation, as well as time standards. Such improvement should be enforced by a wide awareness campaign, so that local experts are aware of those procedures and time standards.

**11. Create a national database to verify the accuracy of government issued identity documents.** Verifying and authenticating the identity parties to a property transaction is necessary to avoid land disputes and identify cases of fraud. Worldwide, 102 of the 190 economies benchmarked by Doing Business, including Iran, Morocco, Oman, Qatar, Turkey, Saudi Arabia and United Arab Emirates have national databases that allow for a quick validation of the accuracy of the identity documents: Iraq is not one of them. Measures should be taken to align the country to international best practice.

**12. Reduce time to obtain decisions on land disputes from the General Court.** When land disputes end up in court, an efficient legal system should be able to provide a timely resolution. According to Doing Business, however, obtaining a judgment in a standard land dispute between two local businesses over tenure rights of a property located in Baghdad, worth 50 times the income per capita in Baghdad, from the General Court currently takes between 1-2 years. In 36 of the economies benchmarked by Doing

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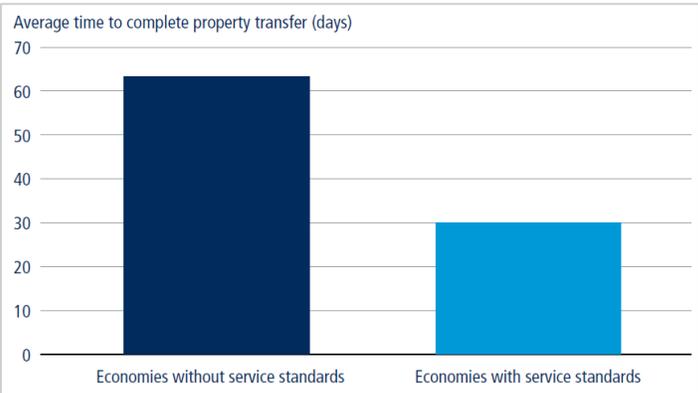
<sup>69</sup> Gillingham, Polly, and Felicity Buckle. 2014. "Rwanda Land Tenure Regularization Case Study." Evidence on Demand.

Business, obtaining a similar judgment from the relevant court takes less than one year. Some of the reform recommendations suggested in the Enforcing Contracts section of this Reform Memorandum – such as the introduction of case management practices like regulating the maximum number of adjournments that can be granted or limiting such adjournments to unforeseen and exceptional circumstances - could provide guidance on how to successfully tackle this problem.

**13. Increase the transparency of the land administration system by collecting and compiling statistics for land disputes at the Civil Court of First Instance.** Such statistics help citizens learn about the true performance of the courts and offer the courts information on current bottlenecks and challenges that can stimulate future initiatives to streamline the courts’ operations. When land disputes occur, it is important to ensure that they clear the courts quickly so that citizens’ resources are not perpetually tied up in the legal system. In Iraq, no statistics on land disputes in the courts at the national level are currently publicly available. Across the globe, more than 30 economies provide such statistics. Iraqi authorities should consider making such statistics publicly available in a user-friendly format. These statistics would need to be updated on a yearly basis (or even eventually in real time).

**14. Introduce service delivery standards at the Land Registry and Cadaster, as well as ensure that they are publicly available and binding.** Public service delivery standards allow users to know what level of service they can expect from the administration, how much it will cost, and how long it will take. If the procedure is not completed within the specified time limit, users know that they need to follow up. Currently, the Land and Mortgage Registry and the Cadaster do not publicly commit to delivering its services within a specific time frame. To further improve transparency and service delivery, these two institutions should specify all land registry and cadastral services that they provide—such as title searches, approval of certificate of title, registration of immovable property, provision of updated maps—and publicly commit to a timeframe for their completion. Economies that do not establish service standards, such as specific time limits, tend to complete property transfers less efficiently (Figure 4).

**Figure 4. Economies that publish effective time limits tend to be more efficient in completing property transfers**



Source: *Doing Business* database.

More than 20 economies measured by *Doing Business* introduced time limits for property transactions over the past decade. For example, Singapore has created an online system allowing anyone to access not only information about fees, statistics and list of requirements, but also information on service delivery standards for both the land registry and the cadaster (Table 9). Introducing strong monitoring tools as

well as performance indicators is key to ensure that these time limits are enforced in practice. Managers in the registry and cadaster must take an active role in monitoring their staff performance and ensuring that targets are met in terms of processing time.

**Table 9. Example of service delivery standards at the Singapore Land Authority website**

Regulatory Administration	Registration of Property Transactions	7)	Registration of private property documents/instruments (except for cases affected by statutory time imposed)	within 7 working days (if in order)
		8)	Registration of HDB documents/instruments (except for cases affected by statutory time imposed)	within 14 working days (if in order)
		9)	Issuance of new certificates of title a) Pursuant to issue of state titles	within 1 working day
		10)	Issuance of new certificates of title b) Pursuant to applications (except for cases affected by statutory time imposed)	within 12 working days (if in order)
		11)	Notification of caveats	within 1 working day (if in order)
		12)	Issuance of clearance certificate	within 3 working days (if in order)
		13)	Cancellation of clearance certificate	within 15 working days
		14)	Fax/Post image of leases, instruments, books and deeds in microfilm format	within 1 working day (For requests made before 3pm)
SLA Overall	General Enquiries	15)	Response to Public enquiries and feedback	within 3 working days for general enquiries within 14 working days for case-specific enquiries

Source: Singapore Land Authority

### 3.5 Getting Credit

**Doing Business** covers two aspects of credit infrastructure that affect the availability of and access to credit: the depth of credit information (credit reporting agencies) and the strength of the legal rights of borrowers and lenders (secured transactions and bankruptcy/insolvency legal frameworks). The first aspect, measured by the depth of credit information index, includes the coverage, scope and quality of credit information available through credit registries and credit bureaus. The second, measured by the strength of legal rights index, evaluates the degree to which secured transactions/collateral registries and bankruptcy laws protect the rights of borrowers and lenders. In *Doing Business 2020*, Iraq scored 186<sup>th</sup> overall on the Getting Credit indicator among the 190 economies measured by the report while the economy scored 0.0 percentage points on the “Ease of Doing Business” Score.

#### A. Credit Information

**A credit reporting system is an integral part of a well-functioning credit market.** Credit reporting systems help satisfy lenders’ need for accurate, credible information about the potential borrower that reduces the risk of lending and the cost of loan losses by providing a reliable indication of whether an applicant will repay a loan. The lack of credit information makes checking borrowers’ credit history an onerous and uncertain process. This raises transaction costs for banks and, ultimately, increases the cost of credit to borrowers. The lack of credit information could also result in approval of loans based on personal connections, and not necessarily the likelihood of repayment.

**Credit reporting systems are essential to facilitating access to financial services for SMEs.** When comprehensive credit infrastructures are available, efficient, and reliable, the cost of financial intermediation falls; financial products and services become accessible to greater numbers of borrowers; and lenders and investors have greater confidence in their ability to evaluate and price risk. The information captured by credit reporting systems are critical to ensuring stability in the financial markets.

**Credit reporting service providers can reduce information asymmetry, thus reducing default rates,** which in turn should result in lower average interest rates, customized products and services, enhanced competition in the credit market, and, ultimately, greater financial inclusion and increased access to credit for individuals as well as SMEs.

**Research suggests that bank risk is lower, while profitability is higher, in countries where lenders share borrowers' information through credit bureaus and registries.**<sup>70</sup> Well-functioning credit reporting systems can help to reduce adverse selection and moral hazard, as well as contribute to both an expansion of credit and reduction in lending costs by facilitating the adoption of lending technologies based on credit scoring models. The development of credit information systems is particularly important for smaller firms, given the more severe problems of information opacity and asymmetry in these cases.

The *Doing Business 2020* report Iraq scores 0 out of 8 (8 = highest availability of credit information). Worldwide, 53 economies score 8 points out of 8 in this index.

As of May 2020, 1.3% of adults were covered by the credit registry, compared to an average of 15.8% in the MENA region (Table 10) and of 65.3% in the OECD.

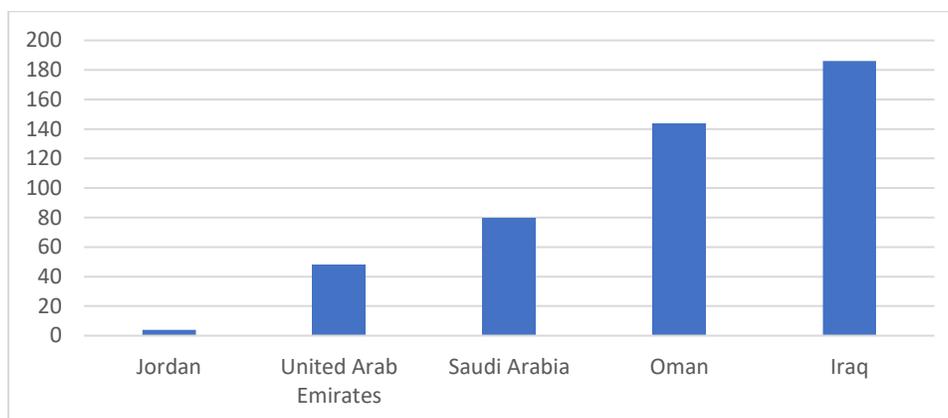
**Table 10. Credit information ranking and best performers**

<i>Doing Business</i> Indicator	Iraq	Regional MENA average	MENA best performer	Best global performer
Depth of credit information index (0-8)	8	5.3	8 (Bahrain, Saudi Arabia , United Arab Emirates)	8 (53 economies)
Private credit bureau coverage (percent of adults)	1.3	15.8	63.2 (Saudi Arabia)	100 (25 economies)
Public registry coverage (percent of adults)	0	16.3	28.2 (Qatar)	100 (4 economies)
Legal Rights (0-12)	0	3.1	6 (United Arab Emirates)	12 (Azerbaijan, Brunei Darussalam, Colombia,

<sup>70</sup>Joel Houston, Chen Lin, Ping Lin, and Yue Ma, 2010. "Creditor rights, information sharing, and bank risk taking," *Journal of Financial Economics*, Volume 96, Issue 3, Pages 485–512, June.

				Montenegro, New Zealand)
Total Getting Credit (0-20)	0	7.7	14 (United Arab Emirates)	20 (Brunei Darussalam, New Zealand)

**Figure 5. Ranking - Getting Credit in Iraq and comparator economies**



### Medium-term reform recommendations

Consider establishing a credit information structure to support a healthy credit reporting environment, including the legal and regulatory framework which would include mandatory contribution by all credit providers and differentiating commercial from consumer entities, as well as sharing of credit information between credit bureaus, inclusion of alternate data, expansion of cross border data exchange.

**1. Credit information registry at the Central Bank of Iraq.** *Doing Business* identifies 8 features of a well-developed credit information system. If Iraq were to make a Public Credit Registry operational and adopt all of the below conditions, its score on the Credit Information Index would rise from 0 to the maximum, 8 points:

- (i) **Collect and distribute data on both individuals and businesses.**

While the information available on individuals' standing in the financial system is useful, it is important for data on businesses to also be collected and distributed. Most well-developed credit information systems include the information on both individuals and firms.

- (ii) **Collect and distributes both negative (defaults and arrears) and positive data (borrowers' overall exposure in the financial system).**

A credit information system that reports only negative information—although penalizes borrowers who default on payments—fails to reward diligent borrowers who pay on time. Sharing information on reliable repayments allows customers to establish a positive credit history, useful information for financial institutions seeking proven good customers.

- (iii) Collect and distribute data from retailers and utility companies, in addition to banks and financial institutions.**

The *Doing Business 2020* study tells us that only 1.3% of the adult population have a credit record at the credit registry. Inclusion of other types of credit providers (e.g. instalment companies, retailers and some government agencies who provide credit) could increase this coverage. Under the current law, there is no obligation for these credit providers to participate, it is their voluntary choice to join a credit bureau and by consequence submit their data. It is recommended that all credit providers to become members of at least one credit bureau.

- (iv) Distribute more than 2 years of historical data and do not erase negative information such as defaults or arrears once the loans are repaid for 10 years (but no longer).**

In order to support lenders in their decisions, any credit registry that is introduced in Iraq must make sure that information remains on a borrower's file for more than 2 years, even if the loan has been repaid.

- (v) Collect and distribute data on loans above 1% of income per capita**

High thresholds for the loans reported hurt groups that could benefit most from credit information systems—such as small and medium-size enterprises and female entrepreneurs, whose loans are typically smaller. Where smaller loans are reported to credit registries, more borrowers can establish credit histories.

- (vi) Guarantee by law that borrowers have the right to access their data.**

Allowing borrowers to inspect their own data has two benefits. Firstly, it is an important tool to enhance quality of the data. Secondly, it ensures that borrowers can protect their credit status. Many economies have recognized the benefits of guaranteeing borrowers access to their credit information. In Tunisia, for example, a new law allows individuals and firms to inspect their credit data in all central bank offices.

- (vii) Allow banks and financial institutions access borrowers' credit information online (for example, through an online platform, a system-to-system connection or both).**

To achieve that goal, it is necessary to upgrade the Credit Registry IT systems. The existence of reliable Credit Registry requires constant support and upgrade of IT systems not only on the side of the Bank of Iraq, but also on the side of all financial sector players, including micro-finance institutions (MFIs), non-banking financial institutions (NFBIs), telecom companies and utilities.

- (viii) Offer bureau or registry scores as a value-added service to help banks and financial institutions assess the creditworthiness of borrowers.**

Credit scoring is an important tool in expanding access to finance. It is a statistical method of evaluating the probability that a prospective borrower will fulfill the financial obligations associated with a loan. Credit scores based on credit bureau or credit registry data pool information across many creditors as well as some public information sources. They therefore include characteristics otherwise unavailable to any individual creditor, such as total exposure, number of outstanding loans and previous defaults within the system. Credit scoring models typically incorporate historical data such as defaults, positive payment behavior and previous inquiries. To sharpen the predictive value of credit scores, credit bureaus and registries are also increasingly collecting data from a wider range of sources (such as bankruptcies and

court judgments). As a result, credit scores generally have a higher predictive value than assessments derived from credit histories alone.<sup>71</sup> Credit scores may improve market efficiency and provide borrowers with more opportunities to obtain credit. The availability of credit scores allows lenders that would otherwise not be capable of analyzing the raw credit data to extend credit to underserved markets at lower cost. This value-added product is most widely available in the OECD high-income countries, offered in 63 percent of economies with a credit bureau or registry covering at least five percent of the adult population—compared with 44 percent in Europe and Central Asia, 25 percent in the Middle East and North Africa, 16 percent in East Asia and the Pacific and 19 percent in Sub-Saharan Africa.

In the United States, a study of 31,880 small business loans from 1984 to 2001 found that credit scoring has the effect of increasing the physical distance between borrowers and lenders. Thanks to credit scoring, lenders can use hard information on the creditworthiness of clients when making lending decisions instead of relying on soft information obtained through personal interactions.<sup>72</sup>

In addition, SME-tailored credit scoring can be particularly beneficial for SMEs.<sup>73</sup> According to research, the use of small business credit scoring is associated with greater credit availability for SMEs, particularly riskier ones that tend to pay higher prices. Countries like Thailand and Chile, for example, have developed such customized products for SME scoring, either through the public credit registry (Thailand),<sup>74</sup> or by the private credit information company (Chile).

### Long-Term Recommendations

**2. Design the process and consent requirements for commercial credit reporting and ensure that commercial entities are separately defined (from private entities) and that no consent is required to collect and distribute their credit information.** The laws that safeguard a consumer's (individual or natural person) data privacy rarely, if ever, apply to commercial entities or businesses. To effectively assess a business' financial standing and associated credit risk, a combination of publicly available data and data compiled and stored on the entity together with data from a credit bureau is normally required. For example, suppliers to businesses are requested to supply frequent aged trial balance downloads on all their account receivables to commercial credit reporting agencies. These trade payment experiences are linked together to give a profile of how a business is paying numerous suppliers. Public record information such as bankruptcy filings, legal suits, lease registrations and judgments are also gathered and added to the credit files on a business.

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<sup>71</sup> Doing Business 2015.

<sup>72</sup> Lieberman and others, 2005.

<sup>73</sup> See World Bank. 2018. Doing Business: Improving Access to Finance for SMEs, Opportunities through Credit Reporting, Secured Lending and Insolvency Practices.

<sup>74</sup> In 2016, Thailand's National Credit Bureau started offering FICO SME scores to banks and financial institutions to allow them to better assess the creditworthiness of SMEs. The FICO SME Score, which predicts the probability of delinquency of more than 90 days in the following 24 months, is computed using an empirically derived model that is supplied with data collected by the National Credit Bureau of Thailand and Business Online Public Company Limited, a private research firm. In 2017, Equifax Chile launched the Predictor Inclusion Score, a risk score derived from encrypted mobile usage data, in February 2017. When Equifax receives a credit inquiry from an unbanked person who may work for a microenterprise or small business, it checks its traditional credit database and if no record is found, it then (with consumer consent) queries the telecommunications database using the mobile number for matching. Equifax returns a score on exact cell phone number matches, calibrated to a credit score.

SME's and sole traders' business information containing personal information relating to the owners/directors is considered relevant and potentially predictive in the financial standing of the entity. Financial risk assessment of these entities frequently requires scrutiny of the owners/directors. This does impinge on the use of personal data in the decision – to the point where the standing of the owners/directors will likely reflect the standing of the business entity.

Apart from the debate associated with the use of certain owners'/directors' personal information (i.e. address, age, etc.) in the assessment of commercial credit risk - the intention of any regulatory framework should not be to hamper sound and responsible practices in business information use. Clearly, when a commercial credit report is being developed for a business which trades as a sole proprietor, trader or a small business, the credit standing of the owner is frequently a sound reflection of the standing of the business. For this reason, access to the owner's personal credit record might be a requirement. In which instance, consent to access the relevant personal information should then be a requirement.

A revised understanding of both process and consent requirements with respect to commercial credit reporting would result in the same or better risk decision in less time. This would result in a direct cost benefit to the industry and the market through a reduction in time spent on compilation of the commercial reports. It is recommended that a commercial entity be separately defined and that no consent be required to collect and distribute their credit information. Consent to access the relevant personal information of sole proprietors, traders and small businesses should remain a requirement when the owners/directors personal credit record is required in the evaluation of the business.

**3. Implement credit information sharing between credit bureaus, once created.** Once Iraq has several credit bureaus with siloed information repositories, there should be a principle of sharing of information across credit bureaus. An exchange of credit information is recommended to enable a comprehensive (360-degree view) of all commercial, consumer and trade credit facilities for all entities.

**4. Include alternate public data sources into the Iraqi credit reporting infrastructure.** Across the world, more advanced credit reporting systems collect credit information also from utility companies (i.e. electricity, water, and mobile phone providers). Globally, 47 of the 190 economies benchmarked by Doing Business follow this good practice. These economies include Denmark, Germany, United Kingdom, United Arab Emirates and Saudi Arabia.

Collecting and distributing information on the payment of electricity and phone bills can help establish good credit histories for people without previous bank loans and credit cards. A study in Italy found that more than 83% of water customers, who lacked a credit history before the inclusion of repayment information from the utility provider, were able to have a positive history after the inclusion, solely by paying their utility bills.<sup>75</sup> Utility companies may also benefit. For example, in August 2006, the United States-based DTE Energy, an electricity and natural gas company, began full reporting of customer payment data to credit bureaus. DTE customers with no prior credit history—8.1% of the total—gained either a credit file or a credit score. And customers began to make payments to DTE a priority. Within 6 months DTE had 80,000 fewer accounts in arrears. Sierra Leone should follow suit.

Expanding the sources of information to incorporate non-regulated financial institutions, however, can be challenging. For example, it may be necessary to amend the existing legal and regulatory framework

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<sup>75</sup> Preliminary findings of ongoing internal study at CRIF SpA, Italy.

concerning consumer and data protection so that retailers and utility companies may share consumer data with credit reporting service provider. Measures should also be taken to ensure the quality of data submitted by retailers and utility providers. Such companies may use different consumer identification systems: both system and human errors are possible when data are transmitted for the first time.

Various sources of data, e.g. from the Ministry of Interior, Ministry of Commerce and Investment, General Social Insurance, Ministry of Housing, Ministry of Labor and Social Development, VAT, Ministry of Justice, etc. and from the retail and supply chain industries could be considered for inclusion. Such data sources would enhance the completeness and accuracy of the consumer's credit profile and promote access to credit for individuals and MSMEs, especially those operating in the informal sector. In addition to complementing traditional data sources, alternative data offers a basis for evaluating borrowers with no or "thin" credit files.

**5. Expand the exchange of cross border data .** At a later stage, as consumers and businesses migrate from one jurisdiction to another with increasing frequency, financial markets are becoming regionalized and globalized and demand for credit reporting on data subjects outside their home markets is increasing. The fifth General Principle for Credit Reporting states that "Cross border credit data transfers should be facilitated, where appropriate, provided that adequate requirements are in place." Cross-border data flow is a useful tool through which a data subject's credit can be monitored from multiple markets. With cross-border data flow models, data on borrowers applying for credit in a country where they have no credit history, but who have credit histories in their country of origin, can be assessed easily.

#### **B. Legal Rights of Creditors and Borrowers in Secured Transactions**

The second aspect of the Getting Credit indicator focuses on secured transactions, as well as creditors 'and borrowers' rights.

**Effective secured transactions laws and collateral registries are a crucial component of a healthy financial sector and business climate.** In their absence, entrepreneurs are unable to leverage current assets into capital for investment. Modern secured transactions systems allow the use of movable assets (both tangible and intangible) such as equipment, inventory, accounts receivable, cash-flows, livestock, crops and others as collateral in exchange for loans. Economic analysis also suggests that small and medium-sized businesses in countries that have stronger secured transactions laws and registries have greater access to credit, better ratings of financial system stability, lower rates of non-performing loans and a lower cost of credit. In a number of markets, the assets owned by most firms are a poor match for the assets that lenders accept as collateral, due to lack of appropriate secured lending regulations and collateral registries.

**An in-depth analysis indicates that availability of collateral is frequently not the source of the problem, but the ability of translating valuable assets into productive use.** While in the developing world 78% of the capital stock of a business enterprise is typically movable assets such as equipment, inventory or receivables, and only 22% is immovable property, financial institutions are reluctant to accept movable property as collateral. Banks heavily prefer land and real estate as collateral.<sup>76</sup> This is largely due to many gaps in the legal and institutional frameworks for secured transactions.

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<sup>76</sup> "Reforming Collateral Laws to Expand Access to Finance" Fleisig, Safavian, De La Pena, 2006.

Research suggests, for example, that in countries where the legal regime for security interests in movable property contains a predictable priority system and efficient enforcement mechanisms in cases of loan default, credit to the private sector represents 60% of GDP on average, compared with only 30% to 32% on average for countries without these creditor protections. In such countries, borrowers with collateral receive nine times the level of credit on average as borrowers without collateral, for a given level of cash flow. They also benefit from repayment periods that are up to 11 times longer and pay interest rates that are up to 50% lower<sup>77</sup>. In countries with registries for movable collateral, the number of firms with access to finance increases on average by 8%. These countries also showed lower interest rates and extension in loan maturity. The increase was even stronger for small firms, which often find it more difficult than bigger firms to access credit due to their lack of immovable assets.<sup>78</sup>

**Well-designed secured transactions systems and collateral registries offer more robust financial systems by promoting credit diversification, allowing Banks and Non-Bank Financial Institutions (NBFI) to provide credit (reducing the dependence on bank credit) and relying less on real estate collateral.** FIs benefit from these systems by: (i) being able to diversify more their portfolios, by accepting movables and therefore more liquid guarantees (such as receivables or investment instruments); (ii) accessing critical credit information on existing security interests in movable assets, and creditor's priorities over those assets; (iii) strengthening their risk management policies, by making more informed credit decisions on collateral lending; (iv) establishing better reporting mechanisms on collateral lending practices to the supervision authority or regulator, usually central banks. Box 4 refers to global good practices in collateral registries.

### **Iraq's performance on Legal Rights for Secured Transactions**

The weak legal framework for collateral plays a significant role in the inability of businesses to access credit. Iraq currently scores a 0 on the Legal Rights Index (see table below). The main legislation that related to security interest on movable property is the Law of Commerce No. 30 of 1984 and the Iraqi Civil Code of 1951.

In Iraq movable assets are generally only taken as secondary collateral, with personal guarantees or mortgage on immovable assets such as land (in those places where land is indexed in a land registry) serving as primary collateral. As such, businesses in Iraq are generally unable to use their moveable assets as collateral; and these assets, for the purposes of gaining access to credit, are considered as "dead capital". This is a serious impediment to growth, given that in many developing countries, many small and medium-sized entities do not have access to personal assets or land to use as collateral, but they do have moveable assets (such as machinery, inventory, accounts receivables, equipment, etc.), which they could use as collateral, should the legal framework allow it.

Should the law facilitate the use of this otherwise dead capital as collateral, access to credit for small and medium sized businesses and farmers would improve, leading to further growth. Furthermore,

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<sup>77</sup> World Bank Group. 2010. Secured Transactions Systems and Collateral Registries. [http://www.ifc.org/wps/wcm/connect/industry\\_ext\\_content/ifc\\_external\\_corporate\\_site/industries/financial+markets/publications/toolkits/secured+transactions+systems+\\_collateral+registries+toolkit](http://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/industries/financial+markets/publications/toolkits/secured+transactions+systems+_collateral+registries+toolkit)

<sup>78</sup> Love, Inessa, María Soledad Martínez Pería and Sandeep Singh, 2013. "Collateral Registries for Movable Assets. Does Their Introduction Spur Firms' Access to Bank Finance? Policy Research Working Paper n. 6477, The World Bank, June.

institutions and regulations such as credit bureaus and laws on movable collateral support the types of businesses that women typically run—small firms in low-capital-intensive industries in both the formal and the informal sector.

Currently, legislation is not unified for all types of security interests or their functional equivalents and their registration is regulated by different pieces of legislation (e.g. financial leases) to be enforceable against third parties and debtors.

Priority rules in case of conflicting claims are underdeveloped and do not apply uniformly over various types of rights created by agreement or by law.

No clear rules for extra-judiciary enforcement of the security interests as reflected in international good practices are foreseen.

Due to the deficiencies in the legal framework, a comprehensive reform is needed to revamp the secured transactions legal landscape in the country.

**Table 11. Strength of Legal Rights Index**

<b>Strength of legal rights index (0-12)</b>	<b>0</b>
Does an integrated or unified legal framework for secured transactions that extends to the creation, publicity and enforcement of functional equivalents to security interests in movable assets exist in the economy?	No
Does the law allow businesses to grant a non-possessory security right in a single category of movable assets, without requiring a specific description of collateral?	No
Does the law allow businesses to grant a non-possessory security right in substantially all of its assets, without requiring a specific description of collateral?	No
May a security right extend to future or after-acquired assets, and does it extend automatically to the products, proceeds and replacements of the original assets?	No
Is a general description of debts and obligations permitted in collateral agreements; can all types of debts and obligations be secured between parties; and can the collateral agreement include a maximum amount for which the assets are encumbered?	No
Is a collateral registry in operation for both incorporated and non-incorporated entities, that is unified geographically and by asset type, with an electronic database indexed by debtor's name?	No
Does a notice-based collateral registry exist in which all functional equivalents can be registered?	No
Does a modern collateral registry exist in which registrations, amendments, cancellations and searches can be performed online by any interested third party?	No
Are secured creditors paid first (i.e. before tax claims and employee claims) when a debtor defaults outside an insolvency procedure?	No
Are secured creditors paid first (i.e. before tax claims and employee claims) when a business is liquidated?	No

Are secured creditors subject to an automatic stay on enforcement when a debtor enters a court-supervised reorganization procedure? Does the law protect secured creditors' rights by providing clear grounds for relief from the stay and sets a time limit for it?	No
Does the law allow parties to agree on out of court enforcement at the time a security interest is created? Does the law allow the secured creditor to sell the collateral through public auction or private tender, as well as, for the secured creditor to keep the asset in satisfaction of the debt?	No

Source: World Bank Doing Business 2020

**In general, movable asset-based lending products are virtually nonexistent in the Iraq's financial market place with real estate being the main type of preferred collateral.** The lack of movable asset-based lending is a direct consequence of the existing gaps in the legal and institutional frameworks governing security rights and the fact that financial institutions do not feel comfortable that their rights in movable assets can be effectively publicized, protected against third parties and enforced in case of a debtor's default. These deficiencies represent a significant lending gap for entrepreneurs and SMEs in Iraq as they are unable to obtain financing when real estate-based lending is not an option.

In order to improve secured transactions framework and align it with the international standards of best practice, it is recommended that the government of Iraq focuses on establishing comprehensive and holistic legal framework for secured transactions by issuing a comprehensive Law on Secured Transactions and unite all forms of security interests, launch modern fully on line notice registry for security interests and significantly increase awareness about the secured transactions among a wider group of public and private stakeholders. The key recommendations include the following:

#### Short-term reform recommendations

**1. Establish a regulatory and institutional framework for secured transactions.** The new legal framework should introduce the concept of non-possessory pledges and paved the way for the creation of an on-line pledge registry. We recommend that the government of Iraq implements this reform by enacting the Secured Transaction Law and Collateral Registry Regulation and by launching the new on-line Collateral Registry.

#### Medium-term reform recommendations

Considering that drafting, review and enactment of the new law, in particular taking into account its broad scope and complexity, will take time, we recommend that the government considers the adoption of the new law as a medium-term objective.

Specifically, we recommend that the new legal framework focuses on the following:

#### Recommendations related to the secured transactions legal framework

**2. Unify all forms of security in movables and adopt best practice legal framework for secured transactions.** Establish a legal framework for secured transactions, which will allow the use of all movable assets, tangible and nontangible, as security interest to guarantee repayment of the loan. Such legal framework would also include rules for creation, priority and publicity of all types of security interests in movable assets such as financial leases, long-term operating leases, sales with retained titles, consignment, fiduciary transfers of titles and the interest of a buyer of accounts receivable, to protect subsequent secured creditors and buyers from undisclosed senior interests.

It will also be necessary for the new legal framework to be aligned and coordinated with other sets of laws such as: (a) laws governing immovable assets to ensure that interests in movables that may become fixtures or that may become affixed to immovable property may be more effectively preserved; (b) laws governing statutory interests such as taxes and wages to assure that priorities of secured creditors are preserved and consistent between laws; and (c) the laws governing bankruptcy and insolvency to assure priority of secured creditors in insolvency proceedings, as well as protect rights of debtors and secured creditors in reorganization or liquidation proceedings, as explained in detail below. Further, inclusion of the interests of judgement creditors (i.e. creditors that obtain rights in movable property through judicial decisions) shall also be considered for inclusion for priority and publicity purposes.

**3. Establish clear the rules for creation of security interests to include generic property rights that secures any present or future obligation.** We recommend that the laws are revised to introduce modern concepts for creation of a security right between a creditor and a grantor.<sup>79</sup> A security interest is created by agreement between the secured creditor and the debtor. The security interest created in this manner should be a generic property right that secures any present or future obligation. The new law should replace all current non-uniform legal provisions for security in movable property, e.g. pledge, sale with retained title and others. It should eliminate distinctions between types of security interests. The law should clearly state that also future and after-acquired assets could be used as collateral. There should be one set of rules for all such interests; i.e. rights secured by a floating pool of assets are treated on the same basis as rights secured by a fixed asset. The security interest should also extend to products, proceeds and replacements.

The agreement should identify the collateral that secures an obligation in general, generic manner, so allowing for general description. The agreement must create all the rights between the parties and not be dependent for its effectiveness on registration of either the agreement or a notice of the agreement in a registry.

**4. Establish clear and detailed rules of perfection for possessory and non-possessory security interests.** Legislation should provide clear rules for perfection (or third-party effectiveness) of all possessory and non-possessory security interests. The current law provides for a very general rule that a registration of pledge ensures effectiveness against third parties, however: a) other means of perfection such as through control or possession are not incorporated under a single body of law (e.g. perfection by possession with respect to specific types of assets such as bank accounts, negotiable documents, etc.).

Further, the Law requires that the registrant must register the pledge contract which precludes the possibility to pre-file the notice in the registry. Absence of clear rules for third party effectiveness greatly reduces appetite of financial institutions to use various tangible and intangible assets as security for loans. A cohesive framework for perfection can only be set up when the legislation recognizes various methods of third-party effectiveness in connection with the underlying asset. Rules for achieving third party effectiveness are further explained in the following recommendation on priority of security interests.

**5. Introduce a comprehensive system of priority rules for security interests.** A secured creditor must be confident of the priority of its security interest in the collateral if it is to lend at a reasonable rate.

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<sup>79</sup> Modern rules for creation of the right are based on simple structure: a) an agreement shall be entered into between the parties (without the need to register it), creditor needs to give value and c) the grantor shall have some type of alienable rights in the collateral (e.g. right to own or possess the asset).

Therefore, the system for ranking security interests in movable property must be comprehensive in its coverage of all types of interests, must be predictable in the way it operates and must be transparent to all users.

In modern secured transactions practice, both true security interests and certain interests of non-possessory owners, are subject to priority ranking, regardless whether an interest is a pledge, a finance lease, a long-term operating lease, a sale of accounts or any other similar interest. All interests in movables that would otherwise be hidden from a subsequent potential secured creditor must be publicized to protect subsequent secured creditors from undisclosed prior interests.

Certainty of priority is provided by having one firm set of rules by which any person can determine priority at the time of creation of the security interest. In modern secured transactions practice, the concept of third-party effectiveness (perfection) of the security interest is used. Perfection occurs when the security interest attaches and one of three other conditions exists: (1) Perfection is automatic by operation of law, as in the case of proceeds, products and replacements or other classes defined by law; (2) Perfection is by possession or control by the secured creditor or its agent, as in the case of instruments, documents, cash, deposit accounts or goods; and (3) Perfection is by registering a notice of the security interest in the registry. Priority is determined by the first to occur of (a) perfection of the interest or (b) registration of a notice in the registry, whether the interest has attached; that is, priority can pre-date perfection when perfection is by registration in the registry.

**6. Ensure that the secured transactions law has the same priority and publicity provisions for liens of the government, landlords, and judgment creditors as the existing provisions for taxes and wages.** Laws governing statutory interests such as taxes and wages need to be reviewed and addressed in the secured transactions legislation in order to assure that secured creditors' priorities are preserved and consistent between these laws. Further, inclusion of the interests of judgement creditors (i.e. creditors that obtain rights in movable property through judicial decisions) in the overall scope of the secured transactions law should be considered.

Although the Iraq law provides rules of creation of pledges in movable property by creditors, as well as rules of priority of such interests against third parties according to the time when such interests are made public by registration in a registry, it needs to include other types of interests in movable property that would be hidden and could defeat a creditor's interest if not publicized. Those types of interests include liens of the government and others such as landlords or judgment creditors as discussed above. If those liens are not covered by the same rules of priority and publicity provisions of the Law, lenders will not be able to control their risk by relying on movable collateral, because the tax authorities or third-party plaintiffs with court enforcement orders could seize the collateral without regard to the lender's interest in it. In many cases, that would make the risk unacceptable to the lender, and the lender would decline to lend. The experience of other jurisdictions that have undergone secured transactions reforms shows that failure to bring such liens into the priority and publicity provisions of the law reduces the availability of credit by approximately half.

**7. Allow for automatic stay of execution of security interests by secured creditors.** It is a general good practice to have execution of security interests suspended once the debtor enters into reorganization proceedings. It is also important to limit such moratorium in time, as well as allow for exceptions from suspension in case of perishable assets or assets which are not indispensable for the on-going concern.

It is recommended to review the insolvency proceedings in Iraq and consider making relevant adjustments in order to introduce an automatic stay with the above three exemptions for time and certain types of assets.

**8. Assure extra judicial and judicial enforcement of security interests over movable assets.** Modern secured transactions laws provide for quick and simple enforcement of the secured creditor's rights in the event of a default by the debtor. Enforcement generally consists of obtaining possession of the collateral and allowing disposition thereof in some commercially reasonable manner by flexible means intended to maximize its value.

Disposition of the collateral by the secured creditor requires that notice be given to the debtor and any other secured creditor before the disposition. The debtor should have the right to redeem the collateral by paying the obligation in full, plus the expenses the secured creditor has incurred in its action to recover the property and give required notices<sup>80</sup>. If the collateral is not redeemed, the secured creditor should be able to sell, lease or license the collateral in a commercially reasonable manner, or may agree with the debtor for the secured creditor to retain possession of the collateral in full or partial satisfaction of the underlying debt. If the collateral is sold, the order of distribution of the proceeds is, in sequence, to the costs of enforcement, obligations that are senior to the secured creditor's debt, the debt owed to the secured creditor, debts of other secured creditors in order of priority and, if there is a remaining balance, the debtor. If the proceeds are insufficient to cover the costs of enforcement and the debt of the secured creditor, the debtor is liable to the secured creditor for the deficiency unless otherwise agreed. The law should specifically allow parties to agree on the out-of-court enforcement in the loan agreement or security agreement. We recommend that the new secured transactions legislation adopts the aforementioned principles for foreclosure, enforcement and disposition of all types of security rights in movable property.

**9. Establish a geographically centralized, unified for all types of movable assets, notice-based registration system, which is also accessible online for registrations, modifications and cancelations of security interests, as well as searches by debtor's identifier available to wide public.**

Introducing a new legal framework for secured transactions must be supported by a centralized and unified collateral registry where secured creditors will be able to register their security interests to ensure their priority in enforcement. Creditors should be able to use fully electronic, preferably on-line, facility to file notices about existence or potential existence of their rights in the movable properties of debtors. In such a system, registration pursues only two objectives a) to ensure publicity and effectiveness of the right vis-à-vis third parties and b) secure priority of the right from the date and time of registration.

The legislation should allow registration of all types of security interests (not just pledges) created by all types of creditors (beyond banks and financial institutions) and all types of borrowers, incorporated and non-incorporated. International best practice recommends that all individual and legal entities that are permitted to create some kind of interest over movable property whether a security interest or a functional equivalent of such interest shall have the right to create a registry client account and file notices of their rights. For example, any person, individual or a legal entity which sells any movable property through a title retention arrangement shall be able to register a notice of this right. This will ensure a full coverage of the registry system and will minimize the number of undisclosed interests in movables. This

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<sup>80</sup> E.g. notice of enforcement.

recommendation can be implemented after the holistic legal reform is completed based on the preceding recommendations.

Further, any person shall have the right to conduct searches of the registry and obtain full information about registered notices. Full publicity of the registered data is a fundamental objective of any modern collateral registry. However, to ensure that searches have proper legal effect, the search criteria should be clearly established by law. System shall not permit searches by any narrative; they shall be carried out based on unique identifiers of grantors. When search criteria are not clearly defined, a party which is requesting the search cannot confirm if it has performed the search diligently on a certain date using an established unique criterion<sup>81</sup>. We recommend that the legislation in Iraq establishes specific and uniform rules as to what information is registered in the registry and how this information is searched.

#### **Box 4. Good practices in collateral registries**

Economies that accept a broad variety of movable assets to be registered as collateral, have a unified electronic (web-based) database, do not require submission of loan documents and have low registration fees. They are also the ones that experience the largest number of registrations of security interests, of searches, amendments and terminations of security interests over moveable assets. This translates into a higher lending volume as each registration represents a loan secured with movable property<sup>82</sup>.

- Include registration of functional equivalents
- Register rights over both incorporated and non-incorporated entities
- Single data source (centralized) registry for all security interests, including non-consensual liens
- Web-based electronic system accessible 24/7
- Notice-based system, meaning that only information on the creditor, the debtor (who can be both a legal or natural person), and the collateral are entered, without the need for any documentation in order to maintain that information
- Registrations to be done by creditors or their legal representatives directly into the system;
- Information available to the general public for searches
- Registrar's role to be limited to management; it shall not extend to verifying and modifying information in the registry
- Flat and reasonable fees for registrations and searches
- Important statistical information is collected on each transaction
- Non-cash payments (debit/credit cards, electronic transfers, or pre-paid accounts);
- Clearly defined liability of the registry for errors; secured and protected registry data, with established disaster recovery sites.
- Search criteria that include, at least, debtor identifier and serial numbered collateral.<sup>83</sup>

*Source: IFC.2010. Secured Transactions Systems and Collateral Registries.*

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<sup>81</sup> For example a search by any narrative such as "car" or "equipment" will produce multiple results and will not provide the party with any certainty as to whether there is a right in the movable property or not.

<sup>82</sup> Álvarez de la Campa, Alejandro, Santiago Croci Downes and Bettina Tirelli Henning. 2012. Making Security Interests Public. Registration Mechanisms in 35 Jurisdictions. Washington, D.C.: International Finance Corporation. <http://www.ifc.org/wps/wcm/connect/fbef87804c2ab1dda285eaf12db12449/Registry+survey+report.pdf?MOD=AJPERES>

<sup>83</sup> For a detail account of good practices in collateral registries, see IFC.2010. Secured Transactions Systems and Collateral Registries. [http://www.ifc.org/wps/wcm/connect/industry\\_ext\\_content/ifc\\_external\\_corporate\\_site/industries/financial+markets/publications/toolkits/secured+transactions+systems+collateral+registries+toolkit](http://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/industries/financial+markets/publications/toolkits/secured+transactions+systems+collateral+registries+toolkit)

### **Regulation on Collateral Registry:**

Firstly, the focus should be on drafting the Regulations on Collateral Registry (Regulation) to align it with best practice related to the operations of collateral registry.

### **Collateral Registry system application:**

Secondly, we recommend that the software development for the new pledge registry is procured, the registry is tested and launched under the new secured transactions law. The online collateral registry should include the following features.

- Performing searches. The search function should provide any useful information on the content of the notices, and information on secured creditors, so the searcher has could find more information from the creditor.
- Performing amendments. The process of amending a notice raises the following concerns. Instead of simply presenting the existing information and enabling it to be changed, the application presents the user with a menu of types of amending actions from which to choose. Not only is this unnecessarily complex, but the list is not complete. For example, if the collateral description needs to be amended or new collateral added, it is not possible. The choice for actions on collateral is to delete a description. If there is only one existing description, the application will not permit it to be deleted. And in any case, there is no function to permit adding or changing a collateral description, even if the old one could be deleted.
- Duration of the notice. With respect to the duration, the menu of possible amendment types includes only the option to delete or terminate a notice, but not to continue or extend the duration. The option of continuation function needs to be added.

**10. Collect statistical information on the registered notices** We recommend that the new legislation permits collection of statistical information. This can be arranged through an additional tab where users would be requested to answer few simple and quick drop-down menu and multiple-choice questions to provide more details about the underlying notice. Such information is not relevant for achieving third party effectiveness and, therefore, shall not be displayed on a public search, considering also it would be confidential; however, it can be collected in a separate database and such information, analyzed at the sector level with the support from the report constructors, could be extremely valuable to the government and regulators. The key requirement is that such additional questions remain simple and can be answered quickly without any additional research or investigation by the user. For example, the registry can include the requirement to provide value of obligation, size and type of the borrower, type of collateral, economic sector in which the debtor operates, etc.

Examples of modern registries include those found in Australia and New Zealand. In Mexico, over 200,000 loans have been registered since October 2011. Approximately 30% of the collateral registered were agricultural products and 40% were motor vehicles. It is estimated that businesses in Mexico have saved USD 3.8 billion in fees because registrations and searches are free of charge.<sup>84</sup> The registry in China,

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<sup>84</sup> Data from the Registro Único de Garantías Mobiliarias (RUG – the Mexican collateral registry), updated as for March 31st, 2013. The estimated USD 3.8 billion was done by RUG and it corresponds to the first two years of the registry's operations.

started in 2007, facilitated over USD 1 trillion in movable financing to SMEs in its first four years of operation. Financing with movable collateral is growing at an annual rate of 21%, and SME lending portfolios in Banks are growing at 25-45% as a result of the greater confidence created by the registry.

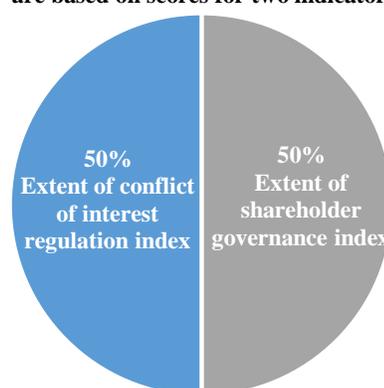
### 3.6 Protecting Minority Investors

**Corporate governance matters in all types of economies.** Good corporate governance practices have led to significant increases in economic value-added of firms, higher productivity, and lower risk of systemic financial failures for countries.<sup>85</sup> Thus, it is crucial in both established and developing economies. In high income economies, ill-conceived corporate regulations can hamper the growth of the private sector. In developing economies, confidence in the institutions is sorely needed to encourage the creation of a strong flow of flourishing corporations.

**Corporate governance is first and foremost a balancing act.**

The immediate interests of four parties are at play here: company directors, managers, shareholders and public authorities. In an ideal setting, the seemingly contrary interests of one party become beneficial in the long run to that of another. For instance, empowering shareholders by granting them more control over sensitive and/or major transactions reduces the risk on their investment and may allow directors and managers to more easily raise the capital needed to grow, innovate, diversify and compete. Similarly, eliminating undue regulatory requirements or clarifying and merging existing ones may seem to be at first a loss of oversight for public authorities yet lead to increased job creation and tax revenues further down the road.

Protecting Minority Investors Rankings are based on scores for two indicators:



**Minority investor protections can have important implications for firm valuation and firm growth.**

Research on 539 large firms in 27 economies shows that firm valuation is higher in economies with good investor protections than in those with poor protections<sup>86</sup>. Other research shows that corporate risk-taking and firm growth rates are positively related to the quality of the system of investor protections. Better systems may lead corporations to undertake riskier but value-enhancing investments<sup>87</sup>. In addition, another study found that in economies with stronger investor protections, investment in firms is less sensitive to financial constraints and leads to greater growth in revenue and profitability.<sup>88</sup>

**Without investor protections, equity markets fail to develop, and banks become the only source of finance.**

Economies that have dynamic capital markets tend to effectively protect investors. In these

<sup>85</sup> Corporate Governance and Performance around the World: What We Know and What We Don't. Inessa Love, The World Bank Group, June 2008.

<sup>86</sup> La Porta, Rafael, Florencio López-de-Silanes, Andrei Shleifer and Robert Vishny. 2002. "Investor Protection and Corporate Valuation." *Journal of Finance* 57 (3): 1147-70.

<sup>87</sup> John, Kose, Lubomir Litov and Bernard Yeung. 2008. "Corporate Governance and Risk-Taking." *Journal of Finance* 63 (4): 1679-728.

<sup>88</sup> Mclean, R. D., T. Zhang and M. Zhao (2012), "Why Does the Law Matter? Investor Protection and Its Effects on Investment, Finance, and Growth," *Journal of Finance* 67: 313-50. doi: 10.1111/j.1540-6261.2011.01713.x

economies' investors receive financial information they can trust, they participate in major decisions of the company, and directors are accountable for their managerial decisions. If the laws do not provide such protections, investors may be reluctant to invest, unless they become controlling shareholders.

**The benefits extend beyond greater access to finance. Corporate governance also contributes to value maximization throughout the life cycle of a company.** Properly executed, it ensures that directors run the business in the best interest of the company. Executives and managers are given authority to do so efficiently, with sufficient discretion to apply their skills and business acumen. Internal structures and processes are clearly laid out. The risk of mismanagement and abuse is mitigated thanks to increased accountability, predictability and transparency. The aggregate effect of all companies following good practices in corporate governance promises significant positive outcomes for the economy overall. Empirical research shows how corporate governance reform can lead to higher returns on equity and greater efficiency.

**The *Doing Business* indicators on protecting minority investors are a proxy for an economy's corporate governance standards and ease of access to financing from capital markets.** One set of indicators analyzes the regulation of related-party transactions and shareholder access to judicial redress. These indicators shed light on protection of minority shareholders against self-dealing, or the use of corporate assets by company insiders for personal gain. Another set examines the adoption of key corporate governance practices that contribute to better managed companies, beyond self-dealing. These indicators measure the rights and role of shareholders in major corporate decisions, rules governing how companies are owned and controlled, and corporate transparency.

**The Protecting Minority Investors indicator measures the minimum legal protections afforded under the law and therefore it only measures mandatory provisions of the law that companies are required to observe.** It does not take into account provisions that allow company bylaws, incorporation documents, articles of association or any other internal regulations of the company to mandate otherwise. It also does not take into account code of corporate governance that are applied on a "comply or explain" basis.

**According to *Doing Business 2020*, Iraq ranks 111<sup>th</sup> out of 190 economies globally on the strength of minority investor protection index, with an ease of doing business score of 46.00.** Regionally, WBG ranks Iraq 13<sup>th</sup> of 20 economies in the Middle East & North Africa (MENA) region. Iraq has an overall score of 46 out of 100 on the strength of minority investor protection (below the regional average of 52). The ranking of economies on the strength of minority investor protections is determined by sorting the scores for protecting minority investors. These scores are the sum of the extent of conflict of interest regulation index and the extent of shareholder governance index. Iraq scores below the regional averages on the extent of disclosure, extent of ownership and control and extent of corporate transparency indexes and slightly above in the rest of sub-indicators. Therefore, there is a considerable room for improvement on minority investors protections across all indicators measured. (Table 12).

**Table 12. Protecting Minority Investors rankings and best performers**

<i>Doing Business</i>	Iraq	MENA average	Regional performer	Regional best performer	Global best performer
Protecting Minority Investors Indicator					
Strength of minority investor protection score (0-100)	46	52		86 (Saudi Arabia)	92 (Kenya)
Strength of minority investor protection index (0-50)	23	26		43 (Saudi Arabia)	46 (Kenya)
Extent of conflict of interest regulation index (0-30) 14					
Extent of disclosure index (0-10)	4.0	6.4		10 (United Arab Emirates)	10 (13 economies) <sup>89</sup>
Extent of director liability index (0-10)	5.0	4.8		10 (United Arab Emirates)	10 (Cambodia; Kenya, United Arab Emirates)
Ease of shareholder suits index (0-10)	5.0	4.7		10 (Djibouti)	10 (Djibouti)
Extent of shareholder governance index (0-20) 9					
Extent of shareholder rights index (0-6)	5.0	3.2		6.0 (Malta; Morocco; Egypt, Arab Rep.)	6.0 (19 economies) <sup>90</sup>
Extent of ownership and control index (0-7)	3.0	3.6		7.0 (Bahrein; United Arab Emirates)	7.0 (9 economies) <sup>91</sup>
Extent of corporate transparency index (0-7)	1.0	3.5		7.0 (Kuwait; Saudi Arabia)	7.0 (13 economies) <sup>92</sup>

Source: *Doing Business 2020 database*

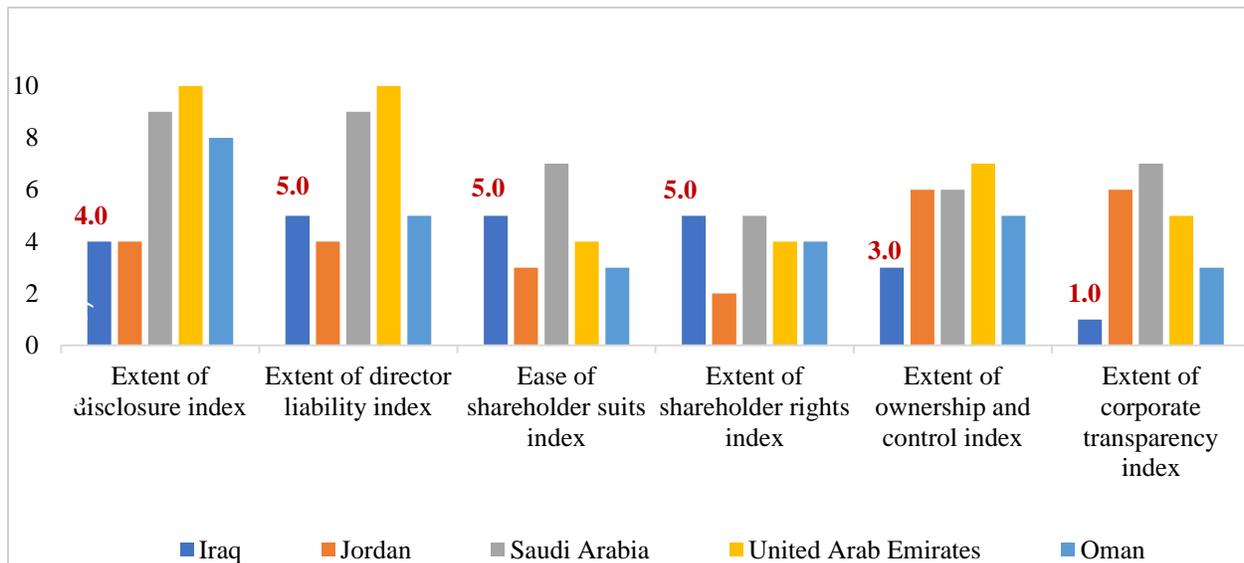
<sup>89</sup> New Zealand; Singapore; Hong Kong SAR, China; Malaysia; United Kingdom; Thailand; North Macedonia; Azerbaijan; United Arab Emirates; Bulgaria; Indonesia, Kenya and China.

<sup>90</sup> Croatia; Kenya; Kazakhstan; Slovenia; India; Turkey; Egypt, Arab Republic; United Kingdom; Cyprus; Morocco; Spain; Argentina; Malta; Bulgaria; Chile, Zimbabwe; Papua New Guinea; Peru and Panama.

<sup>91</sup> Pakistan; Georgia; Austria; Colombia; Uzbekistan; United Arab Emirates; Croatia; Bahrain and Serbia.

<sup>92</sup> Norway; Saudi Arabia; Indonesia; Taiwan, China; Lithuania; France; Ukraine; Mongolia; Kuwait; Cyprus; Bulgaria; Italy and Australia.

**Figure 6. Protecting Minority Investors in Iraq and comparator economies**



Source: *Doing Business 2020 database*

#### **Iraq's performance on the Protecting Minority Investors indicator over time**

*Doing Business* has not recorded any positive reform in Iraq on this topic during the last 10 years. In Iraq, the legal underpinnings for corporate governance for both listed and non-listed companies can be found in the Iraqi Companies Law No. 21 of 1997 (as recently amended by Law No. 17 of 2019), Iraqi Civil Code No. 40 of 1951, Evidence Law No. 107 of 1979 and the Disclosure Rules for Stock Holdings on the Iraqi Stock Exchange (ISX).

The new amendments to the Iraqi Companies Law were published and entered into force on September 9, 2019. The amendment of the Iraqi Companies Law contains a variety of changes, for instance; i) the acceptance of electronic transactions and the adoption of express mail for all correspondence, communications, data and procedural matters in all transactions related to the Registrar of Companies; ii) the concept of a holding company was introduced; iii) the possibility of a foreign natural or legal person to acquire membership in his capacity as a founder or a shareholder in a joint stock or limited company, provided the percentage of contribution from an Iraqi person is not less than fifty-one percent of the capital; iv) a company's license will be cancelled or suspended if it fails to commence its activities within two years from registration; v) if a company does not issue a recommendation of liquidation in accordance with Article 147 and sixty days has lapsed, then the Registrar will issue a decision to liquidate the company; vi) the new law has increased penalties for companies that carry out business in Iraq without a registration certificate; vii) the new law significantly increases penalties for companies that do not submit records and financial statements to the competent authority; viii) when awarding governmental contracts, the government shall prioritize Iraqi companies, including those that have foreign companies as partners, among others.

In *Doing Business 2020*, the Protecting Minority Investors indicator brought back its focus to listed companies. If an economy does not have an active stock exchange with at least 10 listings that are not state-owned, no points are given under the extent of shareholder governance index. Iraq established the

Iraq Stock Exchange (ISX)<sup>93</sup> in Baghdad on April 2004. Currently, the ISX is the only stock exchange in the country. It has a total of 10 listed firms with equity securities according to the *Doing Business 2020* report.

### Medium- to long-term recommendations

#### **1. Revise the Iraqi Companies Law as to include the following best practices in corporate governance for publicly listed companies. The amendments should introduce the following:**

**1.1. Require an independent review of related-party transactions prior to their approval.** An independent and external review of related-party transactions, performed by, for example, an independent auditor, technical expert, financial advisor, stock exchange or regulator, would guarantee an additional layer of protection against self-dealing by ensuring the fairness of the transaction terms. The Iraqi Companies Law should provide for a mandatory third-party review of the terms of significant related-party transactions prior to their approval. As soon as the board of directors is aware of a potential related-party transaction, it should request the appointment of an independent and external expert (usually an external auditor) to review the terms of the transaction and produce an expert and unbiased opinion to help shareholders make an informed decision when called on to vote as outlined in the previous point. The external and independent review should evaluate the main terms of the transaction and present an opinion containing relevant information on the transaction, the conflict of interest, and fairness of the proposed consideration (transaction price) to evaluate potential losses for a company upon its conclusion. Further, the opinion can help evaluating whether the transaction is arm's length and presents fair market terms.

To increase the effectiveness of such disclosure requirement, the external review should be mandatory. In addition, to balance strengthening protections with compliance costs, the law could also set a threshold and require such review only for related-party transaction representing, at least, 10% or more of the company's assets. Further, the threshold should be defined based on how large the transaction is compared to the company's assets and should not be required only for transactions that are beyond the company's ordinary course of business. Indeed, based on company's size and characteristics, transactions that fall within the company's ordinary course of business but are large could still present risks and benefit from such independent review. Setting a threshold would avoid a cumbersome and excessively costly requirement for smaller companies and transactions that are not significant ones. In addition, a liability regime should be incorporated in the law in case the independent auditor presents false or misleading information on the transaction.

Top performing economies in this area of business regulation - such as New Zealand, Singapore, Hong Kong SAR, Kenya, and the United Kingdom - require a review of the terms of related-party transactions by an independent auditor. Such review is also required in some Middle East and North African economies, for example, in the Arab Republic of Egypt, Lebanon and Saudi Arabia.

**1.2. Require a detailed disclosure of the conflict of interest in the annual report.** The Iraqi Companies Law requires disclosure on the terms of a related-party transaction in the board of directors' report<sup>94</sup> but does not also require detailed disclosure on the interested director's conflict of interest. According to international best practice, company managers should periodically provide shareholders and the public

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<sup>93</sup> <http://www.isx-iq.net>

<sup>94</sup> Article 134 of the Iraqi Companies Law.

with detailed information on both the terms and the conflict of interest concerning concluded related-party transactions. Generally, disclosure on this information is included in the in the company's annual report. In the MENA region, for example, Djibouti, Lebanon and Oman follow this international best practice.

**1.3. Provide shareholders with the possibility of holding company directors liable for damages caused by unfair or prejudicial related-party transactions.** According to the Iraqi Companies Law<sup>95</sup>, it is impermissible for the chairman or a board member to have direct or indirect interests in deals that are concluded with the company, except after obtaining the permission of the general assembly, and they shall be liable for any damage to it arising from violation to this. Both the chairman and members of the board of directors shall do their best to serve the interests of the company as they would serve their own personal interests and run the company in a sound and legal manner.

This means that to prevail, shareholders must prove that directors engaged in a negligent behavior because of an act or failure to act. This section applies in all cases, whereas in the specific case of related-party transactions, existing provisions could be complemented so that shareholders can hold directors liable on the sole basis that said transactions were unfair or prejudicial to the company, including absent any wrong, breach of trust or breach of faith.

In light of the above, Iraq should consider lowering the threshold required to hold directors accountable for their actions. Thus, the Iraqi Companies Law should be amended so that directors and other disinterested members of the approving body can be held liable when a transaction is unfair or prejudicial to the other shareholders; not only when they are at negligent or at fault, grossly negligent, commit fraud or act in bad faith. Economies with the strongest protections on corporate self-dealing— such as the United Arab Emirates, New Zealand and Botswana - regulate not only disclosure and approval of related-party transactions but also set out clear rules of accountability for company directors when such transactions are unfair or prejudicial to the company.

**1.4. Introduce remedies for prejudicial related-party transactions.** The Iraqi Companies Law should be amended to provide that an interested director who proposed a prejudicial related-party transaction should be required to pay damages and repay profits obtained from the related-party transaction in case of a successful claim. Additionally, the law could enable courts to disqualify a director—who is found liable—from representing or holding a managerial position in any company for a one-year period or more, depending on the severity of the self-dealing. International practice has shown that, in case of prejudicial related-party transactions, directors should not only pay the damages caused to the company but should also disgorge the profits made in violation of their duties to the company. To prevent corporate abuses, the interested director should also be removed from his/her position on the board of the company and disqualified from holding any other managerial or director position in any company for a period of one year at least. Generally, official functions include sitting on the board of directors, exercising the role of chief officer and more generally be involved in forming, marketing or running a company. Overall, these safeguards would further inhibit and deter directors from proposing and entering into harmful transactions.

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<sup>95</sup> Article 119 and 120 of the Iraqi Companies Law.

Worldwide, only 9 economies provide for all the above-mentioned remedies for prejudicial related-party transactions. For instance, the Companies Act of Singapore<sup>96</sup> states that the relevant directors may potentially be held liable to pay damages (for breach of common law duties of skill, care and loyalty) or equitable compensation (for breach of equitable fiduciary duties) or be held liable for an account of profits (for breach of equitable fiduciary duties). Specifically, the relevant directors may potentially be held liable if they failed to *“act honestly and use reasonable diligence in the discharge of the duties as directors. A director who is found guilty of an offence may be held liable to the company for any profit made by him or for any damage suffered by the company as a result of the breach as well as sentenced to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months.”* In addition, a director may also be disqualified from acting as director upon, inter alia, being convicted of any offence under the Companies Act.

#### **1.5. Grant shareholders the right to approve the election and dismissal of the external auditor.**

Currently, according to the Iraqi Companies Law, shareholders of a joint stock company do not have the right to approve the election and dismissal of the external auditor. The Companies Law states the election of the company’s external independent auditor falls within the competences of the board of directors<sup>97</sup>, and does not specifically mention which body is in charge of the external auditors’ dismissal. The legal framework should grant shareholders with the right to elect and dismiss external auditors. Such international good practice clarifies that the external auditor is elected by and is accountable to shareholders and not to the management of the company. This underlines that the external auditor owes a duty of due professional care to the company rather than any individual or group of corporate managers that they may interact with for the purposes of their work.

Shareholders have this right in 160 out of 190 economies measured in the *Doing Business* report. Regionally, Jordan, Kuwait and Qatar are examples of economies following this international best practice.

#### **1.6. Require the board of directors to include both independent and non-executive board members.**

The board is chiefly responsible for monitoring managerial performance and achieving an adequate return for shareholders, while preventing conflicts of interest and balancing competing demands on the corporation. For boards to effectively fulfill their responsibilities they must be able to exercise objective and independent judgment.

Independent directors play an important role in safeguarding the rights of minority shareholders since they have no conflicts of interest and are able to provide an independent view on the advisability of corporate transactions and strategic initiatives. Good practice requires the inclusion of independent and non-executive members on the board of public or large private companies. The terms “independent” and “non-executive” are defined as follows:

- Independent board members are defined as not owning shares in the company, and otherwise not having had in the past “x” amount of years, any material or pecuniary relationship with the company either directly or indirectly through related persons, except for sitting fees.

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<sup>96</sup> Article 157 of the Companies Act of Singapore.

<sup>97</sup> Article 117 (8) of the Iraqi Companies Law.

- Non-executive board members are defined as not being employees of the company or affiliated with the company, either directly or indirectly, and more generally, not being involved in its day-to-day activities.

The Companies Law establishes that the minimum number of directors in a joint stock company shall be not less than five and not more than nine.<sup>98</sup> However, it does not specifically provide for the inclusion of independent and non-executive directors. It is recommended to include a definition of independence and to require public companies and large private companies not having a unipersonal board to appoint at least one independent and non-executive director to their boards of directors.

Countries like Djibouti and Saudi Arabia took steps to clarify their corporate governance, ownership and control structures by, for example, enacting legislation that requires public or large private companies to nominate independent board members.

**1.7. Introduce legal provisions to ensure that all shareholders are offered an exit option in case of major takeover of the company.** In Iraq, the Iraqi Companies Law does not provide for mechanisms to protect shareholders from a takeover. Similar to shareholder safeguards on disposal of large assets, shareholders could also benefit from a mandatory tender offer, effectively giving shareholders a way out when a new shareholder acquires a major stake in the company. The law should also state that the offer to purchase the remaining shares is triggered by the acquisition of at most 50% of shares. The acquirer should not be able to avoid making the offer and the offer price should be equal to the average price paid to reach the triggering threshold. This rule should apply even if such acquisition did not take place in a single transaction. It should also apply to any person who has independently (or through actions in concert with other persons) acquired such interest. The inclusion of such provision is important because it helps prevent an acquirer from exploiting minority members by draining company assets and engaging in self-dealing. Also, a change in the majority ownership might result in a change in the company's business strategy, and minority members should be protected from having those changes imposed on them with no realistic option to exit. In other MENA region economies like Bahrain, Jordan and the United Arab Emirates, a potential acquirer of a listed company must make a tender offer to all shareholders upon acquiring 50% of the company.

**1.8. Require joint stock companies to pay dividends within a maximum period of time set by law after the declaration date.** In Iraq, the Companies Law provides that company's net profit shall be distributed after making all the legal deductions among the members according to their quotas or shares, however, it doesn't establish a legal term to distribute profits or pay dividends for joint stock companies.<sup>99</sup>

The declaration of dividends is a discretionary business decision taken by the board of directors based on present financial results and future investment strategies. But once the decision to declare dividends has been made, good corporate and accounting practice requires that payment should be made promptly before the end of the following fiscal year. The last day allowed by law to pay dividends would be considered for the members as the last day to expect payment or alternatively the day a cause of action for mismanagement against the limited company can be started. In addition to be a general good practice, having a maximum payment period set by law does not raise compliance cost for limited companies.

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<sup>98</sup> Article 104 of the Companies Act.

<sup>99</sup> Section Seven (Profits and Losses), Article 73 and Article 134 (2) of the Iraqi Companies Law.

Worldwide, many countries require by law such payment to take place within few months from the declaration date. The Republic of Korea and Portugal, for example, mandate payment within 1 month from the declaration date, while Norway and Iceland mandate payment within 6 months and Georgia and Macedonia within 9 months from the declaration date. The Iraqi Companies Law could mandate henceforth a maximum period within which disbursement of dividends to collecting members must occur. This time limit can also be introduced in limited liability companies given that it does not raise compliance costs even in smaller companies.

**1.9. Prevent subsidiaries from being able to acquire shares issued by their own parent company.**

Currently there are no specific provisions in the Iraqi Companies Law concerning the possibility of a company becoming the record owner of shares issued by its parent company. Intra-group ownership increases the relative power of management and makes it more difficult for potential investors to determine who controls the company. Shareholder interests can be better protected in economies where cross-shareholdings are addressed at the regulatory level and limits are imposed on share stakes held by subsidiaries in their parent firms. Restrictions on this type of ownership are particularly important, because they ensure greater clarity in identifying who controls and can influence decisions in a given company. They also mitigate undue board control and entrenchment. Furthermore, they limit attempts to circumvent other limitations and obligations that may be applicable to major shareholders whose participation is at or above a given threshold, by making their direct ownership in a company seem smaller than it actually is. Finally, they prevent the management of the subsidiary—as legal representatives of the subsidiary—from exercising powers as shareholders in the parent company. Ninety-four economies out of the 190 economies measured by *Doing Business* follow this international good practice. Article 184 of the Companies Law of Saudi Arabia, for instance, states clearly that *“an affiliated company shall not own shares or stakes in the holding company, and any act that shall transfer the ownership of the stock or shares of the holding company to the affiliated company shall be null and void.”*

**1.10. Require disclosure of direct and indirect beneficial ownerships representing 5% or more of the share capital of a Joint Stock Company.** In Iraq, the Iraqi Companies Law require disclosure of direct and indirect beneficial ownership stakes representing 10% or more of the share capital of a joint stock company<sup>100</sup>. One of the basic rights of investors is to be informed about the ownership structure of the enterprise and their rights vis-à-vis the rights of other owners. Such disclosures should make transparent the objectives, nature and structure of a company and disclose who are the ultimate beneficial owners of shares.

Generally, disclosure of ownership data should be provided once certain thresholds of ownership in a company are passed. It is good practice to disclose direct and indirect beneficial ownership stakes representing 5% and more. Such disclosure might include data on major shareholders and others that, directly or indirectly, are ultimate beneficial owners of shares. This means disclosure of who can significantly influence or control or may significantly influence or control the company through, for example, special voting rights, shareholder agreements, the ownership of controlling or large blocks of shares, significant cross shareholding relationships and cross guarantees. It is also good practice to disclose shareholdings of directors, including non-executives.

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<sup>100</sup> Article 134 (1) of the Iraqi Companies Law and Article 74 of, Section 12 of the Disclosure Rules for Stock Holdings on the Iraqi Stock Exchange (ISX).

Studies show that minority shareholders rights are better protected in economies promoting transparency and disclosure of corporate information. Information asymmetry can result in fraud, financial crisis, adverse selection and moral hazard. Investors are entitled to receive accurate, effective and sufficient information which would lead to financial stability, reduction of fraud and manipulation and better company governance in general. For instance, in the MENA region Jordan and the United Arab Emirates require listed companies to disclose direct and indirect beneficial ownership stakes representing 5% of the share capital.

**1.11. Increase protection of investors by requiring disclosure of information about board members' primary employment and directorships in other companies.** In Iraq, the legal framework on corporate governance is silent on this topic<sup>101</sup>. The international best practice requires mandatory disclosure of information about board members' other directorships or chairmanships both present and those held over the preceding three years in other listed companies and/or large private companies with multiple shareholders, as well as basic information on their primary employment. All this information should be disclosed in the company's annual report.

In the MENA region, Kuwait, Saudi Arabia and the United Arab Emirates, are examples of economies following this international best practice.

**1.12. Require disclosure of information about the compensation of directors and high-ranking officers of a company, including bonuses and incentive schemes on an individual basis.** The Iraqi Companies Law<sup>102</sup> only requires disclosure in the board of directors' report of the sums received by current and previous members of the board of directors and the managing director in the form of wages or awards in cash or in kind, however it does not specify whether these amounts shall be disclosed in an individual or aggregate basis. Such disclosure should also include bonuses, incentive schemes and any other compensation received by board members. Requiring the disclosure of remuneration of each director and high-ranking officer of a company on an individual basis is considered an international best practice. All this information should be disclosed in the annual report. For example, in the MENA region, Oman, Qatar and Saudi Arabia follow this international best practice.

**1.13. Require the notice of shareholder meetings to be published and sent to shareholders at least 21 calendar days in advance and contain sufficient information on the matters to be discussed during the meeting.** In Iraq, pursuant to the Iraqi Companies Law<sup>103</sup>, a fifteen day's written notice should be given to shareholders of a joint stock company before the general assembly meeting takes place. The written notice shall include the place and date of the general assembly meeting and it shall be published in the bulletin, two daily newspapers and at the Baghdad Stock Exchange.

A good practice followed by many economies is to ensure that there are no exceptions to the twenty-one day's written notice prior to the general meeting of shareholders and that the notice provides sufficient information regarding the matters to be dealt with during the meeting.<sup>104</sup> More specifically, the notice

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<sup>101</sup> Iraqi Companies Law and the Disclosure Rules for Stock Holdings on the Iraqi Stock Exchange (ISX).

<sup>102</sup> Article 134 (4) of the Iraqi Companies Law.

<sup>103</sup> Article 88 of the Iraqi Companies Law.

<sup>104</sup> 63 of the 190 economies benchmarked by Doing Business follow this international best practice by requiring that a detailed notice of general meeting must be sent at least 21 calendar days before the meeting.

should state clearly the matters to be brought before the meeting for resolution, and include all the following information:

- i. reference information required regarding any external acts;
- ii. location, day, and time of the meeting;
- iii. type of meeting, whether general or extraordinary;
- iv. requirements relating to participation and exercise of voting rights;
- v. meeting's agenda; and,
- vi. description of the way in which remote voting is processed including the address, physical or electronic, safety measures, the deadline for receiving the voting ballots and the date for their count.

**1.14. Ensure that shareholders representing 5% of the issued capital can include additional items on the general meeting agenda.** The Iraqi Companies Law does not provide for a threshold of at least 5% of the listed company's share capital in order to be able to add items to a shareholders' meeting agenda. It is implied in the Companies Law that the minimum threshold to put items on the general meeting agenda is ten percent of the share capital<sup>105</sup>. Therefore, it is important that the law permits to such members to put items in the agenda of the annual meeting. In addition, in order to encourage shareholder participation in such general meetings, many jurisdictions have improved the ability of shareholders to place items on the agenda through a simple and clear process of filing amendments and resolutions, submit questions in advance of the general meeting, and obtain replies from management and board members. Djibouti, the Arab Republic of Egypt and Saudi Arabia are examples of MENA region economies following this international best practice.

## **2. Consider amending the Rules for Stock Holdings on the Iraqi Stock Exchange (ISX)**

**2.1. Require immediate disclosure of information regarding related party-transactions to the public (or to the market regulator).** In Iraq, neither the Iraqi Companies Law or the Rules governing official listing of securities of the Iraqi Stock Exchange (ISX) require immediate disclosure (within a maximum of 24 or 72 hours of closing of a related-party transaction) to the public or market regulator. The Protecting Minority Investor indicator's case study concerns a related-party transaction among two listed joint stock companies, Buyer and Seller. In the case at issue, as per methodology's assumptions, Mr. James is the interested director because he proposes the transaction while he owns 60% of Buyer and 90% of Seller. International good practice requires immediate disclosure - i.e. within 24 or 72 hours at the latest- of related-party transactions to the public (or to market regulator). In best practice economies, listed companies must disclose explicit information on the terms and conditions of the transaction, as well as the nature of the interest and the extent to which the parties stand to gain personally from the transaction (except for information related to commercial secrets), including the following four specific aspects:

- (i) a description of the assets purchased by Buyer;
- (ii) the nature and amount of consideration paid by Buyer to Seller;
- (iii) the interested director ownership interest and his/her position in Buyer; and
- (iv) the ownership interested of the interested director in Seller, meaning, that he/she owns 90% of Seller.

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<sup>105</sup> Article 87 of the Iraqi Companies Law.

To adapt to such international good practice, Iraq should revise its legislation on listed companies and be more specific as to the timing and level of disclosure required by law. Specifically, the law should list in detail the information to be disclosed to the public and/or market regulator, as noted above, the terms, conditions, nature and the extent of the conflict of interest and all the other relevant information regarding the transaction (except for information related to commercial secrets). It should also specify that disclosure should occur immediately, within 72 hours at the latest. The law should also include a definition of immediateness, so that companies have clear guidance as to the timing of disclosure and would be breaching the law if they do not disclose this information within the specified timeframe. Further, this information should ideally be posted on the website of the company (if one exists) and on the website of the Iraq Stock Exchange.<sup>106</sup>

Bahrain, the Arab Republic of Egypt, and the United Arab Emirates, are some examples of economies in the MENA region following this international best practice.

### **3. Consider amending the Evidence Law No. 107 of 1979 as to:**

**3.1. Allow parties to a trial to request categories of documents from the opposing party without identifying specific ones.** Currently, the Evidence Law No. 107 of 1979 requires the specific identification of the evidence requested during the trial by title, indication of specific contents within the document, and identification of holder of such document<sup>107</sup>. For easier access to corporate documentation during the trial, the Evidence Law could allow parties to request categories of documents without identifying specific ones (for example all purchase agreements). Allowing parties to access a broader range of documents can also reduce judicial discretion.

More advanced legislations allow parties to a trial to request categories of documents from the opposing party without identifying specific ones. For example, this is the case in Djibouti and Morocco.

**3.2. Allow plaintiffs to directly question the defendant and witnesses during the trial.** In Iraq, the plaintiff or plaintiff's lawyer may only suggest questions to the judge who performs the examination alone.<sup>108</sup> In order to promote transparency and ensure a fair trial, the plaintiff must be able to examine the defendant and witnesses directly without prior approval of the questions by the judge. In more than 50% of the 190 economies analyzed by *Doing Business*, the plaintiff (or the plaintiffs' lawyer) can perform the examination without prior approval by the court of the questions asked.

### **4. Consider amending the Civil Code as to:**

**4.1. Allow shareholders to recover legal expenses regardless of the outcome of their legal action under specific conditions, only once the court has accepted jurisdiction and provided that the lawsuit is legitimate, filed in good faith (i.e. not abusive, frivolous or brought with an intent other than adjudicating the claimed disputes), and the case is decided by the court on its merits.** In Iraq, the Civil Code allows shareholders to recover legal expenses (e.g., court fees, attorney fees and related expenses) if the court rule in favor of the shareholders. However, the amount can be at the discretion of the court.

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<sup>106</sup> <http://www.isx-iq.net>

<sup>107</sup> Article 53 of the Evidence Law No. 107 of 1979.

<sup>108</sup> Articles 71, 72, 73 and 94 (3) of the Evidence Law No. 107 of 1979.

Recovery of legal expenses should be standard once the court has accepted jurisdiction, deemed the claim receivable and reviewed the facts in light of relevant substantive law. In other words, shareholder plaintiffs should be entitled to recover legal expenses from the opposing party regardless of the outcome of a lawsuit once the court has accepted jurisdiction and provided that the lawsuit is:

- a) legitimate,
- b) filed in good faith (i.e. not abusive, frivolous or brought with an intent other than adjudicating the claimed disputes) and,
- c) the case is decided by the court on its merits.

Shareholder suits can be an effective tool for ensuring that the company and its directors comply with their responsibilities and legal obligations, since shareholders have a strong interest in maximizing their own returns and are therefore highly motivated to seek redress for any actions that would harm their interests. However, absent a high likelihood that litigation costs will be reimbursed, the high cost of pursuing a claim is likely to be a prohibitive deterrent for many shareholders. Bearing the cost of litigation acts as a deterrent to all lawsuits except those with strong likelihoods of success. In best practices a country would discourage frivolous lawsuits but encourage suits in all legitimate cases as a means to encourage exemplary Director behavior. The “good faith” requirement described above does just that. The current Iraqi system leaves a real possibility of the plaintiffs being forced to pay for expensive suits, thereby discouraging litigation in all but the most egregious of cases. In the MENA region, Djibouti is the only economy following this international best practice.

**5. Strengthen the implementation of the corporate governance framework by providing outreach campaign and training.** In order to ensure any reform in the regulatory framework is understood and implemented in practice, it is recommended that corporate governance courses be made available for shareholders, board members and senior managers, as well as internal control bodies (internal audit, risk management, etc.). Additionally, corporate governance could be incorporated into supervisory processes of the capital markets regulator or banking sector regulator. This could include issuing implementation guides, conducting annual corporate governance reviews of compliance for listed companies based on the Rules for stock holdings on the Iraqi Stock Exchange (ISX), and providing targeted training.

### 3.7 Paying Taxes

**Efficient tax administration can help encourage businesses to become formally registered and the economy to grow**—and thus expand the tax base, decrease evasion and increase tax revenues. High tax compliance costs are also associated with larger informal sectors, more corruption and less investment. In contrast, economies with well-designed tax regimes are able to help the creation and growth of businesses and, ultimately, the growth of overall investment and employment.<sup>109</sup>

*Doing Business* records the taxes and mandatory contributions that a medium-size company must pay in a given year as well as measures of the administrative burden of paying taxes and contributions and complying with post-filing procedures. Taxes and contributions measured include the profit or corporate income tax, social contributions and labor taxes paid by the employer, property taxes, property transfer

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<sup>109</sup> Bird, Richard. 2010. “Smart Tax Administration.” *Economic Premise* (World Bank) 36: 1–5.

taxes, dividend tax, capital gains tax, financial transactions tax, waste collection taxes, vehicle and road taxes, and any other small taxes or fees.

Statistically, Iraq ranks as one of the most difficult countries in which to complete tax filings. Due to the lack of developed systems and infrastructure in Iraq (including online filing and payment), the tax compliance process in the country is inherently more challenging than in many of the other economies.<sup>110</sup>

Table 13. Iraq’s performance compared to other regions

Indicator	Iraq	Region	OECD
Payments (number)	15	16.5	10.3
Time (hours)	312	202.6	158.8
Total tax rate (% profit)	30.8	32.5	39.9
Post-filing index (1-100)	21.4	53.3	86.7

Source: *Doing Business 2020*

On average, in Iraq it takes 15 payments and 312 hours to comply with tax regulations each year. The total tax rate is 30.8% of the profit. Iraq ranked 131<sup>st</sup> worldwide and 11<sup>th</sup> in the MENA<sup>111</sup> region on the ease of paying taxes in *Doing Business 2020*.

### Paying Taxes over time

*Doing Business* has not recorded a single reform affecting the ease of paying taxes in Iraq in recent years, although certain tax burdens have been eased. The Iraqi Presidency Council enacted Law No. (9) of 2019 on 27 July 2019 under which taxpayers in Iraq (outside the KRI) can pay their overdue taxes free from certain penalties. The amnesty remained in force until 18 August 2020.

Currently, entrepreneurs pay 5 taxes:

- (i) Corporate income tax
- (ii) Employer paid-social security contributions
- (iii) Real Estate Ownership Transfer tax
- (iv) Stamp duty on contracts
- (v) Employee paid-social contributions (jointly with the Employer).

Paying Taxes indicator also measures quality of post filing processes. This includes VAT refunds (not relevant in Iraq) and corporate income tax (CIT) audit (see Table 13). The post-filing index is based on four components—time to comply with VAT refund, time to obtain VAT refund, time to comply with a corporate income tax correction and time to complete a corporate income tax correction. The four components include the time to comply with and complete a tax audit when applicable (see details below). The definition of a tax audit includes any interaction between the taxpayer and the tax authority

<sup>110</sup> Deloitte, *Doing business guide Understanding Iraq’s tax position*, 2017.

<sup>111</sup> Algeria, Bahrain; Djibouti, Egypt, Arab Rep., Iran, Islamic Rep.; Iraq; Jordan; Kuwait; Lebanon; Libya, Malta, Morocco, Oman; Qatar; Saudi Arabia; Syrian Arab Republic; Tunisia, United Arab Emirates; West Bank and Gaza; Yemen, Rep.

post filing of the tax return and payment of the tax liability due, including informal inquiries, formal inquiries and formal tax audits to verify whether such taxpayers have correctly assessed and reported their tax liability and fulfilled other obligations.

**Table 13.** VAT refunds and corporate income tax

	Answer	Score
<b>Postfiling index (0-100)</b>		<b>21.4</b>
<b>VAT refunds</b>		
Does VAT exist?	No	
Does a VAT refund process exist per the case study?	N/A	
Restrictions on VAT refund process	Not Applicable	
Percentage of cases exposed to a VAT audit (%)	Not applicable	
Is there a mandatory carry forward period?	Not Applicable	
Time to comply with VAT refund (hours)	No VAT	No VAT
Time to obtain VAT refund (weeks)	No VAT	No VAT
<b>Corporate income tax audits</b>		
Does corporate income tax exist?	Yes	
Percentage of cases exposed to a corporate income tax audit (%)	75% - 100%	
Time to comply with a corporate income tax correction (hours)	83.0	0.0
Time to complete a corporate income tax correction (weeks)	18.3	42.9

### Short-term reform recommendations

**1. Improve accessibility of tax rules and regulations.** The Iraqi tax laws and amendments are available at website of the Federal Tax Commission and are considered as relatively clear by the taxpayers. However, the rules and regulations, which may change every year, are very difficult to obtain (the print run is very limited or not available). In order to alleviate this issue, the rules and regulations in place should also be published and systematically updated on the website of the Federal Tax Commission.

In addition to making taxpayer rules and regulations available on-line, tax payer rights should also be provided on-line, at the Tax Authority and with chambers of commerce to increase taxpayer awareness. We also recommend developing a charter of taxpayer rights and a code of conduct for tax officials. If these documents already exist, they should be disseminated through the website.

### Medium-term reform recommendations

**2. Make it optional to pay social security on a quarterly (rather than monthly) basis for those firms that would so prefer.** Currently, filing preparation and payments of social security contributions is very time-consuming, taking place once per month and taking on average 288 hours.<sup>112</sup> Reduced frequency of filing and payments of social security contributions would decrease the time and bureaucratic hassle for businesses seeking to comply with tax regulations. The government would also lower its own costs of processing, reviewing and confirming the additional payments. It is important to note that this would have cash-flow implications, for both government and taxpayers (the firms). Thus, such an exercise must be preceded with an analysis of how the reduced number of payments can be synchronized with the projected cash-flow needs. The reduction in the number of payments could be voluntary for those companies that prefer it—others may still choose to pay taxes more frequently to avoid cash flow

<sup>112</sup> This is an estimate for firms as described in the *Doing Business* methodology. For more information please refer to the *Doing Business* website: <http://www.doingbusiness.org/methodology/paying-taxes>.

problems. We would also recommend a schedule of staggering quarterly payments to ensure a continuous revenue stream for the authorities.

**3. Streamline filing and audit procedures to reduce administrative burden for the taxpayer as well as tax administrators.** In the case of small businesses, the costs of complying with filing and auditing requirements can be greater than the tax itself. In order to encourage participation in the tax system, it is important streamline and simplify procedures.

Overall, it takes an entrepreneur 312 hours to comply with tax obligations.

The administrative burden for all the types of taxes will be significantly eased by merging the filing and payment of labor related taxes levied on the same tax base into one return and one payment. For labor and consumption taxes, with their requirements for repetitive calculations, the use of accounting software and electronic filing and payment systems can offer great potential time saving.

This option can reduce the time businesses spend in complying with tax laws, increase tax compliance and reduce the cost of revenue administration. In addition, introducing electronic filing and payments, discussed in detail below, will have a positive impact not only on the total tax compliance time but also on the number of tax payments and filings.<sup>113</sup> In Tunisia, thanks to a now fully implemented electronic filing and payment system, businesses spend 37% less time complying with corporate income tax and value added tax.

In December 2010, the Tax Authority of Yemen merged the filing processes for VAT and corporate income tax and designed a unified form in order to reduce the number of visits required by the taxpayer.<sup>114</sup> Streamlining the filing process also included reducing the number of steps required by the tax authority to administer the process and taxpayers to comply with the process, thereby reducing overall compliance costs.<sup>115</sup>

Another delay occurs in the post-filing process, which includes declaration of self-correction and audit. The Corporate Income Tax Audit index of *Doing Business* measures the time to comply with a corporate income tax correction, counted in number of hours and the time to complete a corporate income tax correction, counted in number of weeks.

In Iraq, although the self-declaration of an error is allowed, such correction can only be done in person in tax office bringing all official letters and documents that support the correction, including related contracts and invoices. This influences the time to comply with this fiscal requirement, currently estimated at 6 hours per year. In addition, the taxpayer will spend an extra 4 hours to complete the corrected payments.

Today in Iraq it takes 83 hours to comply with a corporate income tax correction.

The percentage of cases exposed to a corporate income tax audit is between 75% - 100%. Risk-based audits can reduce the administrative burden for the tax authority and facilitates monitoring to reduce fraud. This will limit the interaction between tax official and taxpayer, thereby reducing the cost of

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<sup>113</sup> Please note that according to *Doing Business* methodology electronic payment of one type of tax a multiple number of times is counted as one payment.

<sup>114</sup> This reform is being piloted in the Tax Authority's Large Taxpayer Unit.

<sup>115</sup> It is difficult to assess the reduction in time that resulted from this reform due to the recent political instability in Sana'a.

compliance. In Saudi Arabia, the percentage of cases exposed to a corporate income tax audit are between 25% - 49%. In the top scoring economies, the case study company would not be selected for additional review of corporate income tax (nor of VAT).

From the low-income economies, Liberia is among the 10 highest-performing economies in the post-filing index and does well on pre-filing with a score of 98.6. Liberia has no VAT regime, so the post-filing index only measures the CIT components of the economy. In Liberia, it would take our study company only three hours to correct its CIT return, and such a correction is unlikely to be subject to additional review. Percentage of cases exposed to a corporate income tax audit is between 0% - 24%.

Strengthening the Tax Audit Framework through additional guidelines and training of tax officers in order to reduce the burden on the companies to comply with the corporate income tax auditing is an important step to the efficiency of tax recovery.

It is recommended that to combine filing of certain taxes and implement a new auditing system in practice as per the solutions discussed above. As a result, small and medium enterprises will not be subject to undue auditing.

**4. Introduce electronic filing and payment of taxes.** Electronic filing and payment of taxes eliminates excessive paperwork and interactions with tax officers.

Globally, the introduction of electronic systems for filing and paying taxes has cut tax compliance times. Electronic filing (e-filing) and electronic payment (e-payment) are the processes of submitting tax returns and payments over the Internet. E-filing and e-payment have various benefits that have made the tax preparation process easier for businesses, including the ability to file a tax return from one's office at a convenient time and the ability to prepopulate tax returns with data already held by the tax administration. The United States was the first economy to introduce e-filing, in 1986, followed by Australia in 1987<sup>116</sup>.

The use of electronic tax filing and payment systems has risen sharply since 2004,<sup>117</sup> when only 43 of the 174 economies measured by *Doing Business* had an online system for filing and paying taxes. Fifteen years later, this number has almost tripled (to 106) as economies have shifted from filing taxes manually and paying them in person to filing tax returns electronically and paying taxes online.

Rolling out new information and communication technologies for filing and paying taxes and then educating taxpayers and tax officials in their use are not easy tasks for any government. But electronic tax systems, if implemented well and used by most taxpayers, benefit both tax authorities and firms. For tax authorities, electronic filing lightens workloads and reduces operational costs such as for processing, handling and storing tax returns. This allows administrative resources to be allocated to other tasks, such as auditing or providing customer services. Electronic filing is also more convenient for users. It reduces the time and cost required to comply with tax obligations and eliminates the need for taxpayers to wait in line at the tax office. It also allows faster refunds. And it can lead to a lower rate of errors. These and

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<sup>116</sup> Anna A. Che Azmi and Yusniza Kamarulzaman, "Adoption of tax e-filing: A conceptual paper," *African Journal of Business Management*, 2010.

<sup>117</sup> *Doing Business* data for 2004–05 was published in *Doing Business* 2006.

other improvements to simplify tax compliance reduced the administrative burden to comply with tax obligations.

When it comes to implementing online payments, tax authorities need to work with other organizations to ensure that payment systems are widely accepted and are available in a format that is convenient to the taxpayer. This will almost certainly require the involvement of banks and potentially telecommunications companies to ensure that Internet connections are reliable and that payments can also be made from mobile devices. Cultural barriers may also need to be overcome if taxpayers have a mistrust of online payments. Although governments always have the option of making online payments mandatory, if they do this before the necessary systems are in place and working reliably, they run the risk of increasing discontent with the tax system and potentially lowering the chances of people complying with their tax obligations in a timely manner.

In Indonesia, although online filing and payment have been available for some time, it is only recently that the requirement to file hard copy documentation has been removed. This has reduced the number of payments indicator, because when all filing is exclusively online, it is counted together as only one payment under the Paying Taxes methodology, even if there are more payments in practice.

Pakistan reduced the number of payments by 13. This happened because several alternative delivery channels (ADCs) for payments were introduced in March 2018, allowing payments directly from commercial bank accounts via Internet banking websites, ATMs, mobile banking and call centers. VAT and CIT are now paid and filed online.

In Jordan, online filing was widely used for GST from mid-2017, but take-up was lower for other taxes owing in part to system glitches. Online filing was made mandatory from 1 January 2018 for personal income tax and social security contributions. Online payment has been widespread since 2017 for all three taxes, resulting in 14 less payments.

In Bahrain, an electronic system for social security contributions has been in place for a number of years, diminishing number of payments by 11. The Labour Ministry automatically sends a monthly invoice to each employer with details of the payment to be made. Recently the use of electronic payments to settle the invoices has increased.

Similarly, in Cyprus, electronic filing and payment for social security contributions were confirmed in 2018 to be used by a majority of the taxpayers that had profiles similar to that of the case study company, diminishing number of payments by 11.

Apart from South America, most of the other regions saw reductions in the number of payments indicator, with Central Asia & Eastern Europe showing the biggest decreases. This was driven by the Kyrgyz Republic, where, although online filing and payment systems had been available previously, the majority of businesses embraced electronic payments only in 2018. The more modest reductions in other regions were largely due to the ongoing implementation of, and improvements in, electronic filing and payment systems.<sup>118</sup>

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<sup>118</sup> PwC, The World Bank Group. Paying Taxes 2020, 2019: <https://www.pwc.com/gx/en/paying-taxes/pdf/pwc-paying-taxes-2020.pdf>

Various types of electronic invoicing systems are in use around the world. Tax administrations can opt to use platforms enabling trading partners to exchange electronic documents over a specific network (for example, Pan-European Public Procurement Online [PEPPOL]). This is the case in Denmark, Sweden and, most recently, Singapore. Another option is to use XML formats; in this model, taxpayers convert invoices into a government-defined XML format and transmit them via an online portal, as in Italy and the Slovak Republic. Lastly, tax administrations can employ online cash register (OCR) initiatives whereby retailers are required to use OCR software to upload sales data to the tax administration portal instantly. The Republic of Korea and the Russian Federation both use this system<sup>119</sup>.

**5. Introduce VAT.** VAT is an indirect tax used by governments to help reduce the dependence on natural resource revenues and broaden their tax base, which would further enhance the governments' budgets.

VAT involves multiple stakeholders, including the government, businesses and citizens, all have to trust the system is fair and functional. It is a tax on consumption and relies on firms' capacities to track their sales and purchases and keep financial records. Therefore, it is important to involve the private sector in the design of the VAT system and allow time for everyone to learn how to apply the rules correctly.

Currently, there is no Value Added Tax (VAT) or Goods and Services Tax in Iraq.

It is recommended to follow other countries in the region and introduce this important tax to diversify revenues for the government. In designing the VAT system, it is important to bear in mind its efficiency both in terms of filing time, auditing time and an efficient refund mechanism.

To date, twelve economies have introduced VAT in the region.<sup>120</sup>

**6. Awareness and education campaign.** Education and technology play a vital role in tax compliance. Technology alone is not sufficient to improve performance. It is a tool, and its effectiveness is determined by how it is used. The simpler a tax system is, the more amenable it is to digitalization. An economy's IT infrastructure, such as the availability of broadband Internet or 4G mobile networks and the level of computer literacy of the population will affect the implementation of online tax systems. There may also be political and cultural barriers that prevent technology from being used to its full potential, especially in economies with manual systems and significant informal activity. As technology becomes more sophisticated, however, it can also cope with greater levels of complexity.

Top-performing economies often demonstrate some or all of the following characteristics:

- Tax returns are pre-populated by automatically exporting data from accounting software.
- Machine learning and artificial intelligence are used to identify tax-sensitive transactions.
- (Near) real-time tax systems compare information from different counterparties to enable rapid verification of transactions, minimize errors and protect against fraud.
- Well-planned reforms allow taxpayers time to plan, prepare and consult with tax authorities.
- Taxpayers benefit from simplified regulations and easy access to clear, timely information through email or phone contact, websites, e-learning and virtual assistants.

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<sup>119</sup> Idem.

<sup>120</sup> Algeria, Bahrain, Djibouti, Egypt, Iran, Jordan, Lebanon, the KSA, Malta, Tunisia, UAE, West Bank and Gaza, and Yemen

- IT infrastructure is high speed and widespread, such as fibre optic broadband networks and 4 G coverage.

China, for instance, has experienced a very substantial reduction both in time to comply and payments from 832 hours and 37 payments from 2004 to 138 hours and 7 payments today. This trend has accelerated in recent years with the introduction of the Golden Tax III Project and a significant overhaul of the tax system, including the removal of the business tax and the digitalization of VAT compliance, and was accompanied by major education programs for taxpayers and the transition of the tax authorities to a more customer-focused model.

It is equally important to communicate changes in tax law and make information available to taxpayers. Data shows that providing materials (including guides, forms and legislation) on the website of the tax authority and using social media are the most common means by which tax authorities communicate changes in tax laws or regulations to taxpayers. Call centers are another popular means of obtaining information from the tax authority. About 80% of economies in Europe and Central Asia and the OECD high-income group use call centers to disseminate tax information. In the United States, nearly every tax issue can now be resolved online or by phone. Taxpayers have a telephone conversation with an agent first; in most cases, the taxpayer can then resolve his or her own issue using a self-service option. This has helped the US tax administration to reduce substantially its service costs, waiting times and time to resolve issues, and has resulted in significant improvement in taxpayer satisfaction. Mobile applications are another solution. The Peruvian Tax Administration, for example, launched its mobile application in 2015. Taxpayers can access a virtual tax guide 24/7, as well as services such as invoice issuing and data queries.

An intensive taxpayer communication campaign should be launched to assure that the market participants are aware of their rights, upcoming simplifications and reforms.

### 3.8 Trading Across Borders

**In today's globalized world, making cross border trade between economies easier is increasingly important for business and heavily influences many investment and product sourcing decisions.** Excessive use of paper documents, burdensome customs and border management procedures, inefficient port operations and inadequate infrastructure adversely affect a country's competitiveness by raising the cost of imported inputs and saddling exports with dead weight inefficiencies. Countries that facilitate trade are more likely to attract investment and help their private sector participate and compete in the international trading system.<sup>121</sup>

**The performance of Customs and other government agencies that regulate cross border trade, the quality of trade related infrastructure, the availability and quality of private sector logistics service providers, and the existence and administration of non-tariff barriers, all impact the ease of trading across borders and the competitiveness of the trading community.** A firm's ability to trade internationally can be impeded by a range of factors, including inadequate infrastructure, excessive documentation requirements and difficulty in accessing the right information to comply, burdensome customs and border management procedures, high customs administrative fees and border costs,

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<sup>121</sup> Gage, Jonathan and Miroudot, Sebastien, OECD Trade Policy Working Paper, A review of Good Practices, 2006.

excessive inspection regimes and poor competition and investment policies. By simplifying and rationalizing border management systems and procedures, governments can contribute to creating a business environment conducive to trade that enables entrepreneurs to expand business opportunities beyond their national borders.

**The *Doing Business* Trading across Borders indicator measures the time and cost (excluding tariffs) required to import and export goods, as reported by domestic business entities. Since its 2016 edition, *Doing Business* has used an updated methodology for measuring the Trading Across Borders indicator.** Specifically, the updated indicator reports the time and cost associated with the process of importing and exporting goods through two sets of procedures – documentary compliance and border compliance.<sup>122</sup> The time and cost associated with transporting a shipment between a warehouse and the seaport/land border most widely used by traders located in the main business city of the economy is still being reported and published in the report but no longer affects the score for trading across borders or the ranking on the ease of trading across borders. Likewise, the number of documents required to comply with regulations is reported but no longer contributes to the trading across borders ranking— because for traders, what matters in the end is the time and cost to trade.

The case study assumptions have also been updated. The export product is now defined based on the country's comparative advantage determined by value of exports (in the case of Iraq, the export product used is HS 08: Edible fruit and nuts; peel of citrus fruit or melons. The import product is HS 8708: Parts and accessories of motor vehicles) for the 190 economies measured by *Doing Business*. The import and export case studies assume different traded products. It is assumed that each economy imports a standardized shipment of 15 metric tons of containerized auto parts (HS 8708) from its natural import partner – the economy from which it imports the largest value (price times quantity) of auto parts. It is assumed that each economy exports the product of its comparative advantage (defined by the largest export value) to its natural export partner – the economy that is the largest purchaser of this product. The route and mode of transport are defined based on the most widely used trade pattern for the selected product and the partner. Simultaneity of processes is also taken into account while measuring time spent on document preparation, customs and other border control inspections, port and border handling. Due to these recent changes, *Doing Business* data for this indicator in 2016, 2017, 2018, 2019 and 2020 cannot be directly compared to results from previous years

**Trading goods across borders could be easier in Iraq. Globally, Iraq ranks 181<sup>st</sup> out of 190 economies on the ease of trading across borders in *Doing Business 2020*, and 19 out of 20 economies in the Middle East and North Africa region, while the economy scores 25.3 on trading across borders.** It takes exporters 504 hours and US\$1800 to prepare, obtain, submit and process the required export documents, and 85

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<sup>122</sup> Documentary compliance captures the time and cost associated with compliance with the documentary requirements of all government agencies of the origin economy, the destination economy and any transit economies. The aim is to measure the total burden of preparing the bundle of documents that will enable completion of the international trade for the product and partner pair assumed in the case study.

Border compliance captures the time and cost associated with compliance with the economy's customs regulations and with regulations relating to other inspections that are mandatory in order for the shipment to cross the economy's border, as well as the time and cost for handling that takes place at its port or border. The time and cost for this segment include time and cost for customs clearance and inspection procedures conducted by other agencies. For example: the time and cost for conducting a phytosanitary inspection would be included here.

hours and US\$1118 to comply with border procedures for exports. The figures for imports are lower: it takes importers 176 hours and US\$500 to comply with document requirements for imports, and 131 hours and US\$644 to clear border import procedures. In keeping with Iraq's trade patterns, the *Doing Business* case study measures the time and cost for exporting to India and importing from Turkey, through the Umm Qasr port and the Turkey-Iraq border crossing, respectively. Across all indicators, Iraq's figures are higher than the regional averages for imports and exports. (Table 14).

**Table 14. *Doing Business* Trading Across Borders ranking and best performers**

Indicator	Unit	Rank / Score				
		Iraq	Regional average	Regional best performer	Global best performer	Best
Ease of Trading Across Borders	Rank (out of 190)	181	117	48 (Malta)	16 economies <sup>123</sup>	
Time to export	Documentary compliance	Hours	504	66.4	3 (Tunisia)	1 (26 economies) <sup>124</sup>
	Border compliance	Hours	85	52.5	6 (Morocco; West Bank and Gaza)	0 (17 economies) <sup>125</sup>
Cost to export	Documentary compliance	US\$	1800	240.7	25.0 (Malta)	0 (20 economies) <sup>126</sup>
	Border compliance	US\$	1118	441.8	47.2 (Bahrain)	0 (19 economies) <sup>127</sup>
Time to import	Documentary compliance	Hours	176	72.5	1 (Malta)	1 (30 economies) <sup>128</sup>
	Border compliance	Hours	131	94.2	2 (Malta)	0 (22 economies) <sup>129</sup>
Cost to import	Documentary compliance	US\$	500	262.6	0 (Malta)	0 (30 economies) <sup>130</sup>

<sup>123</sup> Austria; Belgium; Czech Republic; Denmark; France; Italy; Luxembourg; Netherlands; Poland; Portugal; Slovak Republic; Slovenia; Spain; Hungary; Croatia; Romania.

<sup>124</sup> Austria; Belgium; Croatia; Czech Republic; Denmark; Estonia; France; Italy; Luxembourg; Netherlands; Poland; Portugal; Romania; San Marino; Slovak Republic; Slovenia; Spain; Hong Kong SAR, China; Hungary; Canada; Germany; Greece; Ireland; Republic of Korea; Lesotho; Sweden.

<sup>125</sup> Austria; Belgium; Czech Republic; Denmark; France; Italy; Luxembourg; Netherlands; Poland; Portugal; San Marino; Slovak Republic; Slovenia; Spain; Hungary; Croatia; Romania.

<sup>126</sup> Austria; Belgium; Czech Republic; Denmark; France; Italy; Luxembourg; Netherlands; Poland; Portugal; San Marino; Slovak Republic; Slovenia; Spain; Hungary; Croatia; Romania; Estonia; Norway; Georgia.

<sup>127</sup> Austria; Belgium; Czech Republic; Denmark; France; Italy; Luxembourg; Netherlands; Poland; Portugal; San Marino; Slovak Republic; Slovenia; Spain; Hungary; Croatia; Romania; Estonia; Hong Kong SAR, China.

<sup>128</sup> Austria; Belgium; Czech Republic; Denmark; France; Italy; Luxembourg; Netherlands; Poland; Portugal; Slovak Republic; Slovenia; Spain; Croatia; Romania; Estonia; Sweden; Bulgaria; Lithuania; Latvia; Finland; Greece; Malta; Germany; Hungary; Ireland; Canada; Republic of Korea; New Zealand; Hong Kong SAR, China.

<sup>129</sup> Austria; Belgium; Czech Republic; Denmark; France; Italy; Luxembourg; Netherlands; Poland; Portugal; Slovak Republic; Slovenia; Spain; Croatia; Romania; Estonia; Sweden; Lithuania; Latvia; Germany; Hungary; Belarus.

<sup>130</sup> Austria; Belgium; Czech Republic; Denmark; France; Italy; Luxembourg; Netherlands; Poland; Portugal; Slovak Republic; Slovenia; Spain; Croatia; Romania; Estonia; Sweden; Lithuania; Latvia; Germany; Hungary; Bulgaria; Greece; Belarus; Malta; Finland; Norway; Kazakhstan; United Kingdom; Iceland.

	Border compliance	US\$	644	512.5	50 (West Bank and Gaza)	0 (28 economies) <sup>131</sup>
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Source: World Bank Group, *Doing Business 2020* database

**Table 15. Components of Border Compliance in Iraq**

	Time to Complete (hours)	Associated Costs (USD)
Export: Clearance and inspections required by customs authorities	34.3	827.9
Export: Clearance and inspections required by agencies other than customs	16.0	100.0
Export: Port or border handling	68.6	190.0
Import: Clearance and inspections required by customs authorities	58.7	244.4
Import: Clearance and inspections required by agencies other than customs	72.0	400.0
Import: Port or border handling	58.7	0.0

Source: World Bank Group, *Doing Business 2020* database

According to the *Doing Business 2020* report, traders in Iraq routinely submit 11 documents to export edible fruit and nuts; peel of citrus fruit or melons to India.<sup>132</sup> These reflect legal requirements by authorities of Iraq, transit economies and destination economies, as well as common practice. The documents include the commercial invoice, export license, export permit, packing list, bill of lading, certificate of origin, inspection report, terminal handling receipt, delivery order, health certificate and SOLAS certificate<sup>133</sup>. Six documents are commonly prepared to import a container of auto-parts to Iraq from Turkey, including the commercial invoice, bill of lading, import declaration, valid import License issued from the Kurdish Ministry of Trade and Investment, certificate of conformity and certificate of origin attested by the Embassy of Iraq (Table 16). The time and costs of trading across borders are outcomes of the existing legal and regulatory framework and *de facto* practices of all involved authorities.

**Table 16. Documents required for Trading across Borders in Iraq**

Export	Import
Commercial invoice	Commercial invoice
Export license	Bill of lading
Export permit	Import declaration
Packing list	Valid import License issued from the Kurdish Ministry of Trade and Investment
Bill of lading	Certificate of Conformity
Certificate of origin	Certificate of origin attested by the Embassy of Iraq

<sup>131</sup> Austria; Belgium; Czech Republic; Denmark; France; Italy; Luxembourg; Netherlands; Poland; Portugal; Slovak Republic; Slovenia; Spain; Croatia; Romania; Estonia; Sweden; Lithuania; Latvia; Germany; Hungary; Bulgaria; Greece; Belarus; Finland; Kazakhstan; United Kingdom; Armenia.

<sup>132</sup> This is provided assumptions of *Doing Business 2020* hold, including destination country and transit border crossings.

<sup>133</sup> Safety of Life at Sea certificate established by the International Convention for the Safety of Life at Sea (SOLAS certificate).

Inspection report	
Terminal handling receipt	
Delivery order	
SOLAS certificate	
Health certificate	

Source: World Bank Group, Doing Business 2020 database

## Trading across borders over time

**Doing Business has not recorded any positive reform in Iraq on this topic during the last 10 years.** The Iraq Customs Authority is a governmental department under the overall supervision of the Ministry of Finance. Improving Iraq's performance in Trading Across Borders indicator will require the Government to address a range of specific trade facilitation challenges before the border (particularly through automation and streamlining of certain documentary requirements), at the border (regulatory and procedural rationalization, harmonization and simplification, further automation of trade procedures, institutional reform of key agencies and improved collaboration between customs and other border management agencies), and behind the border (business and investment climate reform and enhanced trade and transport related infrastructure).

## Short-term reform recommendations

**1. Map existing documentary requirements in order to identify gaps in the implementation of existing regulations and adopt measures to address them.** As a first step, it is advisable to map the documents currently prepared by traders (see list above) and compare them with those legally required by 1) the Iraqi customs authorities; 2) other regulatory agencies operating in the country; and 3) government agencies of the receiving countries. Initially, this assessment should be conducted in two major border crossing points into and out of Iraq via Turkey and through the Port of Umm Qasr. This assessment can determine the reasons behind the complexity of compliance with documentary requirements which may include insufficient quality and coherence of regulations, inconsistent or contradictory administrative practices, limited use of electronic systems for documentary compliance and lack of awareness and capacity by the private sector.

Based on the assessment, Iraqi authorities could simplify legal requirements in the first two categories above and ensure regulatory amendments that do not contradict other legislation (or that there are no parallel requirements in place). The Government of Iraq may explore administrative practices of the agencies involved in each procedure and, when necessary, take measures against the selective and discretionary applications of rules and border procedures. To ensure all agencies are aware of their obligations to implement the updated regulations described above, step-by-step internal guidelines could be prepared. These may be accompanied by dissemination seminars, trainings and other outreach activities. Once the guidelines are provided, the relevant agencies must be held accountable for the implementation of the new regulations. Performance monitoring mechanisms may include establishing targets for agencies, tracking statistics, and user feedback.

Additional documents may be submitted because traders are unsure of what is actually required on the clearance process or are not certain of the procedures. Better client education is needed to improve

compliance. It is recommended that border agencies formalize information sources and channels of communication, creating specific contact points offering clear advice to improve compliance management. Formal education programs for users could also be considered.<sup>134</sup> For example, France's customs office, Douane Française, includes detailed instructions on the customs clearance process for exports and imports as well as of the necessary manuals, checklists and forms<sup>135</sup>.

**2. Develop an inventory of all fee schedules to identify possibilities for reducing the administrative costs linked to importing and exporting.** Trading across borders in Iraq is a costly endeavor, especially when compared to international best practices (Table 7.1). Among the MENA economies, Oman and Jordan have significantly lower costs in all the four dimensions examined by *Doing Business*.<sup>136</sup> In order to lower the administrative costs of trade, the Iraqi authorities could develop an inventory of the fees required at each step of the trading process to identify high fees that could be reduced. This measure could lead to further trade facilitation and help boost imports and exports. A study using data from 167 countries finds that every USD\$1 reduction in the cost to export a 20ft container could increase exports by up to USD \$11,000 and a decrease of USD 1 in the cost to import a 20ft. container can yield an increase in imports of almost USD \$1,000.<sup>137</sup>

**3. Improve transparency by publishing all the trade-related fee schedules in the Customs' website.** Easy access to relevant and updated schedules of all the agencies involved in import and export procedures – customs, ports, terminal, other government agencies – will allow traders to anticipate costs and reduce unpredictability. Publishing information on all fee schedules could also improve the prospects of compliance, while at the same time allowing traders to take informed decision on their economic activity. In order to achieve this goal, the Iraqi Customs website<sup>138</sup> could be improved by making all fee schedules easily available. In addition, any changes in fees or charges should be announced to the public in advance, giving parties an opportunity for comment, and should not take effect until such information has been made publicly available.

**4. Improve inter-agency coordination for border management and clearance processes.** Cross border trade involves controls by many agencies. In Iraq, these agencies include: General Authority of Customs of Iraq, Chamber of Commerce and Industry, Ministry of Finance, Ministry of Transport, Kurdish Ministry of Trade and Investment, Ministry of Agriculture, the Umm Qasr seaport, among others.

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<sup>134</sup> Grainger, Andrew. 2008. "Customs and Trade Facilitation: From Concepts to implementation". World Customs Journal 2(1): 17-31.

<sup>135</sup> <https://www.douane.gouv.fr/service-en-ligne>.

<sup>136</sup> According to *Doing Business 2020*, in Iraq the costs associated to documentary compliance for exporting amount to 1800USD, In Oman and Jordan, the same costs amount to 107 USD and 100 USD, respectively. Similarly, the cost associated to documentary compliance for importing are 500 USD in Iraq, while only 124 USD in Oman and 190 USD in Jordan. Border compliance cost for exporting amount to 1118 USD in Iraq, 131.3 USD in Jordan and 279 USD in Oman. Finally, border compliance costs for importing amount to 644 USD in Iraq, 205.7 USD in Jordan and 244 USD in Oman.

<sup>137</sup> Inma Martinez-Zarzoso and Laura Marquez-Ramos, "The Effect of Trade Facilitation on Sectoral Trade," *The B.E. Journal of Economic Analysis & Policy*: Vol. 8: Iss. 1 (Topics), Article 42, 2008.

<sup>138</sup> <http://www.customs.mof.gov.iq/>

Improved sharing of information among border agencies, streamlined processes for customs and non-customs controls, joint controls, and establishment or improvement of the links and interoperability between customs and non-customs electronic systems may all contribute to the reduction of time spent in clearance procedures. Coordination can take the form of constant and regular meetings and dialogue between agencies to share and exchange information and reduce the over-lapping of responsibilities. International good practices show that timely sharing of information, streamlined processes for customs and non-customs controls, joint controls, establishment or improvement of the links and interoperability between customs and non-customs electronic systems can all contribute to the reduction of time spent in clearance procedures. A recent reform in this area was implemented by the government of Mali, introducing an interconnection system between two agencies – the Customs Agency and the Direction Nationale du Commerce et de la Concurrence (DNCC). The new system allows for electronic preparation and submission of certain export and import documents and has resulted in a significant reduction in time dedicated to documentary compliance. Thanks to this reform, Malian traders do not need to go to the DNCC office anymore, only to the customs office, thus saving them a full business day.<sup>139</sup>

**5. Provide continuous training to customs staff (and other government officials) in charge of the daily operations and educate trade operators on the new procedures and processes.** As Iraq embarks on reforms to further improve its cross-border trade procedures and processes, it should not neglect to invest in the training of its public officials operating at the point of service delivery. Trainings could be accompanied by the implementation of monitoring and evaluation (M&E) mechanisms to ensure that staff are not only well informed on the new rules and procedures, but also implement them right. In particular, Iraqi Customs should make sure to provide the same level of training to all its staff working at the Umm Qasr seaport and at the Turkish-Iraqi border crossing in different shifts.

Additional steps could also be taken to further improve private sector awareness of the latest government initiatives. For instance, the General Authority of Customs of Iraq could organize trainings and workshops for customs officials and brokers every time it introduces a new process or when introducing new electronic systems, such as customs management systems or national electronic single windows. This good practice could integrate broader communication campaigns - through social media, billboards, public broadcast, government's websites, etc. - to educate the private sector on the improved ease of trading across borders in Iraq.

Training of customs clearance officials and customs brokers is positively associated with lower border and documentary compliance times. Doing Business data show that many economies, including Afghanistan, Grenada, Jamaica, Angola, among others, have experienced reductions in the time to prepare documentation following training programs or pilot tests when implementing the Automated System for Customs Data (ASYCUDA) world, a customs data management system developed by UNCTAD<sup>140</sup>.

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<sup>139</sup> *Doing Business 2016 report.*

<sup>140</sup> World Bank 2018. "Trading across Borders: Training for trade facilitation" in *Doing Business 2019: Training for Reform*. Washington, DC: World Bank Group. Available from <https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB19-Chapters/DB19-Trading.pdf>.

## Medium to long-term reform recommendations

**6. Consider transitioning from a WTO observer status to a formal membership of the World Trade Organization.** Iraq is still not an official member of the World Trade Organization. In December 2004, Iraq submitted a membership request to WTO, but still has the status of a WTO observer with other 22 countries. There are various motivations for a country to apply for membership of the World Trade Organization (WTO). The most common is to benefit from its integration into the global trade system, and WTO membership is considered the entry point. Once it has acceded to the WTO, Iraq can participate, on an equal footing with other members, in negotiations on future trade rules in WTO. As of now, the WTO has 164 members and 23 observers.

**7. Consider establishing a National Single Window for trade.** Currently, Iraq lacks a one-stop shop (electronic or physical) for trade-related transactions. The level of interconnectivity and automation of Government agencies involved in the trading process is still very low. In recent years, Iraq has been attempting to introduce a Single Administrative Document for cargo clearance and the Automated System for Customs Data (ASYCUDA), a computerized customs management system for electronic processing of documents to simplify procedures and reduce clearance times. However, its efforts have been hampered by the ongoing conflict. At the border crossings, including the Umm Qasr seaport and the Turkish-Iraqi border crossing, all documents continue to be submitted in hardcopies and the communications between border crossings and the General Authority of Customs of Iraq are only partially done electronically. Until ASYCUDA World or an equivalent platform is introduced in the country, there are limited opportunities for data exchange between customs at the border crossings and the General Authority of Customs. This system will allow for data exchange also with customs agencies of neighboring countries. The implementation of a Single Window system will help simplifying import and export procedures by making it easier to input all regulatory and commercial information at a single electronic point. This system will also help reducing bureaucracy and will make it easier for businesses to engage in international trade transactions.

In order to establish a National Single Window for Trade Facilitation in the country, Iraq needs as a first step to identify and eliminate challenges in the process of electronic import and export declarations, manifests and other trade related documents, such as, technical certificates and permits and improve data sharing between the regulatory agencies. As a second step, the data sharing between the regulatory agencies and the central database need to become fully electronic (sharing raw data instead of scanned documents). Oftentimes, countries first introduce a single location where all the agencies involved in the trading process have a representative. Rather than dealing with different agencies/ministries to submit and process the necessary documentations, the best single windows systems will link banks, licensing agencies and trade clearance agencies into a unique platform (electronic or physical), and allows exchange of information in real time, speeding up approvals. Among other measures to enable fully functional electronic single window may be:

- Connect all relevant agencies to the system
- Eliminate the paper-based submission of documents
- Introduce or increase the use of risk management techniques
- Improve the existing laws and regulations to support the exchange of such documents

The electronic transmission of documents not only speeds the clearance of goods and reduces the costs associated with complying with border requirements; it often reduces the incidents of corruption as for example, informal payments. Time spent on document preparation and cargo release could be cut substantially by enabling importers and exporters to submit their documents electronically prior to the arrival of the cargo, rather than in hard copy upon arrival of the vessel. The electronic submission of customs declarations and the manifest allow customs to reconcile both documents prior to cargo arrival, and, based on this, complete clearance of the vast majority of cargo even before the arrival of the vessel. This will save traders' time and it will reduce the cost of trading given that cargo is manipulated less and released faster. In best practice countries, e-submission of customs declaration is sufficient for clearance, unless there are suspicions that justify additional controls, in which case the supporting documents are checked. The strongest incentive in this respect is shorter processing times and lower costs. The electronic Single Window should allow traders to upload all documentation and receive approvals online and it should also introduce online payment systems in the Single Window to limit the number of physical interactions and time spent at the border. Information campaigns and education seminars can help raise awareness about available options. At a final stage, submissions in hard copies should be eliminated completely and replaced with fully automated procedures.

**Box 6. World Bank Group guiding principles for National Single Windows (NSW)**

Consistent with global good practices, the World Bank Group has developed a set of guiding principles to shape its work on assessing and supporting the development of modern NSW systems. According to these principles, a fully-operational, modern, NSW should:

- Allow traders to interact (either directly or through a broker or agent) with the government on-line in real-time through the NSW for all stages in the import/export process (i.e. registration, license/permit issuance, goods declaration and release, and payment);
- Be used by traders to monitor and track the progress of transactions;
- Eliminate physical visits to government agencies (or reduce them to a minimum). Additionally, data required by any government agency for a trade transaction is submitted only once using a standardized and harmonized data format. Once submitted, data becomes available to all authorized government officials involved in regulating the transaction;
- Eliminate the paper document submissions (or reduce them to the minimum needed to ensure effective controls are maintained);
- Allow border agencies to co-locate officials and coordinate, and where feasible, integrate their processing and inspection processes;
- Apply risk-management techniques at all stages in the registration, permit and license approvals, as well as border clearance operations, by all agencies in a coordinated and transparent manner, making maximum use of ICT;
- Operate through an inter-agency approach to risk management (including an automated risk management system in the NSW). Also, the necessary Inter-agency Memoranda of Understanding (MOUs) and related Service Level Agreements (SLAs) among the NSW Operator, the Lead Agency (TCD) and participating government agencies should in place;
- Have an integrated enforcement database, incorporating information on all enforcement actions and results from inspection and verification activities;
- Allow traders to submit customs declarations in advance of goods' arrival (allowing pre-arrival processing by all relevant government agencies);
- Offer different payment options and allow e-payment of duty taxes and fees. Also, charges processed by banks/treasury should be linked directly to the NSW.
- Provide timely, accurate and comprehensive trade-related statistics to all authorized parties.

**Table 17. National Single Window Systems in Middle Eastern countries.**

		Jordan	Lebanon	Syrian Republic
<b>Name of the Customs Administration</b>		Customs Department, Ministry of Finance	Customs Administration, Ministry of Finance	General Customs Directorate
<b>Organization Type</b>		Ministry Department	Ministry Department	Ministry Department
<b>Customs Website</b>		<a href="https://www.customs.gov.jo/ar">https://www.customs.gov.jo/ar</a>	<a href="http://www.customs.gov.lb/">http://www.customs.gov.lb/</a>	<a href="http://www.customs.gov.sy">www.customs.gov.sy</a>
<b>Approximate staff strength</b>		2,671	1,696	4,896
<b>Name of the Customs ICT System</b>		ASYCUDA World	NAJM (adopted from ASYCUDA World)	ASYCUDA World
<b>Number of Declarations</b>	<b>Import</b>	418,439	268,218	52,723
	<b>Export</b>	136,639	66,852	21,183
<b>Percentage of electronic declarations</b>	<b>Import</b>	100%	100%	100%
	<b>Export</b>	100%	100%	100%
<b>Number of authorities issuing import or export permits</b>		N/A	13	N/A
<b>Number of authorities connected to National Single Window System</b>		N/A	5	N/A

Source: Annual Report 2018-2019 – World Customs Organization

International examples abound. Singapore, for instance, has been a global leader in the implementation of a single window platform. Singapore has a unique customs clearance and trade facilitation regime in place, designed primarily to match the needs of the port community with less attention on revenue collection and other regulatory matters. The country rolled out a new national trade information management platform, the Networked Trade Platform (NTP), in September 2018. Replacing the previous TradeNet system for trade-related applications and the TradeXchange system for connecting the trade and logistics community, the NTP was designed to be a fully integrated digital ecosystem for the interface of trade and logistics actors and government systems. The NTP provides a single location for government certification services required for trading in and out of Singapore, as well as a digital marketplace for value-added trade and logistics services by third-party firms. By becoming a completely paperless system, the government estimates up to S\$600 million worth of man-hour savings annually for the private sector.

The NTP was developed by the Singapore Customs and the Government Technology Agency of Singapore (GovTech) and is a completely open source. Revamping the system took four years and over 100 million Singaporean dollars. The process involved more than 20 ministries, government agencies, and working groups. By being an open-source platform, the government envisions more rapid innovation and through a “Developer Zone” co-designed by government and industry. This serves as a platform for industry entrepreneurs to build innovative ICT applications using the data tools provided by the NTP for their onboarded users.

**Korea also operates a fully integrated trade and logistics platform: UNI-PASS.** The platform is the backbone of international trade in Korea and serves as the information hub for the entire trading community. UNI-PASS connects all stakeholders involved in trade clearance processes, and provides automated end-to-end processing of all trade transactions, including payment. The most recent available data states UNI-PASS connects 169 government entities, including Customs, ports, warehouses, banks and 27 OGAs, and a total of 260,000 different private sector entities covering importers, exporters, customs brokers, shipping lines, etc. Information on the platform is shared among relevant stakeholders and regulators. Through UNI-PASS some 21 million import declarations are processed annually, and revenue collection of USD 52 billion. Moreover, 25 million TEUs of cargo are handled, and, through the platform’s intelligent risk management features, some USD 7 billion of illegal trade is prevented. Since 2016, the 4<sup>th</sup> generation of UNI-PASS has been deemed a “Smart Customs System.” To that end, Korea Customs Service (KCS) established an ICT Development Division in 2017 to explore the potential application of new science and technologies for improving UNI-PASS and related systems. The Division began this effort by joining the public-private maritime export logistics consortium, led by Samsung SDS Co., to determine the feasibility of a blockchain solution for data exchange among public and private entities. Building on the success of this initiative, KCS launched the “Fourth Industrial Revolution and Smart Customs” project in 2018, with the aim of designing and implementing Artificial Intelligence (AI), blockchain, and big data solutions to Customs systems and procedures.

**Japan’s experience with trade facilitation and Customs automation dates back to the late 1970s, when it introduced the Nippon Automated Cargo and port Consolidated System (NACCS).** Initially focusing on airports, ‘Air-NACCS’ was first rolled out at Narita International Airport in 1978. Today, NACCS is a fully integrated system, serving all stakeholders involved in international trade. It connects some 14,000 entities, including Customs, ports, warehouses, banks, shipping companies and their agents, terminal operators, airlines, 7 other governmental agencies (OGAs), and some 8,600 companies. NACCS provides complete end-to-end automation and processing of all trade transactions, and allows information sharing, payment and performance oversight for all but a few OGAs. The most recent update to NACCS in 2017 liberalized the Customs declaration policy so that Authorized Economic Operators (AEO) importers and exporters can declare goods at any customs office, not only at the customs office with jurisdiction over the bonded area where goods are stored. The latest version also digitized the administrative system for tariff quotas and centralized the vessel booking system on the NACCS platform.

**8. Proceed with full implementation of the risk-management principles for import/export procedures.** Currently, all containers arriving to Umm Qasr Port and to the Turkish-Iraqi border crossing are subject to 100 percent physical inspections, mainly for security reasons. WCO Framework of Standards to Secure and Facilitate Global Trade states that *“Customs administration must create risk management system to*

*reveal potentially hazardous cargo and automate such system. The system must include mechanism of risk validation and decisions on tracing the cargo as well as determining the most effective methods of work".* The risk management process is usually based on a cycle which starts with assessing the environment. In simple words, risk management is used as a basis for deciding whether a shipment will or will not be physically inspected. Risks are then identified, followed by assessment and prioritization, analyzed, determined and strategies developed to tackle the risks. Throughout the process, the monitoring and evaluation takes place. Use of X-Ray machines could further expedite the process.

In order to improve the trading environment, reduce the number of consignments subject to a physical inspection and minimize documentary requirements, the Government of Iraq should implement an advanced risk management system. To apply efficient risk-based management policies, developing and implementing a coordinated border management strategy will be needed, including establishing the legal base for interagency coordination, information sharing, and agency arrangements.

Requiring imports and exports to undergo inspections—for tax, security, environmental, border control, and health and safety reasons—is often necessary. How these inspections are carried out, including how cargo is selected for inspection, however, varies across economies. Uncoordinated and done with a heavy hand, inspections can be a serious obstacle to efficient and predictable trade. Over the years, customs administrations around the world, working in tandem with other border control agencies, have developed systems for establishing risk profiles that allow them to apply physical inspections corresponding to the potential risk of consignments. Investing in equipment is another way to help expedite the processing of cargo. Many economies use scanners to limit the need to physically open containers. In some economies, however, inefficient use of scanners led to additional burden on traders, because customs agents scan all containers, creating delays and imposing mandatory scanning fees on traders. Efficient use of scanners in conjunction with risk-based profiling can strike the right balance in inspection, contributing to the efficiency of the trading process. During the period of 2017/2018, Bahrain reduced the time needed to import by deploying portal scanners and upgrading the single window system.

The implementation of effective Risk Management (RM) systems can help to reduce time and costs to import and export.<sup>141</sup> Effective RM systems increase the effectiveness of customs controls, reducing documentary and physical examinations of cargos to optimum levels, focusing controls on high risk products or trades. To transition successfully to a risk-based system, it is however necessary to capture the outcomes of the inspections over time. In order to achieve this goal, Iraq may need to expand the type of statistics collected by the agencies to include a more detailed technical assessment of different types of goods and traders. Based on these statistics, it will be possible to classify risks, determine risk criteria and allocate goods and traders into a certain risk category during the application submission process.

Risk management is a continuous, cyclic, dynamic process not a static one and it is updated and improved gradually. Risk management process begins with establishing the context. This stage defines the context in which risk management will take place and aims at clearly articulating and clarifying the objectives and what risks are being examined. In the risk identification phase all potential risk are identified and recorded

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<sup>141</sup> Although risk-based principles were introduced in 2015, private sector professionals interviewed in April 2018 report that as of today only few traders operating in certain sectors, such as the oil and gas sector, have been subject to the green lane.

by using a systematic process to identify what risks could arise, why and how, thus forming the basis for further analysis. The risk analysis process, which is principally about quantifying risk, and requires consideration of the sources of identified risks, an assessment of their potential. The analyzed risks are compared and prioritized. Then the risks are treated, which means decisions or actions are taken in response to the identified risks. Monitoring and review are done in every step of the risk management process. Risks are identified and then analyzed in terms of likelihood of the occurrence of the relevant risk and the expected consequences.

One of the most applied selectivity techniques is the establishment of Customs control channels:

<b>Green Channel</b>	No control (immediate release without examination)
<b>Yellow Channel</b>	Documentary control
<b>Red Channel</b>	Documentary and physical control
<b>Blue Channel</b>	Control at a later stage (post-clearance audit)

In recent years, many countries around the globe implemented risk-based inspections systems. For example, in 2018/2019, Saudi Arabia made importing and exporting faster by enabling risk-based inspections and launching an online platform for certification of imported goods; Kuwait improved its existing customs risk management system; and, Oman introduced a new Risk Management System (RMS), allowing the Royal Oman Police to inspect only cargoes flagged as suspicious. The RMS analyses customs data received from diverse local, regional and international sources to pinpoint cargoes that are associated with an element of risk. Supporting the flow of information into the database are Interpol and world customs agencies. Consequently, only such cargoes are subject to inspection, thereby ensuring the speedy clearance of the vast majority of shipments without the need for time-consuming inspections<sup>142</sup>. In 2017, Mauritius Customs also improved their risk-based assessment system by reducing intrusive inspections and beginning a systematic process of information sharing with other control agencies. This has streamlined the clearance process for both exports and imports. In January 2015, Albanian Customs implemented an electronic risk-based inspection system at the Port of Durres. The new system establishes risk profiles, which allow to apply physical inspections in proportion to the potential risk of consignments. The risk-based inspection system has been facilitated by the upgrade of the existing ASYCUDA Customs Processing system, which now allows electronic assignation of green channels. The risk-based inspection system is fully operational, and the majority of exports go through green channels which do not require either physical or documents inspection, thus decreasing the time of export customs clearance. Also, traders in Kosovo are among those who are benefiting from the improvements in the inspection process through the adoption of a risk-based inspection regime. Since July 2015, the customs authority in Kosovo has gradually introduced a new customs clearance procedure for exports and now only red channel exports are selected for examination at the terminals of internal customs offices. Kosovo has also completed the implementation of a green channel and an increased utilization of a blue channel (cargo subjected to post-import control only). As a result of inspections, the process of export customs clearance, have become faster.

**9. Promote the use of Trusted Traders and/or Authorized Economic Operators regimes.** The Authorized Economic Operators (AEO) concept is based on the World Customs Organization’s (WCO) Customs-to-Business partnership and aims to enhance supply-chain security and facilitate trade by simplifying

<sup>142</sup> <https://www.omanobserver.om/rop-customs-rolls-measures-support-trade-facilitation-oman/>

customs. AEO schemes have gained momentum worldwide and are considered one of the most effective measures to facilitate trade, particularly intraregional trade. Simplifying cargo procedures is a way of rewarding traders for long-term compliance and, at the same time, facilitating low-risk cargo flows across borders.

Trusted traders and/or Authorized Economic Operators are persons or companies that meet criteria specified by Customs, including having an appropriate record of customs compliance, financial viability, and satisfactory system for managing commercial records. The status of trusted trader provides access to simplified procedures—such as pre-arrival processing of information; simplified declaration, valuation, clearance at locations convenient for the trader; payment of duties after release—where the Custom Agency reduces the level of controls and relies more on internal controls applied by the trader to ensure compliance with all relevant laws and regulations. Certified-trader programs are an elaborate form of simplified procedures that have been applied successfully in many countries around the globe under different names. The creation of a program that allows traders that did not violate any regulation in the past year to go through a simplified clearance process should be encouraged, promoted, extended to all ports, and improved further as to ensure a greater buy-in, especially from small and medium-sized companies in Iraq.

Iraq could consider introducing an AEO program. The Authorized Economic Operators program should pay special attention to the following areas:

- a) Allow certain level of flexibility on the application of eligibility criteria thus avoiding the imposition of barriers to entry for SMEs;
- b) Ensure that traders' benefits are in place prior to the launch of the AEO program;
- c) There is a close alignment with existing risk management program which enables ongoing monitoring of compliance and allows permanent monitoring of conditionally fulfillment;
- d) Simple, transparent and time-bound application process; and,
- e) A clear communications and outreach strategy.
- f) All this information should be publicly available online, so traders can know exactly which criteria is used by the authorities in order to be considered a trusted trader.

Aside from the rights that provide companies with reduced lead times and costs, the AEO status provide companies with an opportunity and privileges for recognition among international parties, leading to a marketing advantage in the competitive international trade world. The greatest benefit arises when Mutual Recognition (MRA) are signed with other countries. MRAs provide AEO certificates to be recognized between parties and deliver the facilitations to the recognized AEO certificates of the cosigned country.

In recent years, many countries have been introducing Authorized Economic Operations regimes. For example: in January 2018, the Saudi Customs has launched the Authorized Economic Operator (AEO) program to enhance partnership with the private sector and encourage teamwork to facilitate trade and customs procedures. The program facilitates trade between the Kingdom and other countries. It also offers security advantages, such as minimizing spot checks and sample analysis. Turkey has also introduced the AEO program recently. Companies in Turkey apply with the required documents to the Regional Customs and Trade Directorates they operate with. After the Regional Customs and Trade

Directorate review and approve the application, it is sent to the Ministry of Trade, which will review again the application and supporting documents. Then, if the application is approved by the Ministry of Trade, the audit process starts. The designated auditors will visit the premises of the company to see if the company meets the AEO criteria and will write a report about their findings. After that, the audit report and supporting documents will be reviewed by the Ministry of Trade and a certificate will be given to the company if it is found eligible. The certificate is indefinite as long as the company continues to meet the criteria. However, the Ministry of Trade conducts periodic checks to see if the company still hold the AEO criteria. As of 2019, 374 companies have the AEO Certificate and more than 80 companies' applications are being processed. In 2017, those 374 companies carry out approximately 35% of all imports and 30% of all exports in the country.

**10. Establish post-clearance audits.** Post-clearance audit (PCA) or audit-based controls are defined as measures by which the Customs satisfy themselves as to the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems and commercial data held by persons concerned. In simple words, PCA is a system of checking that includes documentary review and audit after goods have been cleared from the borders. In theory, the adoption of a PCA regime significantly expedites imports and exports. Formal risk assessment practices should be used for selection of audit targets. Audit results should be reported to the risk assessment office and be taken into account in connection with ongoing clearance operations. Clear and comprehensive audit policy framework should be developed, along with standard operating procedures for PCA. Customs staff should be given the training and IT tools needed to fully implement them.

Recently, several countries have adopted post-clearance audit regimes. Last year, the Directorate General of Customs of Oman implemented post clearance audit of goods, aimed accelerating the movement of cargo through the Sultanate's borders. The PCA of Oman investigates the accuracy of customs data after a cargo has been released by consolidating the information provided by several users. Audit results are also used to develop the risk management system according to specific scientific criteria to target dangerous goods. Use of PCA has reduced physical interventions and reliance on paper documents during border clearance processes. Singapore has also implemented a successful post-clearance audit at the Singapore Customs. The PCA is conducted after the release of the goods from Customs control. It can take place at the traders' premises or at Customs' premises. All traders and declaring agents who deal with Singapore Customs may be subjected to post-clearance audits and are selected in accordance with their risk management framework. Typically, an audit will involve a series of steps: i) Customs audit team will contact the company to be audited to arrange for an interview with relevant personnel of the auditee. At the point of contact, the audit team will inform the auditee of the purpose, location, scope and requirements of the audit; ii) During the interview, the audit team will be interested to find out more about the auditee's business model, operations, systems and accounting practices; iii) After the interview, the audit team will verify the accuracy of the trade declarations and/or other returns made to Customs against the relevant trade documents to be provided by the auditee; iv) Upon completion of the audit, the audit team will inform the auditee of the audit outcome and when applicable, discuss any errors detected and provide suggestions to improve the auditee's compliance level.

**11. Encourage pre-arrival processing of all document requirements electronically.** Pre-arrival submission and processing of documents helps identifying necessary interventions before the shipment gets to the

port. Pre-arrival submissions can be reviewed, and additional documentary requirements communicated prior to arrival, thus saving time and money both for the traders and the authorities. Pre-arrival processing is a global best practice for trade facilitation. Government officials and traders can save valuable time by allowing documents to be submitted and processed before shipments arrive. Encouraging the widespread use of electronic pre-arrival document processing by traders may help the authorities in further reducing processing times.

To this end, the Government of Iraq may want to review the processes, IT systems, and capacities in place to receive and process the documents in advance and allow the current system to reject applications explaining the reasons behind the rejection, so traders can resubmit the documents on time. There also needs to be improved access to the automated systems to include all stakeholders involved in trade transactions.

Recently, many countries have benefited from trade facilitation initiatives. For example, in Tajikistan, since January 2015, it is possible to submit electronic customs declarations. Tajikistan's Customs Service modernized and developed their infrastructure to enable electronic submission and processing of declarations. This component is part of the Customs Service's broader project of unified automated information system, which connects relevant government agencies. This reform reduced the time for processing of customs declarations from 3 days to 3 hours. Electronic submission of declaration is available to customs brokers, who have an electronic key to access the system.

### 3.9 Enforcing Contracts

**Research in various countries around the world suggests that, in the absence of efficient courts, firms make fewer investments while informal transactions become more attractive.** A study of 27 economies found that the informal sector's share in overall economic activity decreased with better contract enforcement quality, evaluated by a country-wide measure of rule of law, as well as by the firm's perception of the fairness of courts.<sup>143</sup> Improvements in court efficiency are associated with a lower share of the informal sector in the overall economic activity, increased investor confidence and with increased bank financing of firms for new investment.<sup>144</sup> For example, reforms in other areas, such as creditors' rights, can increase bank lending only if contracts can be enforced before the courts.<sup>145</sup>

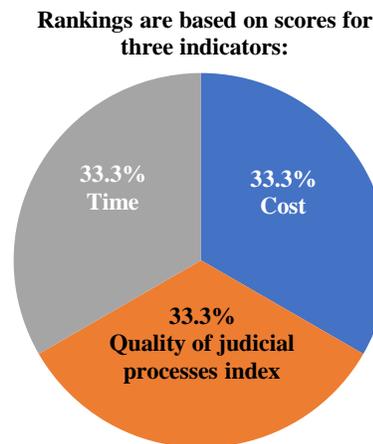
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<sup>143</sup> Dabla-Norris, Era, and Maria Gabriela Inchauste Comboni. 2008. "Informality and Regulations: What Drives the Growth of Firms?" IMF Staff Papers 55 (1): 50–82. <http://www.palgrave-journals.com/imfsp/journal/v55/n1/full/9450030a.html>

<sup>144</sup> Among other papers, see G.B. Ramello and S. Voigt, 2012. "The economics of efficiency and the judicial system," International Review of Law and Economics; MehnazSafavian and Siddharth Sharma, 2007. "When Do Creditor Rights Work?" World Bank Policy Research Working Paper No. 4296; John Ahlquist and Aseem Prakash, 2010. "FDI and the costs of contract enforcement in developing countries," Policy Sciences, Springer, vol. 43(2), pages 181-200, June; Inessa Love, 2011. "Settling Out of Court: How Effective is Alternative Dispute Resolution," Viewpoint Note No. 329, The World Bank Group, October.

<sup>145</sup> MehnazSafavian and Siddharth Sharma, 2007. "When Do Creditor Rights Work?" World Bank Policy Research Working Paper No. 4296.

**Efficient contract enforcement is essential to economic development and sustained growth.**<sup>146</sup> Economic and social progress cannot be achieved without respect for the rule of law and effective protection of rights, both of which require a well-functioning judiciary that resolves cases in a reasonable time and is predictable and accessible to the public.<sup>147</sup> Economies with a more efficient judiciary, in which courts can effectively enforce contractual obligations, have more developed credit markets and a higher level of development overall.<sup>148</sup> A stronger judiciary is also associated with more rapid growth of small firms.<sup>149</sup> Overall, enhancing the efficiency and quality of the judicial system can improve the business climate, foster innovation, attract foreign direct investment and secure tax revenues.<sup>150</sup>



**Doing Business** measures the efficiency (time and cost) of the judicial system in resolving a standardized commercial dispute before a First instance court,<sup>151</sup> as well as the quality of judicial processes. Globally, Iraq ranks 147<sup>th</sup> on the ease of enforcing contracts among 190 economies, and 18<sup>th</sup> out of 20 economies in the Middle East and North Africa region, with an overall Ease of Doing Business score of 48.00 points, below than the regional average of 56.00 points. On average, resolving a standardized commercial dispute at the Baghdad First Instance Court takes 520 days and costs 28.1% of the case study claim value (IQD 12,075,217). Enforcing Contracts in Iraq is faster than the regional average on the time sub-indicator but above the average on the cost sub-indicator. (Tables 18).

In addition, Iraq scores 1.5 out of 18 possible points in the Quality of judicial processes index, far below the regional average. (Table 19).

**Table 18. Enforcing contracts ranking and best performers**

<i>Doing Business</i> Indicator	Iraq	Middle East & North Africa average	Regional best performer	Global best performer
Time (days)	520	622	445 (United Arab Emirates)	164 (Singapore)
Cost (% of claim)	28.1	24.7	14.7 (Bahrain)	9 (Iceland)

<sup>146</sup> Esposito, Lanau and Pompe 2014; Dakolias 1999; Ball and Kesan 2010; Klerman 2006; Dam 2006; Rosales-López 2008.

<sup>147</sup> Dakolias 1999; Sherwood, Shepherd and De Souza 1994.

<sup>148</sup> Dam 2006.

<sup>149</sup> Islam 2003.

<sup>150</sup> Esposito, Lanau and Pompe 2014; Dakolias 1999; Ball and Kesan 2010; Klerman 2006; Dam 2006; Rosales-López 2008.

<sup>151</sup> In the case of Iraq, the analyzed competent court is the Baghdad First Instance court.

Quality of judicial Processes index (0-18)	1.5	6.6	14 (United Arab Emirates)	17 (China)
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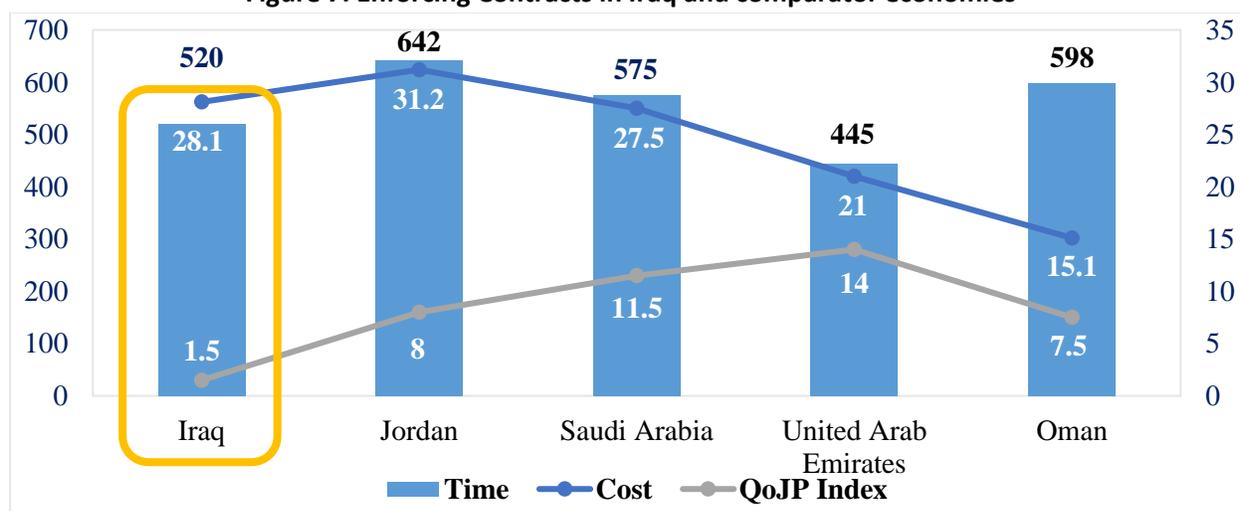
Source: World Bank, Doing Business 2020 database

**Table 19. Details on the Time, Cost and Quality of judicial processes indexes**

<b>Time Sub-index (days)</b>	<b>520 days</b>
Filing and service	60 days
Trial and Judgment	360 days
Enforcement of judgment	100 days
<b>Cost Sub-index (% of claim value)</b>	<b>28.1%</b>
Attorney fees	22.5 %
Court fees	2.3 %
Enforcement fees	3.3 %
<b>Quality of judicial processes index (0-18)</b>	<b>1.5</b>
Court structure and proceedings (-1-5)	0.0
Case management (0-6)	0.0
Court automation (0-4)	0.0
Alternative dispute resolution (0-3)	1.5

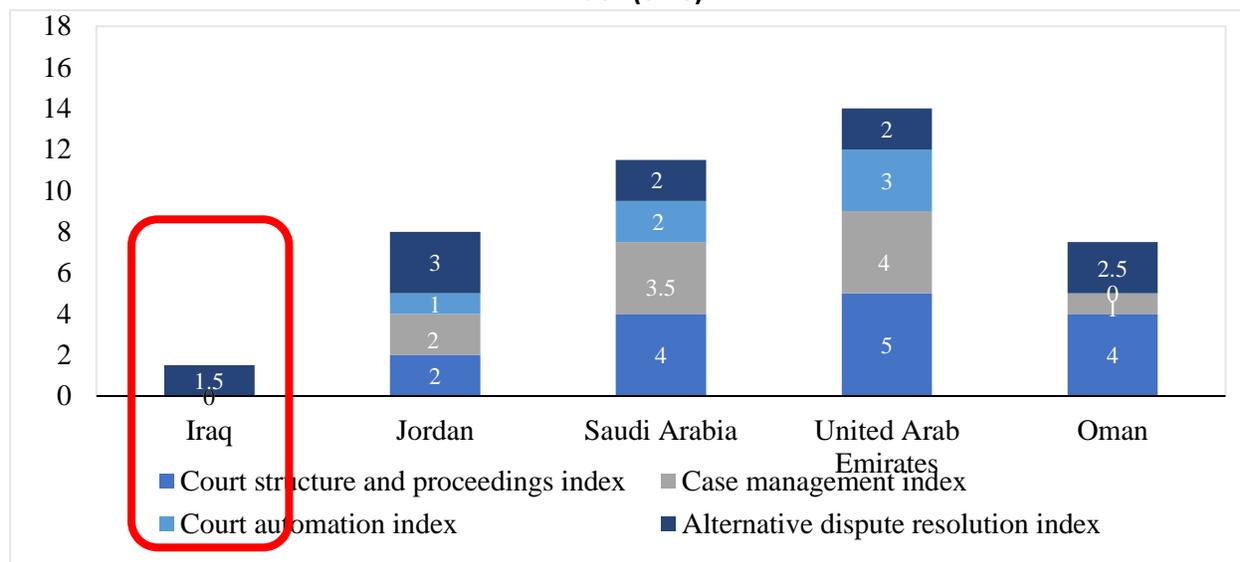
Source: World Bank, Doing Business 2020 database

**Figure 7. Enforcing Contracts in Iraq and comparator economies**



Source: World Bank, Doing Business 2020 database

**Figure 8. Enforcing Contracts in Iraq and comparator economies on the Quality of judicial processes index (0-18)**



Source: World Bank, Doing Business 2020 database

### Iraq's performance on the Enforcing Contracts indicator over time

**Doing Business** has not recorded any positive reform in Iraq on this topic during the last 10 years. The Federal Judicial Authority of Iraq is comprised of the Higher Judicial Council, the Supreme Federal Court, the Federal Court of Cassation, Court of Appeal, the Public Prosecution Department, Judiciary Oversight Commission and first instance courts.

According to *Doing Business 2020*, Iraq follows some of the good practices tested in the area of alternative dispute resolution. However, there is a complete lack of court automation and case management techniques in the courts in Iraq, including the Baghdad First instance courts. There is also a lack of dedicated systems to solve small claims and a complete absence of provisions on mediation.

### Short-term reform recommendations

**1. Assess court processes to identify and address sources of delays.** In Iraq, it is estimated that, on average, it takes approximately 17 months to resolve a commercial dispute. During this time, filing and service of the claim on the defendant takes on average two months. Once a judgment has been issued (taking an average time of 360 days), it takes 100 days for the judgment to be enforced through the public sale of the losing party's assets.

In order to identify solutions to shorten these delays, a process mapping can be carried out to identify bottlenecks in the time and procedures involved in resolving a commercial dispute in court, and the enforcement phase. A detailed description of internal actions and processes necessary for cases to flow, together with an empirical analysis of the current data on commercial disputes, will allow to fully

understand where problems lay and will provide the tools to work on tailor-made proposals. This assessment would help identify, for example, unnecessary or inefficient distribution of administrative tasks required by court staff, judges and court users as well as opportunities for improvement with (and without) legislative changes. It could also help identify needs for resource allocation to enhance efficiency and cost effectiveness. Such an assessment can be conducted upon the Judicial authority's request and may foster efforts to improve the court proceedings. The mapping exercise should use a reasonable caseload estimation methodology (i.e., comparative, statistical, computational or qualitative methods).

**2. Collect statistics for every court and make the time to disposition report, clearance rates report, age of pending cases report, and single case progress report publicly available.** Neither the Higher Judicial Council, nor the Baghdad First Instance Court publish performance measurement reports to monitor the court's performance, to track the progress of cases through the court and to ensure compliance with established time standards. In Iraq, the judiciary is already compiling some statistics at the Higher Judicial Council level, for example, the aggregate number of income cases at the different court levels. Therefore, it is recommended to continue these efforts and increase the type of statistics collected by the courts in order to develop detailed court statistics that will allow judges and court managers to track case performance. All this information should be published in the Higher Judicial Council website<sup>152</sup> and/or in the public boards of each court, including the Baghdad First Instance Court.

Case management reports that compile and analyze case performance data constitute one of the manners in which to support effective implementation of case management techniques<sup>153</sup>. These can show whether case management goals have been met in individual cases or at the court level—such as through data on the number of cases pending before the court, the clearance rate, the average disposition time or the age of the pending caseload. Such reports can show court administrators where inefficiencies and bottlenecks lie and help them track the progress of ongoing case management initiatives. Furthermore, by breaking data down at the judge level, these reports can serve as a performance measurement tool—an important use, since research shows that a good amount of delays in litigation are attributable to lax case management by the judge<sup>154</sup>. Data collected by the *Doing Business 2020* report on the availability of four of the more common types of performance measurement reports<sup>155</sup> show that at least two of these types are publicly available in more than 70 economies. Iraq is not one of them. Actions should be considered to align the country to international best practices.

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<sup>152</sup> <https://www.hjc.iq/statistics/>

<sup>153</sup> Gramckow, Heike P., and Valerie Nussenblatt. 2013. "Caseflow Management: Key Principles and the Systems to Support Them." Justice & Development Working Paper 23/2013, Legal Vice Presidency, World Bank, Washington, DC; Steelman, David, John Goerdts and James McMillan. 2004. *Caseflow Management: The Heart of Court Management in the New Millennium*. Williamsburg, VA: National Center for State Courts.

<sup>154</sup> Steelman, David. 2008. *Improving Caseflow Management: A Brief Guide*. Williamsburg, VA: National Center for State Courts.

<sup>155</sup> These reports are: 1) time to disposition report (measuring the time the court takes to dispose/adjudicate its cases), ii) clearance rate report (measuring the number of cases resolved versus the number of incoming cases), iii) age of pending cases report (providing a snapshot of all pending cases according to case type, case age, last action held and next action scheduled), and iv) single progress case report (providing a snapshot of the status of one single case).

In countries that adopted such performance evaluations, these measures have had a disciplinary effect on judges, and improved court efficiency. For instance, one of the reforms introduced by Malaysia between 2009 and 2011 during the overhaul of its judicial system was the implementation of a reform index for judges. The index, fixed by the judges themselves, is aimed at allowing them to assess and monitor their performance. As a result of this and other measures, case disposal rates in Malaysian courts was improved, and backlogs were reduced by 50% in less than 3 years.

### Medium to long-term reform recommendations

**3. Make publicly available judgments in commercial cases at all levels.** Currently, judgements rendered in commercial cases at all levels are not made available to the general public in Iraq. Efforts should be put into making judgments rendered by local courts at all levels systematically available to the public through publication in official gazettes, newspapers, and/or online. Making court decisions publicly available is a common practice worldwide to promote transparency and discourage corruption in the judicial system. It creates incentives for courts to adhere to decision making principles and higher court guidance, to write judgments concisely and clearly, increases public accountability and promotes the likelihood of receiving fair trials. It also supports judicial certainty and promotes a greater public understanding of court reasoning for both firms and individuals by clarifying the scope and interpretation of the law. Access to the results of commercial cases benefits companies that invest in a particular jurisdiction, clarifying the scope of their rights and duties.

To build public understanding and confidence in the courts, courts need to make efforts to publish regularly all court decisions. Initially, courts that lack the capacities for continuous online posting have opted for making key decisions in commercial cases available in paper format (Official Gazette) and then online. Doing so will not only increase transparency but improve the public's confidence in the court and provide predictability for the legal community. Another aspect of this reform is publishing additional information about the ruling – such as the timeliness and the specific judge- which further increases public accountability. This can highlight inefficiencies or inconsistencies in the productivity of particular courts or judges, who must then be held accountable through social pressure and healthy competition.

The effectiveness of this policy is strengthened even further when the court rulings are freely available online, such as in the Republic of Korea. Maintaining a well classified, searchable electronic database of these decisions is also beneficial for reliable record-keeping of decisions (there is less chance of papers being misfiled) and allows interested parties to search a particular topic more efficiently. If lawyers and litigants understand how courts generally decide certain type of cases and when appeals are successful or not, appeals tend to be better justified and litigant satisfaction tends to increase.

Recently, many countries, such as Kazakhstan, Turkey and Vietnam, made enforcing contracts easier by making judgments rendered at all levels in commercial cases available to the public online. In the Middle East and North Africa region, only Malta makes publicly available all judgements rendered in commercial cases at all levels (first instance, appellate and supreme courts).

**4. Revise the Rules of Civil Procedure of Iraq to consider ways to improve the flow of cases through stricter rules on time standards.** The applicable Rules of Civil Procedure<sup>156</sup> should be revised in order to establish stricter rules on time limits. Currently, the Rules of Civil Procedure sets few time standards for some court events. For instance, the Rules provides for a deadline to submit the final judgement<sup>157</sup>. However, the Rules does not set time standards for other key court events, such as: i) service of process; ii) filing of the statement of defense; iii) first hearing; iii) completion of the evidence period; and, iv) filing of testimony by expert. In commercial cases a long delay can equal a loss, regardless of the final outcome. To provide certainty and expedite court procedures, it is important to include clear time frames for the above-mentioned key court events. Also, time standards should feature mechanisms for the creation and enforcement of realistic schedules. Establishing time frames favors timely flow of cases through the court from initial filing to disposition. This case management technique enhances processing efficiency and promote early court control of cases.<sup>158</sup>

Laws or regulations setting time standards for key court events exist in over 100 economies, though these time standards are respected in practice in only 65 of those economies. In the MENA Region, Jordan and the United Arab Emirates follow this international practice. In both countries, time standards for at least three key court events are established in applicable civil procedure codes and those are also respected in more than 50% of cases.

**5. Strengthen limits on adjournments by linking the granting of adjournments to performance management systems and setting and monitoring time limits.** The Iraqi Rules of Civil Procedure neither regulates the number of adjournments and continuances that can be granted, nor does it limit adjournments to unforeseen and exceptional circumstances. The Rules of Civil Procedure only states that it is not permissible for a court to adjourn a case twice for the same reason, unless it will serve justice and the judge approve the adjournment<sup>159</sup>. To reduce the total time of proceedings and to prevent abuse by the litigants, it is recommended to regulate the maximum amount of adjournments that can be granted, and to limit them to unforeseen and exceptional circumstances. The liberal granting of adjournments, especially if requested by litigants as a delaying tactic, can slow down court proceedings, increase caseloads and, in turn, may strain court resources.

Clarity on when, why and for how long adjournments should be granted will help keep cases on track. In addition, establishing time frames favors timely flow of cases through the court from initial filing to disposition. Both techniques enhance processing efficiency and promote early court control of cases.<sup>160</sup> When well implemented, case management techniques can enhance record-keeping, reduce delays and

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<sup>156</sup> Law of Civil Procedure No. 83 of 1969.

<sup>157</sup> Article 156 of the Rules of Civil Procedure states: "If the case was ready for judgment, then the court shall decide to close the pleading stage and issue its judgment the same day, or specify date for pronouncement of the judgement, not exceeding a period of 15 days from the date of deciding the closure of the case".

<sup>158</sup>Michigan State Court Administrative Office. 2004. Caseflow Management Guide. Lansing, MI; Gramckow, Heike P., and Valerie Nussenblatt. 2013. "Caseflow Management: Key Principles and the Systems to Support Them." Justice & Development Working Paper 23/2013, Legal Vice Presidency, World Bank, Washington, DC.

<sup>159</sup> Article 62 of the Iraqi Rules of Civil Procedure No, 83 of 1969.

<sup>160</sup>Michigan State Court Administrative Office. 2004. Caseflow Management Guide. Lansing, MI; Gramckow, Heike P., and Valerie Nussenblatt. 2013. "Caseflow Management: Key Principles and the Systems to Support Them." Justice & Development Working Paper 23/2013, Legal Vice Presidency, World Bank, Washington, DC.

case backlogs and provide information to support strategic allocation of time and resources—all of which encourage generally better services from courts.<sup>161</sup> They can also improve the predictability of court events, which can ensure accountability, increase public trust, reduce opportunities for corruption and enhance the transparency of court administration.<sup>162</sup>

Regulating the maximum number of adjournments that can be granted and limit them to unforeseen and exceptional circumstances will also reduce the total time of proceedings and prevent abuse by the litigants. Those provisions need to be respected by the court.

In *Doing Business 2020* report, amending civil procedure rules to limit adjournments to unforeseen and exceptional circumstances was a popular reform. For instance, China, Mauritania and Nigeria, implemented this reform. In the MENA region, Iran follows this international best practice.

**6. Consider introducing a Pre-trial conference as part of the case management techniques in civil and commercial cases.** Currently, pre-trial conference does not exist in Iraq in civil and commercial cases. The Iraqi Rules of Civil Procedure is silent on this topic.

Initially developed in the United States in the first half of the 20<sup>th</sup> century with the introduction of the Federal Rules of Civil Procedure, the use of pretrial conferences has become widely recognized as an effective way for assisting courts in managing and promptly resolving cases.<sup>163</sup> A pre-trial conference is an initial hearing soon after the case is filed design to narrow down contentious issues and evidentiary questions before the trial takes place. Its purpose is to expedite the trial process while discouraging unnecessary pretrial motions or other delay tactics by the parties. In addition, pre-trial conferences help the parties understand what information is needed, as well as the timelines and the parties' obligations during the trial stage. This in turn increases efficiency during the proceedings. Some of the issues that usually are discussed during the pretrial conference are: i) scheduling (including the time frame for filing motions and other documents with the court); ii) case complexity and projected length of trial; iii) possibility of settlement or alternative dispute resolution; iv) exchange of witness lists; v) evidence; vi) jurisdiction and other procedural issues; and vii) narrowing down of contentious issues.

Pre-trial conference is a common case management technique tool, used in approximately 96 economies. None of which belongs to the MENA region.

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<sup>161</sup>Michigan State Court Administrative Office. 2004. *Caseflow Management Guide*. Lansing, MI; Gramckow, Heike P., and Valerie Nussenblatt. 2013. "Caseflow Management: Key Principles and the Systems to Support Them." Justice & Development Working Paper 23/2013, Legal Vice Presidency, World Bank, Washington, DC.; Rooze, Erwin. 2010. "Differentiated Use of Electronic Case Management Systems." *International Journal for Court Administration* 3 (1): 50–60; Steelman, Steelman, David, John Goerdts and James McMillan. 2004. *Caseflow Management: The Heart of Court Management in the New Millennium*. Williamsburg, VA: National Center for State Courts.

<sup>162</sup> USAID, Center for Democracy and Governance 2001; Gramckow and Nussenblatt 2013; Rooze 2010; Steelman, Goerdts and McMillan 2004.

<sup>163</sup> See "Good Practices for courts: Helpful Elements for Good Court Performance and the World Bank's Quality of judicial Process Indicators," Heike Gramckow, Omniah Ebeid with Erica Bosio and Jorge Luis Silva Mendez, World Bank Group, 2016.

**7. Adopt a legal regime for commercial mediation as an additional ADR mechanism.** The only legally recognized and regulated ADR mechanism in Iraq is arbitration, which may not be fully utilized by smaller companies due to cost and time implications. Arbitration is governed by the Rules of Civil Procedure of 1969.<sup>164</sup>

Mediation, which is the other ADR mechanism measured by the *Doing Business* project that could specifically cater to smaller companies, but not only to them, is not available.

Effective systems of domestic commercial arbitration and mediation or conciliation matter to entrepreneurs.<sup>165</sup> Lawyers and business owners know that high litigation costs and long delays make resolving commercial disputes in court difficult and expensive and may look elsewhere for dispute resolution—and businesses may pass the costs on to consumers or abstain from investing in a jurisdiction.<sup>166</sup> Especially in smaller cases, having a neutral mediator or arbitrator saves businesses time and money in resolving commercial disputes and provides greater control over outcomes and confidentiality.<sup>167</sup> It also reduces the instances in which a dispute leads to the termination of a commercial relationship.<sup>168</sup>

Mediation has existed for centuries rooted in the traditions and cultural norms of many regions. The *Doing Business* 2020 report indicated that approximately 80% of the economies measured by the project, recognize voluntary mediation or conciliation as a way of resolving disputes. However, in Iraq, this is not the case, where also no laws exist to regulate the process. The widespread availability of mediation or conciliation is related to its many benefits, such as reduced legal costs, prevention of future or full-fledged litigation and the flexibility it affords in finding a solution to the dispute based on mutual interest of the parties, rather than solely on legal rights.

Iraq should consider drafting mediation rules detailing key aspects of the procedure, including time limits, effects of mediation on statutes of limitations, designation of mediator/conciliator, rules of confidentiality, participation in good faith, disclosure and indemnity, effects of the mediated settlement, effects of partial settlement, enforcement rules and financial incentives for using mediation. For instance, financial incentives that can be used to encourage use of mediation services could include, tax waivers for mediated settlements, income tax credit, and refund of court fees when the case is resolved through mediation.

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<sup>164</sup> Articles 251 to 276 of the Rules of Civil Procedure of 1969.

<sup>165</sup> Pouget, Sophie. 2013. "Arbitrating and Mediating Disputes: Benchmarking Arbitration and Mediation Regimes for Commercial Disputes Related to Foreign Direct Investment." Policy Research Working Paper 6632, World Bank, Washington, DC.

<sup>166</sup> National Arbitration Forum. 2005. "Business-to-Business Mediation/Arbitration vs. Litigation". <http://cdm16064.contentdm.oclc.org/cdm/ref/collection/p266901coll4/id/2834>

<sup>167</sup> Pouget, Sophie. 2013. "Arbitrating and Mediating Disputes: Benchmarking Arbitration and Mediation Regimes for Commercial Disputes Related to Foreign Direct Investment." Policy Research Working Paper 6632, World Bank, Washington, DC.; Stipanowich, Thomas. 2004. "ADR and the 'Vanishing Trial': The Growth and Impact of Alternative Dispute Resolution." *Journal of Empirical Legal Studies* 1 (3): 843–912.; Love, Inessa. 2011. "Settling out of court." Financial and Private Sector Development Vice Presidency, World Bank, Washington, DC.

<sup>168</sup> UNCITRAL (United Nations Commission on International Trade Law). 2004. Model Law on International Commercial Conciliation with Guide to Enactment and Use 2002. New York: United Nations.

In addition, standard mediation forms should also be drafted and made available to further encourage the use of mediation. Finally, to foster engagement in mediation, socialization activities should be planned and executed to spread information about the benefits of this approach to dispute resolution.

In the MENA region, 18 out of the 20 economies measured by the *Doing Business* report allow for voluntary mediation, however, only 8 of those have laws or a chapter or section of the applicable code of civil procedure regulating the mediation process. For example, Lebanon, Jordan, Morocco, Oman and Iran. In addition, Jordan and Kuwait provide financial incentives for parties to attempt mediation or conciliation.

**8. Consider creating a small claims court or a fast track procedure for small claims.** Currently, Iraq does not have a small claims court or a fast track procedure in place for the expeditious resolution of disputes involving small claims. Dispute resolution can be expensive and time-consuming for micro, small and medium size businesses.

Small claims courts or simplified procedures for small claims, play an important part in building public trust and confidence in the judicial system, and overall increase access to justice.<sup>169</sup> They help meet the modern objectives of efficiency and cost-effectiveness by providing a mechanism for quick and inexpensive resolution of legal disputes involving small sums of money.<sup>170</sup> They do so by setting aside many legal formalities and using simplified or fast-track procedures. In other words, simpler processes and more relaxed rules lower costs for claimants, who may also be able to file and present their own cases before the court. In addition, filing fees are lower and judges issue decisions rapidly. Because they have lower costs and faster turn-around times, small claims courts can provide an easier alternative for resolving simple disputes. Small claims courts of fast-track procedures tend to also reduce backlogs and caseloads in higher courts. Small claims courts usually use informal hearings, simplified rules of evidence and more streamlined rules of civil procedure—and typically allow the parties to represent themselves.<sup>171</sup>

Faster and less costly dispute resolution matters to micro, small and medium-size enterprises, which may not have the resources to stay in business during long, costly litigation. If a claim could not be enforced because the relative cost is prohibitive, there would be a denial of justice. By providing a venue for resolving claims with costs and procedures that are realistic and proportionate to the size of the dispute, small claims courts and simplified procedures for small claims increase access to justice for businesses and individuals.

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<sup>169</sup>Ramsay, Iain. 1996. "Small claims courts: A review. In *Rethinking civil justice: Research studies for the Civil Justice Review*." Toronto, ON: Ontario Law Reform Commission: 491-541

<sup>170</sup>Axworthy, Christopher S. 1976. "Controlling the Abuse of Small Claims Courts." *McGill Law Journal* 22: 480–95; Ramsay, Iain. 1998. "Review: Lowered Horizons and Broadened Vistas: the Small-Claims Court and Access to Justice." *Justice of Law and Society*, 25: 438-442

<sup>171</sup>Help Abolish Legal Tyranny (HALT). 2007. HALT's Small Claims Court Best Practices. <http://www.lawreformsoapbox.com/2007/11/halts-small-claims-court-best.html>; World Bank. 2000. "Access to Justice: the English Experience with Small Claims." PREM Notes, n. 40. Development Economics Vice Presidency. Washington, DC: World Bank

According to *Doing Business 2020* data, 129 economies have either a stand-alone small claims court or a simplified procedure for small claims within the first-instance courts. Of these 129 economies, 119 allow parties to represent themselves during the proceedings. In the MENA region, 13 out of the 20 economies measured by the report follow this international best practice, including, Jordan, Kuwait, Lebanon, Oman, Saudi Arabia and the United Arab Emirates.

**9. Consider creating a specialized commercial court, section or division dedicated solely to hearing commercial cases between Iraqi nationals.** In Iraq, a specialized commercial court was established on November 1 of 2010 by the Higher Judicial Council Law. However, the competence of the court was very narrow and specific. It only looked into commercial cases between an Iraqi national and a foreign party<sup>172</sup>. Then in 2012 the Federal Judicial Authority expanded the jurisdiction of the specialized commercial court adding all disputes where a government agency was a party. In 2014, again the Federal Judicial Authority issued a new Decree to clarify that all contractual disputes between any party and a government agency will be heard by the specialized commercial courts established in Iraq. Four specialized commercial courts have been established so far in the country<sup>173</sup>. The specialized commercial courts hear the following type of cases: i) all commercial cases between an Iraqi national and a foreign national; ii) all commercial cases when a government agency is involved; and, iii) all complaints of procurement processes if the government is one of the parties.

In Iraq, all commercial disputes between nationals fall within the jurisdiction of the first instance courts. Specifically, in Baghdad, within the Baghdad First Instance court. As a result, when a commercial case between two domestic companies is filed, it is heard at the same courts and by the same judges hearing civil cases. Therefore Iraq, could consider creating a venue that is specialized in resolving commercial disputes between nationals. This can be achieved either in the form of a dedicated bench of the civil court composed of specialized judges solely hearing commercial cases of this nature; or as a specialized court. Moreover, it is encouraged to provide continuous training to judges hearing commercial cases to help make the courts more efficient by improving the quality and the time in which decisions are rendered.

Dedicated benches for commercial cases can make a big difference in the effectiveness of a judiciary.<sup>174</sup> Having specialized commercial courts or divisions reduces the number of cases pending before the main first-instance court and thus can lead to shorter resolution times within the main trial court—this is one reason why economies have sometimes introduced specialized courts as a case management tool. But the benefits do not end there. Commercial courts and divisions tend to promote consistency in the application of the law, increasing predictability for court users.<sup>175</sup> Judges in such courts develop expertise in their field, which likely leads to faster and more qualitative dispute resolution.<sup>176</sup>

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<sup>172</sup> Decree 136 of the Federal Judicial Authority.

<sup>173</sup> 4 specialized commercial courts have been established so far: Basra, Najaf, Erbil and Kurdistan.

<sup>174</sup> Djankov and others 2003.

<sup>175</sup> Zimmer, Markus. 2009. "Overview of Specialized Courts." *International Journal for Court Administration* 2 (1): 46–60.

<sup>176</sup> Zimmer 2009.

Most of the best performing economies have a specialized commercial court or a section dedicated solely to hearing commercial cases in place. For example, Australia or Hong Kong have Commercial Lists<sup>177</sup> at the first instance courts. The data show that 99 of the 190 economies covered by *Doing Business* have a specialized commercial jurisdiction — established by setting up a dedicated stand-alone court, a specialized commercial section within an existing court or specialized judges within a general civil court.

Economies with a specialized commercial court, section or division dedicated solely to hearing commercial cases between nationals in the MENA region, include Bahrain, Oman, Saudi Arabia and the United Arab Emirates, among others.

**10. Increase transparency for assigning cases to judges at the Baghdad First Instance Court, making it fully random.** Today, when a case is filed at the Baghdad First instance courts, the registrar assigns it manually to the courts on a rotational basis to ensure an equitable distribution of caseload. Courts also checks if a judge who is assigned a case may be reasonably construed to have conflict of interest, which would make it improper for this Judge to preside over a particular case. The biggest program is that the assignment of cases could be easily predicted by the parties.

A credible system for random assignment of cases fosters trust in the courts and can play an important role in ensuring that judges are assigned similar workloads.<sup>178</sup> In the longer term, making the assignment of cases random through an automated process also diminishes the possibility for the parties or lawyers to influence or predicted the assignment.

While almost all economies worldwide (163) provide for random assignment of cases, only 53 have a fully automated process. In Iraq, this currently does not exist. According to *Doing Business 2020* data, case assignment is neither random nor automated. Measures should be taken to align the country to international best practices in this area of business regulation.

**11. Consider developing an electronic case management system for judges and lawyers in the Baghdad First Instance Court.** The Baghdad First Instance Court does not have an electronic case management system for the use of judges or lawyers. A case management system is the aggregate of the processes and resources used to facilitate the progress of a case from filing through to its ultimate disposition. Electronic case management systems can help reducing procedural delays and parties' non-compliance with judicial orders and deadlines. It also enhances record-keeping, reduce case backlogs and provide information to support strategic allocation of time and resources – all of which encourage generally better services from courts. They can also improve the predictability of court events, which can ensure accountability, increase public trust, reduce opportunities for corruption and enhance transparency of court administration.<sup>179</sup>

The main features of an advanced electronic case management system may include access to laws, regulations and case law; access to forms to be submitted to the court; automatic generation of a hearing

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<sup>177</sup>Commercial Lists are usually comprised of a team of judges who have experience in managing complex commercial litigation

<sup>178</sup> USAID 2009.

<sup>179</sup> USAID, Center for Democracy and Governance 2001; Gramckow and Nussenblatt 2013; Rooze 2010; Steelman, Goerdts and McMillan 2004.

schedule; management of electronic notifications; tracking of the status of a case; management of case documents; electronic filing of briefs and motions; and access to court orders and decisions. Such systems may be available to a range of users, from judges to lawyers, court administrators and court users.

Worldwide, there has been an increase in the implementation of case management systems in courts, especially in commercial courts<sup>180</sup>. In the MENA region, for example, Saudi Arabia and the United Arab Emirates have a well-advanced electronic case management system in their courts for the use of judges and lawyers.

**12. Consider introducing court automation features, such as electronic filing of the initial complaint, electronic service of process and electronic payment of court fees.** First instance courts in Iraq completely lack automation. To further reduce the cost and time to enforce a contract, the adoption of court automation features such as electronic filing of the initial summons, electronic service of process and electronic payment of court fees is recommended. Electronic records tend to be more convenient and reliable than paper-based ones. Reducing in-person interactions with court officers –facilitated by electronic systems–decreases the chances for corruption and results in speedier trials, better access to courts and more reliable service of process. These features reduce the cost to enforce a contract as court users save in reproduction costs and courthouse visits, while courts save in storage costs, archiving costs and court officers’ costs. Studies show that after electronic filing is introduced in courts, the accessibility of information increases and access to and delivery of justice improve considerably<sup>181</sup>.

The best performing economies have several features of court automation. For example: The Republic of Korea and Singapore. In the MENA region, only the United Arab Emirates follow these international best practices. The first instance courts in the UAE allow for electronic filing of the initial complaint, electronic service of process and electronic payment of court fees.

The Republic of Korea and Singapore are two of only eight economies worldwide that receive full points on the court automation index; they also score points for the availability of electronic case management systems for both judges and lawyers. Unsurprisingly, both economies introduced improvements in this area in the past few years. Korea launched an electronic case filing system in 2010 that allows electronic document submission, registration, service notification and access to court documents (Box 6). Singapore introduced a new electronic litigation system in 2014. The system allows litigants to file cases online—and it enables courts to keep litigants and lawyers informed about their cases through e-mail, text alerts and text messages; to manage hearing dates; and even to hold certain hearings by video conference.

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<sup>180</sup> 53 economies out of the 190 economies covered by Doing Business have a well-advanced electronic case management system in their courts for the use of judges. 43 out of those 53 economies also have a well-advanced electronic case management system for the use of lawyers.

<sup>181</sup>Berkman Center for Internet & Society at Harvard University. 2010. “Best Practices in the Use of Technology to Facilitate Access to Justice Initiatives.”

### Box 6. The computerization of Korean courts

Today Korean courts are fully computerized, but this did not happen overnight. The process started in the late 1970s with the creation of a database of cases flowing through courts. In the early 1980s a word processing software was introduced to support judges in writing judgments. In 1986 a case management system was launched, enabling clerks and judges to search all civil cases in the database and deal more efficiently with their caseloads. Soon after, a master plan for creating e-courts was conceived—and this was followed by steps to make the case management system accessible to external users, add electronic signatures and digital certificates to the system and make real-time national data on court activities available. Finally, in 2010 Korea launched an electronic case filing system. The system enables some judges to adjudicate up to 3,000 cases a year, manage up to 400 a month and hear up to 100 pleas a month.

*Sources: Doing Business research; interview with Korean Judge Hoshin Won, Daegu District Court, Seoul.*

**13. Consider the creation of court kiosks to improve efficiency and promote the e-court systems.** Iraq could consider the establishment of court kiosks at their venues in order to reduce operating costs, speed transactions and improve service in the courts. A court kiosk could help from basic check-ins and fee payments to complex legal filings. It can provide real-time notification of parties' arrivals, plus docket information including case numbers, hearing dates and times, names of parties, judges and attorneys, pay court fees and even kiosks could be capable of supporting filing complex legal documents. Kiosks reduce the need for court users to wait in line to receive one-on-one service from staff. Instead, staff can provide assistance to multiple people answering questions of the kiosk users while those same people use the kiosk to provide self-service. Court kiosks are a simple way to increase the use of e-court systems while incrementing public satisfaction and reducing costs. Court staff should be trained to use the kiosks, so they can help and train the court users. Court kiosks have been installed in many economies, such as the Republic of Korea, USA and Canada and now are attracting plenty of attention from court administrators and many governments across the globe.

**14. Offer continuous training to judges and court staff.** Judicial training is essential to ensure high standards of competence and performance. Judicial training is also fundamental to judicial independence, the rule of law and the protection of the rights of all people.<sup>182</sup> The Judiciary of Iraq should design, content and delivery of judicial training. It also needs to establish systems to ensure that all members of the judiciary are enabled to undertake training. Acknowledging the complexity of the judicial role, judicial training should also be multidisciplinary, and include training in law, non-legal knowledge, skills, social context and ethics. Continuous judicial education has to be regarded as an accepted part of judicial life, for growth of the mental qualities and legal skills of the judges, necessary for sustenance of judicial independence.

To improve predictability for decision making in the courts a systematic approach to training judges should be considered along with increased specialization. Strengthening expertise in commercial matters can result in faster and less costly contract enforcement, particularly where the commercial caseload is large.

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<sup>182</sup> Judicial Education and Training, Journal of the International Organization for Judicial Training (IOJT), issue 5, 2016.

A recent study from the European Bank for Reconstruction and Development<sup>183</sup> found that programmatic initial and ongoing training of judges in commercial law, as well as in certain judicial skills such as the preparation of decisions can increase court predictability and lead to more efficient and effective courts. In the long term, enhanced predictability of court decisions leads to more security for investors and a better business environment.

### 3.10 Resolving Insolvency

**A well-functioning insolvency framework is essential for the healthy circulation of credit.** Where insolvency regimes are effective, creditors are more likely to lend, both in higher volumes and at lower interest rates. A balanced insolvency system also operates as a filter that promotes economic efficiency by providing a framework for the rehabilitation of viable companies and the swift liquidation of unviable ones, thereby preserving jobs and enterprise value in the former situations and freeing up capital and assets in the latter cases to be put to better use elsewhere. By facilitating the efficient business exit and liquidation of nonviable companies, an insolvency framework supports the efficient reallocation of resources across the economy.<sup>184</sup>

**The Doing Business Resolving Insolvency indicator measures the time, cost and outcome of insolvency proceedings for domestic companies as well as the strength of the legal framework applicable to the liquidation and reorganization proceedings.** The rankings are based on two equally weighted indicators—the recovery rate (recorded as cents on the dollar recouped by secured creditors through reorganization, liquidation or debt collection—foreclosure or receivership—procedures) and the strength of the insolvency framework index. The recovery rate is influenced by the time, cost and outcome of resolving an insolvency case, as well as the lending rate in the country. The indicator does not deal with situations where a business owner voluntarily winds up a company, but rather where businesses become “insolvent” under one of two definitions: (1) the business is unable to pay its debts as these become due; or (2) the business has more liabilities than assets. The strength of the insolvency framework index is based on the provisions of the insolvency law, as measured by four component indices: commencement of proceedings index, management of debtor’s assets index, reorganization proceedings index and creditor participation index. The data are based on feedback from local experts who analyze the country’s most common type of insolvency proceedings, as well as the readings of the law.

**Resolving insolvency in Iraq is scored as *No Practice*, which means that globally, Iraq ranks, together with other economies, 168<sup>th</sup> out of 190 economies.** The Doing Business methodology explains that “If an economy had zero completed cases a year over the past five years involving a judicial reorganization, judicial liquidation or debt enforcement procedure (foreclosure or receivership), the economy receives a “no practice” mark on the time, cost and outcome indicators”<sup>185</sup>. Iraq, as a No Practice economy, scores

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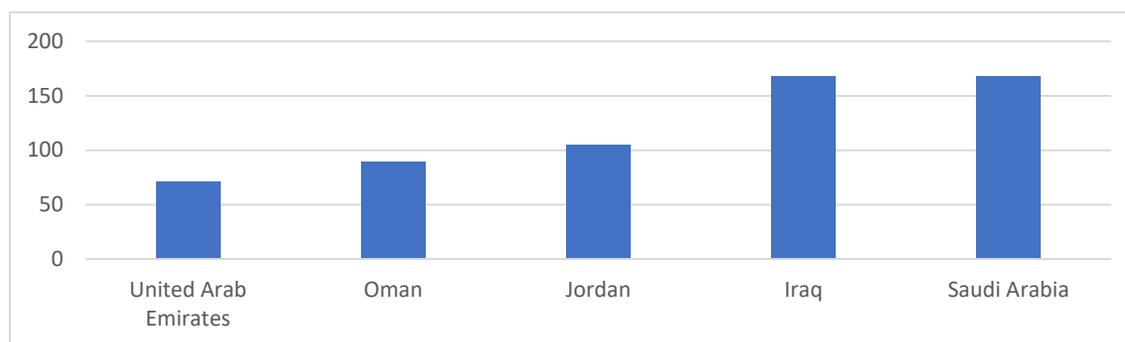
<sup>183</sup> Colman, Alan, “Court decisions in commercial matters: an EBRD assessment”, EBRD, 2011.

<sup>184</sup> See Djankov, Simeon. 2009. “Bankruptcy Regimes during Financial Distress.” Mimeo, World Bank Group; Funchal, Bruno. 2008. “The Effects of the 2005 Bankruptcy Reform in Brazil.” *Economics Letters*, 101: 84–86; Klapper, Leora 2011. “Saving Viable Businesses.” Viewpoint 328, September 2011, World Bank Group; Visaria, Sujata. 2009. “Legal Reform and Loan Repayment: The Microeconomic Impact of Debt Recovery Tribunals in India.” *American Economic Journal: Applied Economics*, 1(3): 59-81.

<sup>185</sup> [www.doingbusiness.org/en/methodology/resolving-insolvency](http://www.doingbusiness.org/en/methodology/resolving-insolvency)

0.00 percent on the Ease of Doing Business score. Iraq ranks 17<sup>th</sup> out of 20 economies in the MENA region on the resolving insolvency indicator, that is, together with other economies that receive the score of “no Practice”, including Libya, Saudi Arabia and West Bank & Gaza. The best performing MENA economies include Djibouti, Bahrain, Tunisia, Morocco and United Arab Emirates.

**Figure 9. Resolving Insolvency ranking in the region.**



**For this reason (being a No Practice economy), Iraq compares unfavorably when looking at other countries in the region.** The best regional performer in terms of costs to the bankruptcy estate is Tunisia, Algeria and Oman at 7%, a substantial improvement over the average MENA country (14%) but still short of the overall best international performer -Norway at just 1%-. In turn, it takes 2.7 years on average to work out an insolvency case in the MENA countries. This duration is more than two times longer than that of the regional best performers in Algeria and Tunisia (1.3 years). In turn, the insolvency cases in Ireland, the global best performer just take 0.4 years. Finally, the average MENA country has a recovery rate of 27.3 percent. This recovery rate is significantly lower than the regional best performer (Tunisia). In turn, it is close to a third of the recovery rate of Japan, the global best performer in this area.

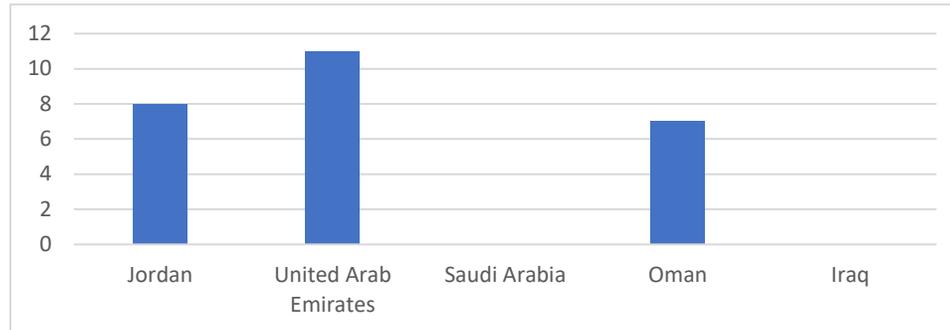
**Table 20. Resolving insolvency ranking and best performers**

<i>Doing Business</i> Indicator	Iraq	Region Average	MENA	Global best performer
Time (years)	No practice	2.7		0.4 (Ireland)
Cost (percent of estate)	No practice	14.0		1 (Norway)
Outcome	Piecemeal sale	Piecemeal sale		-
Recovery rate (cents on the dollar)	0.0	27.3		92.9 (Norway)

Source: World Bank Doing Business 2020

For the same reasons indicated above, the legal framework for resolving insolvency in Iraq has been also scores 0 out of 16 in the strength of insolvency framework index.

**Figure 10. Strength of insolvency framework index (0-16) in Iraq and comparator economies**



*Source: World Bank Doing Business 2020*

### Short-term reform recommendations

**1. Amend the existing law or enact a comprehensive new Insolvency Law.** Currently, the existing bankruptcy cases in Iraq are governed by the Bankruptcy Chapter of the Commercial Code and relevant sections of the Trade Act. The new law should include the best global practices which equip both debtors with rights to renegotiate its debt and creditors to mutually agree on best way to recover their assets. According to Article 568 of the Trade Act, both the debtor and the creditor may file for bankruptcy. Article 566 of the Trade Act provides that a debtor is declared bankrupt if he is unable to pay his commercial debts as they mature. However, it is recommended to allow both debtors and creditors to file for reorganization proceedings as well. Reorganization gives insolvent companies another chance to revive its business, by negotiating with creditors a new plan of repayment.

Similarly, in the area of management of debtor's assets, Iraq has a number of good global practices in place, such as: (i) law allows for continuation of contracts supplying essential goods and services to the debtor once the insolvency is declared, allowing for business continuity; (ii) law protects debtors against overly burdensome contracts and allows for rescinding them; and (iii) law allows for avoiding preferential or undervalued transactions which are not beneficial to the debtor. The latter may happen when transaction result in a creditor obtaining more than its pro rata share of the debtor's assets and which occurred when the debtor was insolvent or resulted in debtor becoming insolvent. Articles 613 and 614 of the Trade Act provide that all the acts of disposal by the bankrupt occurring 90 days prior to suspending payments shall be adjudged ineffective against the body of creditors and shall result in the return of the assets for the benefit of the creditors, if the act of disposal is detrimental to their interests and the counterpart in the disposal was aware at the time of disposal that the bankrupt had suspended payments. Additionally, early repayment of undue debts or the creation of security for a debt at a date later than the creation of the debt, where such actions are taken at the time after the suspension of debt payments, may be avoided.

It is further recommended that the law allows for the debtor to obtain credit also after the commencement of insolvency proceedings to allow the debtor to rebuild its business potential. The law should in such cases guarantee priority to secured creditors who provided post-commencement financing.

Currently the laws of Iraq do not recognize judicial reorganization. The amended or new law should also introduce the concept of reorganization and provide detail provisions assuring creditors' rights with respect to proposing reorganization plan, requiring the dissenting creditors in reorganization to receive at least as much as what they would obtain in a liquidation. The new reorganization framework should also foresee dividing the creditors into classes for the purpose of voting for a reorganization plan, assuring at the same time that creditors in the same class are treated equally.

Furthermore, the amended insolvency framework should take into account creditors' rights in selecting an insolvency representative. Currently Article 586 of the Trade Act provides that the trustee is appointed by the court. It is also recommended that the creditors have the right to approve the sale of substantial assets of the debtor. Article 660 of the Trade Act provides that the court, upon the request of the trustee, can allow the sale of the debtor's assets, if it is necessary to avoid losses. The judge also has the right to sell the assets of the debtor, if it will benefit the creditors or the debtor. In the latter case, the judge shall deliberate with the creditors' representative and notify the debtor.

In addition, currently Article 588 of the Trade Act give the controller (the creditors' representative), the judge, and the debtor with the judge's approval to request information from the insolvency representative. However, the law does not include provisions on the right of individual creditors to request such information. It is thus recommended that the law allows for individual creditors to have access to the any information from the insolvency representative which may attest to the financial and commercial situation of the debtor.

**2. Insolvency administrator's regulations, including by the enactment of an Officeholder Code of Ethics (Trustee).** A key distinguishing characteristic of insolvency proceedings is their multi-party nature. Such characteristic necessarily brings about a special set of governance rules. Among those rules are the ones pertaining to the role of the Officeholder, who will have to perform his task aiming to be independent of the particular interests of the debtor, of each creditor individually considered or of other stakeholders. Furthermore, the officeholder owes a general duty of loyalty to not have regard to personal interest in the outcome, while pursuing the private interest of those that the law has chosen as the recipients of what's left in the estate.

Given this institutional structure, basic human propensities and the prospects of institutionalization of the officeholder profession in Iraq, it is important to reinforce the role and duties of the Officeholders. For this reason, it is advisable to create a code of conduct -or code of ethics- for Officeholders which establishes in a practical manner the position Officeholders should take on any given case. Other countries, including the United Kingdom, New Zealand and Serbia, have developed this type of codes to strengthen institutional aspects of their insolvency systems.

### **Medium-term reform recommendations**

**3. Facilitate access to insolvency proceedings in the law.** According to international good practices, access to insolvency proceedings should be efficient and cost-effective. Further, both the debtor and the creditor should have easy access to these proceedings. Such easy access allows for insolvency to be addressed

and resolved in an orderly, quick and efficient manner, with a view to avoiding undue disruption to the business activities of the debtor and to minimizing the cost of the proceedings.

In this regard, once the debtor has filed an application for insolvency procedures the role of the Court at this stage should be simple (just checking the formal admissibility of the debtor's application), and the Court's decision on whether an application is admissible or not should be quickly taken.

It is difficult for any judge in any jurisdiction to have to assess if "the Debtor's activities are likely to continue, and the Creditors' claims will be settled within a reasonable timeframe" at such an early stage in the process.

Hence, regulations should be drafted to focus the court role on facilitating access, while leaving more substantive assessment to be addressed later on.

**4. Improve fiduciary duties in the eve of insolvency.** Fiduciary duties in the eve of insolvency means that directors in such situation should act carefully, not to damage the interests of the company's creditors.<sup>186</sup> Different systems around the world deal with this in different ways, including the "duty to file" for insolvency<sup>187</sup> or the more common law-oriented mechanism of "wrongful trading". It may be interpreted that the new insolvency law falls short of meeting this objective.

Expanding the duty of directors on the eve of insolvency is particularly relevant as undeveloped insolvency systems tend to resolve insolvency through liquidation, which affects directly the "Recovery rate" of the Doing Business indicator, one of whose key contents is the "outcome" of the process (i.e. if the company in the hypothetical case scenario is likely to continue to operate or not). This is the case even if the debtor initiates a reorganization procedure and proposes a reorganization plan, because petitions are usually filed when companies are in a poor financial state and as a last resort. Consequently, the firm's assets are usually sold piecemeal, leading to a loss of value prejudicial to creditors. Reforming the Law in this direction would help to generate better prospects of obtaining reorganizations –as measured by Doing Business-, looking to increase the recovery rate once a bankruptcy practice is developed.

**5. Fully develop an "adequate protection" system for secured creditors.** An essential objective of insolvency systems is the protection of the value of the insolvency estate. Several rules and mandates included in insolvency codes seek to assure such preservation of value. The imposition of a moratorium on legal procedures against the debtor is one of the main protections included in insolvency laws. Such rule serves to prevent asset stripping, reduce litigation costs and assure fair distribution of the insolvency burden among creditors. For instance, the new Saudi Arabia Insolvency Law captures this dynamic in a series of articles (20, 46, 97,131, 147 and 169, among others).

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<sup>186</sup> World Bank Group *Principles for Effective Insolvency and Creditor/Debtor Regimes* ('Principles', hereinafter), Principle B2.1 ("The law should require that when they know or ought reasonably to know that insolvency of the enterprise is imminent or unavoidable, directors should have due regard to the interests of creditors and other stakeholders, and should take reasonable steps either to avoid insolvency, or where insolvency is unavoidable, to minimize its extent.") See: <http://documents.worldbank.org/curated/en/518861467086038847/Principles-for-effective-insolvency-and-creditor-and-debtor-regimes>

<sup>187</sup> Such as the InsO, in Germany, that determines 21 days to file.

The imposition of a moratorium is a globally recognized international good practice. It often applies to all remedies and proceedings against the debtor and its assets, whether administrative, judicial or self-help. While insolvency moratoriums are often of wide scope, they tend to particularly affect secured creditors. Secured creditors are, by definition, those who have bargained ex ante with the debtor to obtain special protection against the possibility of default -in terms of the collateral- and can, as a result, find the moratorium particularly detrimental. As a result, insolvency laws take specific steps to avoid prejudice towards these creditors.

Where encumbered assets are included in the insolvency estate, insolvency laws tend to limit the temporal extension of the moratorium. Another form of secured creditor protection involves allowing the payment of interest. Those payments are intended to protect against collateral value depreciation during the course of the proceeding and are intended to be applicable whenever the value of the collateral exceeds the amount of debt owed to the secured creditor. This type of protection is rendered especially important where reorganization procedures do not include a specified time limit for the moratorium. Looking more in depth and possibly amending the rules on secured creditor protection would facilitate their cooperation to achieve reorganization outcomes, improving secured and unsecured creditors' recovery rates.

**6. Improve the information provided to creditors with the restructuring proposal.** The key to an adequate restructuring solution relies on a collective agreement between the debtor (or whoever proposes a plan) and a certain majority of creditors. Debtors are often charged with concocting a proposal for creditors who, in turn, need to evaluate complex issues, such as the probability that the debtor is able to comply with its terms, and whether it is fair and acceptable for said creditors. Creditors face then a tall order as they hold the key to accepting the terms proposed by the debtor. In other words, creditors are those deciding the fate of the restructuring proposal.

In order to allow for creditors to perform their duties aptly it is very important that clear, credible and relevant information is included in the proposal. Without clear, credible and relevant information creditors would be ill-prepared to fulfil their role in the proceedings' decision-making process. The result could be more unnecessary liquidations or more undeserving reorganizations.

Doing Business expects the law to mandate the inclusion of a) a clear and complete identification of the creditors who would be affected by the plan; b) the effects of the proposed restructuring on individual debts or classes; and, c) an identification of the role of the debtor in the implementation of the proposal.<sup>188</sup>

**7. Incorporate a provision on creditors' role in the selection of Officeholders (Trustees).** Officeholders play a key role in insolvency systems. The importance of the functions undertaken by officeholders cannot be overestimated: they relate to issues pertaining to the determination of estate and its administration and/or liquidation; their role is often intrinsic to the search, process, analysis and presentation of information to the stakeholders (private or public); and they normally provide important assistance to the

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<sup>188</sup> UNCITRAL *Legislative Guide on Insolvency Law*, available at [http://www.uncitral.org/pdf/english/texts/insolven/05-80722\\_Ebook.pdf](http://www.uncitral.org/pdf/english/texts/insolven/05-80722_Ebook.pdf)

court or the authorized body in procedural matters.<sup>189</sup> Given the importance officeholders have in insolvency proceedings, the regulation of their selection and removal is central to the resolution of cases.

Insolvency systems generally opt for one of three officeholder selection systems (or a combination of them): one where the court appoints the Officeholder, another where the creditors appoint the Officeholder and a third where the debtor may appoint him. Each of these schemes has some advantages. If a court appoints the officeholder on its own, such selection is considered to be *ex ante* objective. If on the other hand one of the parties selects the Officeholder, the chosen Officeholder may be better suited for the case at stake (in terms of case specific expertise). Because creditors' have most at stake in an insolvency case, the selection of officeholders by creditors is a recognized good practice.<sup>190</sup> In Iraq, the officeholder is appointed by the court from those listed in the Officeholders' List. This may limit the effectiveness of officeholders, as well as raise agency costs. A future amendment to the new Insolvency Law would benefit from introducing the possibility of creditor selection of officeholders.

### 3.11 Women in Business

**The equal participation of women and men will give every economy a chance to achieve its potential.**

Equality of opportunity allows women to make the choices that are best for them, their families, and their communities. It is also associated with improved economic outcomes. A significant body of research links reforms and policies aimed at achieving gender equality to women's economic outcomes. For example, removing barriers that restrict the ability of women to move freely, sign contracts, work outside the home, or manage assets has been associated with a more abundant female labor supply.<sup>191</sup> In addition, fewer legal barriers are associated with access to better jobs for women, such as those requiring higher skill levels, offering higher wages, or presenting an opportunity to manage others.<sup>192</sup>

**It is well established that the Middle East and North Africa (MENA) region has the lowest female labor force participation rates in the world, Iraq is no exception.** According to the most recent International Labour Organization estimates, on average 21 percent of women aged 15–64 in the region are active in the labor market, significantly below the next region, Latin America and the Caribbean, where 57 percent of women are active. Female labor force participation rates in Iraq is among the lowest in the MENA region (at 13.0), and thus Iraq is among the countries with the lowest participation rates in the world. Given that men's participation rates are similar to other countries in the world for their level of development, the gender gaps in labor force participation in the Mashreq countries are among the highest in the world.

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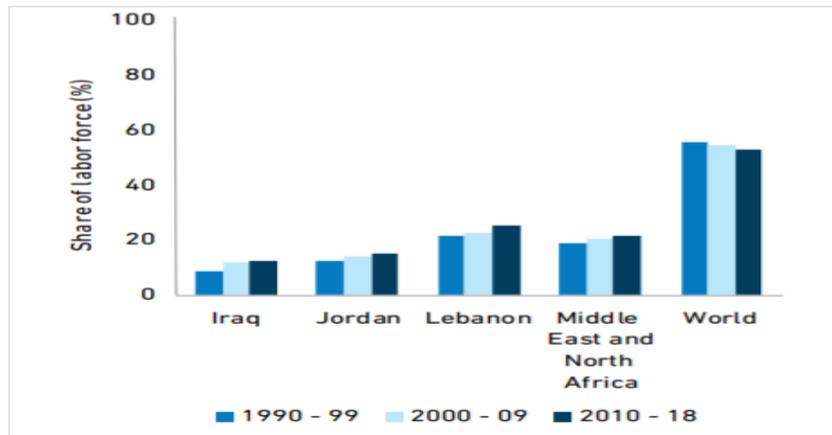
<sup>189</sup> See "Effective Insolvency Systems. Issues Note on Insolvency Representatives", World Bank, 2010.

<sup>190</sup> UNCITRAL *Legislative Guide on Insolvency Law*, pp. 177-8.

<sup>191</sup> Htun, Mala, Francesca R. Jensenius, and Jami Nelson-Nuñez. 2019. "Gender-Discriminatory Laws and Women's Economic Agency." *Social Politics: International Studies in Gender, State and Society* 26 (1). Although many studies are based on correlations, Field et al. (2016) provide experimental evidence that depositing wages in a woman's own bank account (as opposed to that of the male head of household) increases her labor supply, thereby illustrating that financial autonomy can exert a causal impact on female labor force participation rates.

<sup>192</sup> Zabalza, Antoni, and Zafiris Tzannatos. 1985. "The Effect of Britain's Anti-Discriminatory Legislation on Relative Pay and Employment." *Economic Journal* 95 (379): 679–99.

**Figure 11. Female labor force participation in Iraq and other countries**



Source: World Development Indicator ILO modeled estimates

**As in other countries of the region, unemployment among women is about twice as high as that of men, and less than a quarter of women are employed.** The result of the low female participation and relatively high unemployment rates is that only 10 to 20 percent of all adult women are engaged in some economic activity. Working women seem to be restricted to certain sectors and earn less than men for comparable jobs. As in other countries in the region, when women are employed, they tend to work in specific “feminized” industries and occupations in relative isolation from men. In Iraq, 24 percent of employed women work in agriculture, compared to 18 percent of men, and most have low levels of education. By far the most common type of work arrangement among women who are working is through wage employment, partially reflecting a more educated pull of female workers relative to men. In Iraq, slightly over 60 percent of working women receive a salary or wage (10 percentage points below the share for men), 11 percent contribute to the family business, and only 25 percent are self-employed. This composition of employment seems closer to the one observed in upper-middle-income countries, despite Iraq’s status as a lower-middle-income country. In Iraq, most wage-earning women work in the public sector.

**The low level of entrepreneurship among women observed in the Mashreq is reflected (or affected) by women’s limited access to assets.** The relatively high participation of Iraqi women in own-account activities is directly associated with own-farm activities. Indeed, half of women with less than primary education are listed as own-account workers, and the large majority of those are engaged in agricultural activities. Still, their access to assets is low. Only one in five women in Iraq has a bank account at a financial institution. In addition, given the inheritance rights in Iraq, women’s access to land titles is often restricted.

**In Iraq, participation in the labor market is low irrespective of family situation, with rates never higher than 25 percent.** Unmarried women without children, however, are more likely to participate than their married counterparts (22 percent compared to 14 percent). Indeed, the latter group presents the lowest participation rate among groups all considered. Although differences are small, women with older children experience higher participation than those with young ones. After the youngest child finishes compulsory education, participation reaches the same level as for women without children. Disaggregating this pattern by urban and rural areas reveals some interesting distinctions. Differences in

participation rates remain small across these life events, but they increase in rural areas after children are four years old. By the time their children exit compulsory education, women have participation rates that are 7 percentage points higher than when they were unmarried. The opposite is true among urban Iraqis. Unmarried urban women have the highest participation rate, which falls once they marry and have young children. Although this rate increases after children reach the aged of four, these women's participation, even after their children are out of compulsory education, remains 5 percentage points lower than that of their unmarried counterparts

**Countries' legal frameworks, as part of formal institutions, shape women's engagement in paid work by prohibiting (or not) discriminatory practices and by promoting (or not) the balancing of family and work.** Laws and regulations can either promote, protect, or prohibit the economic participation of women and ensure their right to work in similar conditions with men and to make an equal contribution to the economy. Beyond instrumental value (on increasing participation in the labor market), woman's right to work is important in itself for equity considerations, including the right to equal pay for equal work; the right to social security, paid leave, and maternity leave; and the right to bank loans, debts, and other forms of financial credit.

***Women, Business and the Law 2020* tracks how the law affects women at various stages in their lives, from the basics of transportation to the challenges of starting a job and getting a pension.** Legal rights for women are both the right thing to do and good from an economic perspective. Research shows clearly that reforms and policies that empower women boost economic growth. When women can move more freely, work outside the home and manage assets, they're more likely to join the workforce and strengthen the economy. To demonstrate where laws facilitate or hinder women's economic participation, *Women, Business and the Law 2020* presents an index covering 190 economies and structured around the life cycle of a working woman. To ensure comparability, the woman in question is assumed to reside in the main business city of her economy and to be employed in the formal sector. Eight indicators constructed around women's interactions with the law as they begin, progress through, and end their careers are used to align different areas of the law with the economic decisions women make at various stages of their lives. The indicators were chosen based on statistically significant associations with outcomes related to women's economic empowerment, including women's labor force participation rates.

**Policy makers interested in encouraging women to work can look at their economy's scores for each indicator as a starting point for reform.** This methodological approach builds on the experience of the World Bank's *Doing Business* project, which develops objective indicators of impediments to entrepreneurship and employment, by viewing such constraints through a gender lens. The *Women, Business and the Law* data set is constructed using laws and regulations that are currently in force. Unless they are codified, religious and customary laws are not considered. Because the indicators serve as a basis for legal equality of opportunity, implementation of laws is also not measured. In total, 35 questions are scored across the eight indicators. Overall scores are then calculated by taking the average of each indicator, with 100 representing the highest possible score. The resulting data set allows the index to function as an easily replicable way to benchmark the regulatory environment for women as entrepreneurs and employees.

**Based on this approach, Iraq scores 45 out of 100. The overall score for Iraq is lower than the regional average observed across the Middle East & North Africa (49.6).**

Figure 12. Iraq – Score for Women, Business and the Law 2020



Source: World Bank Group Women, Business and the Law 2020

Table 21. Iraq – Data Summary

INDICATOR	QUESTION	ANSWER	LEGAL BASIS
Mobility	Can a woman choose where to live in the same way as a man?	No	Personal Status Law No. 188 of 1959, Art. 23
	Can a woman travel outside her home in the same way as a man?	No	Personal Status Law No. 188 of 1959, Art. 25(1)
	Can a woman apply for a passport in the same way as a man?	Yes	Passport Law No. 32 of 2015, Arts. 1(10) and 5; Passport application form
	Can a woman travel outside the country in the same way as a man?	No	Personal Status Law No. 188 of 1959, Art. 25(1)
Workplace	Can a woman get a job in the same way as a man?	Yes	No restrictions could be located
	Does the law prohibit discrimination in employment based on gender?	Yes	Labor Law, Arts. 8-11
	Is there legislation on sexual harassment in employment?	Yes	Labor Law, Arts. 10-11
	Are there criminal penalties or civil remedies for sexual harassment in employment?	Yes	<i>Criminal:</i> Labor Law, Arts. 10-11 <i>Civil:</i> No applicable provisions could be located
Pay	Does the law mandate equal remuneration for work of equal value?	Yes	Labour Law No. 37/2015, Sec. 1-14 and 53-5
	Can women work the same night hours as men?	No	Labor Law, Art. 86
	Can women work in jobs dangerous in the same way as men?	No	(See website for details by job)
	Are women able to work in the same industries as men?	Yes	(See website for details by industry)
Marriage	Is there no legal provision that requires a married woman to obey her husband?	No	Personal Status Law No. 188 of 1959, Art. 33
	Can a woman be head of household in the same way as a man?	No	National ID Law No. 3 of 2016, Art. 1(16)
	Is there legislation specifically addressing domestic violence?	No	No applicable provisions could be located
	Can a woman obtain a judgment of divorce in the same way as a man?	No	Personal Status Law, Art. 37
Parenthood	Does a woman have the same rights to remarry as a man?	No	Personal Status Law, Arts. 47 and 48
	Is paid leave of at least 14 weeks available to mothers?	Yes	Labor Law, Art. 87
	Does the government pay 100% of maternity leave benefits?	No	Labor Law, Art. 87
	Is there paid paternity leave?	No	No applicable provisions could be located
Entrepreneurship	Is there paid parental leave?	No	No applicable provisions could be located
	Is dismissal of pregnant workers prohibited?	No	No applicable provisions could be located
	Does the law prohibit discrimination in access to credit based on gender?	No	No applicable provisions could be located
	Can a woman sign a contract in the same way as a man?	Yes	No restrictions could be located
Assets	Can a woman register a business in the same way as a man?	Yes	No restrictions could be located
	Can a woman open a bank account in the same way as a man?	Yes	No restrictions could be located
	Do men and women have equal ownership rights to immovable property?	Yes	Civil Law of 1951, Arts. 93-106
	Do sons and daughters have equal rights to inherit assets from their parents?	No	Personal Status Law No. 188 of 1959, Arts. 89(1) and 90
	Do female and male surviving spouses have equal rights to inherit assets?	No	Personal Status Law No. 188 of 1959, Arts. 90 and 91(1)
Pension	Does the law grant spouses equal administrative authority over assets during marriage?	Yes	Personal Status Law No. 188 of 1959, Art. 1(2)
	Does the law provide for the valuation of nonmonetary contributions?	No	No applicable provisions could be located
Pension	Are the ages at which men and women can retire with full pension benefits equal?	No	Women: Law on Retirement and Social Security No. 39 of 1971, Art. 65 Men: Law on Retirement and Social Security No. 39 of 1971, Art. 65
	Are the ages at which men and women can retire with partial pension benefits equal?	Yes	Women: No applicable provisions could be located Men: No applicable provisions could be located

Source: World Bank Group Women, Business and the Law 2020

## Relative Strengths

When it comes to laws affecting women’s decisions to work, Iraq gets a perfect score.

## Areas for Improvement

However, when it comes to constraints on freedom of movement, laws affecting women's pay, constraints related to marriage, laws affecting women's work after having children, constraints on women's starting and running a business, gender differences in property and inheritance, and laws affecting the size of a women's pension, Iraq could consider reforms to improve legal equality for women.

**The governments of Iraq has set ambitious targets for increasing female labor participation, which, if achieved and sustained over the longer term, will have substantial potential impacts on economic growth.** From 2000 to 2017, the annual economic growth rate in Iraq was 1.4 percent; increases in the value added by female workers contributed 0.3 percentage points of this. Achieving these targets will not be easy, given the many constraints on economic participation for women at different life stages and from different backgrounds. Table 22 provides an overview of labor laws and regulations for Iraq, Jordan, and Lebanon that matter for women’s employment and pay. Some countries, such as Jordan, are currently in the process of promoting legal changes to enable women’s participation in economic activities. These changes include, for instance, legislation to provide greater flexibility for the provision of childcare in the workplace, to remove restrictions on types of jobs and hours for women, and to address gender wage gap.

**Table 22. Legislation related to employment and payment conditions in selected Mashreq countries**

Legislation	Lebanon	Jordan	Iraq
<b>Workplace</b>			
Women can legally get a job or pursue a trade or profession in the same way as a man.	Yes	No	Yes
Law mandates non-discrimination in employment based on gender.	Yes	No	Yes
There is legislation on sexual harassment in the workplace.	No	No	Yes
There are criminal penalties or civil remedies for sexual harassment in employment.	No	No	Yes
<b>Pay</b>			
Law mandates equal remuneration for females and males for work of equal value.	No	Yes	Yes
Women can work the same night hours as men.	Yes	Yes	No
Women can work in jobs deemed dangerous in the same way as men.	Yes	Yes	No
Women can work in the same industries as men.	No	No	Yes

Source: World Bank Women Business and the Law 2020

**At present, all three countries restrict in some way the types of jobs women can participate in.** In Lebanon and Iraq women can legally get a job or pursue a profession in the same way as a man. Jordanian women are not allowed to work the same night hours as men (although they can in Lebanon and Iraq), and Jordanian and Lebanese women cannot work in the same industries as men (although they can in Iraq). Women in Jordan and Lebanon (but not Iraq) can work in jobs deemed dangerous just as men can.

With regard to legal protections for women at work, although Jordan and Lebanon (but not Iraq) have legislation on sexual harassment in the workplace, they do not foresee penalties or civil remedies for such harassment. In both Iraq and Jordan, the law prohibits discrimination in employment based on gender. In Jordan and Iraq, the law mandates equal remuneration for work of equal value.

**Despite the provisions on paper, Mashreq women’s rights to economic opportunities may be limited because of an absence of enforcement and monitoring of these laws.** Enforcement and compliance may vary—and such variation (or deviation from de jure law) will determine the extent to which legal frameworks will affect (or not) women’s economic opportunities and outcomes. The limited availability of data on the de jure–de facto differences is an area complicates the development of concrete action. In addition, some laws have vague determinations or interpretations that allow a biased implementation in favor of men, and other laws are habitually contradicted by the social code that is usually practiced putting them in dysfunction. Importantly, the applicability of these laws is restricted to the public sector, with little to no enforcement in the private sector or in the informal part of the economy. Because these laws do not apply to the informal sector—which constitutes a vast part of the labor market in the three Mashreq countries—they leave a significant number of women unprotected.

**Women in Iraq have less access and face additional barriers to key productive assets, limiting their ability to participate equally in economic opportunities.** Such significant disparities in access to inputs, including access to land, credit, and asset ownership, can lead to productivity gaps for women. Legally, women and men benefit from the same ownership rights to immovable property and both women and men have equal administrative authority over assets during. Other restrictions, however, are in place with regard to women’s management of assets.

### **Iraq’s performance on the Women, Business and the Law indicators over time**

**Women, Business and the Law has not recorded any positive reform in Iraq on this are during the last years.** However, the governments of Iraq has set ambitious targets for increasing female labor participation. In order for women’s participation to make a more significant contribution, the targeted increase not only need to be met but also need to be sustained over the long term. Holding historical trends in employment and productivity constant, increasing female participation by the targeted five points over five years would increase overall economic growth, but only by 0.5 points in Iraq. Sustaining this one point per year increase for 18 years, however, would increase annual economic growth by 1.6 percentage points in Iraq.

### **Medium-term reform recommendations**

**1. Consider reforms to improve legal equality for women based on the *Woman, Business and the Law* indicators.** In particular when it comes to constraints on freedom of movement, laws affecting women’s pay, constraints related to marriage, laws affecting women’s work after having children, constraints on women’s starting and running a business, gender differences in property and inheritance, and laws affecting the size of a women’s pension. In particular:

- **Modify laws and regulations affecting women’s pay.** Allow women access to employment in all jobs like men

- **Modify affecting women’s work after having children.** Amend legislation to shift responsibility for paying maternity leave benefits to the government. Introduce legislation or amendments providing for paid paternity and parental leave. Prohibit dismissal of pregnant workers.
- **Eliminate constraints to starting a and running businesses.** Introduce legislation or amendment prohibiting gender-based discrimination by creditors in access to credit.
- **Modify laws affecting women’s pensions.** Equalize age at which men and women can retire with full pension benefits. Equalize mandatory retirement age for men and women.

### Long-term reform recommendations

**2. Close the gap between the law as written and the law as observed.** A gap between de jure and de facto law renders meaningless any strong legal framework for female participation. The legal framework is so important to establishing gender equality and enabling female labor force participation. Changes in the legal framework to promote equal rights to employment, access to finance and assets, and freedom from discrimination at the workplace and sexual harassment in public places mean nothing if not accompanied by public awareness or compliance and enforcement.

Issues on closing the gap between the law and how it is enforced can be due to three factors: (i) legislation, (ii) enforcement, and (iii) women’s lack of knowledge, ability, or options to seek justice. The first problem is that the legislation itself can be too vague. Many laws do not include clear definitions, particularly of key behaviors that are likely to give rise to conflict. Moreover, legislation may not specify punishments clearly or may include punishments that are insufficient to discourage noncompliance. Fines may not be a sufficient deterrent for many behaviors. A second problem is enforcement. Is there a body to enforce the laws and regulations, and if there is, is it timely and effective? A third problem is that women do not pursue legitimate grievances through the legal system, perhaps because less educated or rural women may lack legal awareness. First, deep-rooted social norms about gender roles may mean that women do not even recognize certain behaviors as discrimination or harassment. Second, if they do understand them as wrong, they may not know the behaviors are illegal. Third, even if they know the behaviors are illegal, women may not know what recourse they have. Even if a woman has full awareness of her legal rights, the high cost of taking action—and the real or perceived limited chance of success—may deter her from doing so. Thus, as with other constraints on female participation, this one also affects different women differently, being more of a constraint for less educated and poor women than those who are well educated and more well-off.

In this context, specific recommendations include:

- Strengthening the laws and regulations, as well as enhancing legal supervision. This could mean establishing compliance processes and mechanisms in relevant government agencies. All legal reforms proposed above will require that relevant government agencies develop processes and mechanisms to ensure compliance. These include, among others, improving labor inspection

processes, mechanisms to deal with complaints on harassment and processes to address wage discrimination

- Measure the de jure–de facto gap, tracking public awareness and measure monitoring compliance and enforcement. This can be done for example through regular surveys that assess awareness of laws and the rights and obligations under them. Monitoring can also be assessed by surveys, but perhaps also by tracking and analysis of judicial or arbitration outcomes.

### 3.12 Regulatory Governance

**Regulation of private behavior has become a fundamental tool of government in managing more complex and diverse societies and for allowing competing interests to be balanced.** Regulation has rapidly expanded as demands on governments have increased, and as budget constraints shifted government action to off-budget expenditures. Yet most governments experience frequent regulatory failures that undermine the capacity to achieve policies important to citizens and consumers, and that also increase the costs and risks of commercial activities. Failures are due to persistent and common patterns of over-regulation, under-regulation, poorly designed regulation and implementation, and weak institutional capacities.

**The economic impacts of regulatory systems are well documented. While it is generally recognized that regulatory systems can generate a wide range of benefits and are a vital component of modern societies, they also impose costs.** A range of estimates of the cost of regulation places the annual direct compliance costs at several percentage points of GDP, not including efficiency losses and dynamic effects. Reducing direct and indirect regulatory compliance costs across a broad front, while achieving or enhancing the benefits of regulation, can significantly boost performance at microeconomic and, depending on scale, macroeconomic levels.

**A regulatory governance system operates within complex policy processes driven by a wide range of incentives, mandates, capacities, and influences, and its impacts on economic behavior is usually indirect.** However, there is growing evidence that good regulatory practices, even if crudely measured, are positively linked to microeconomic performance at the level of the firm. Successful application of regulatory tools and instruments that ensure efficient, effective and transparent regulation will also create greater regulatory quality and predictability, which will eventually impact business investment decisions.

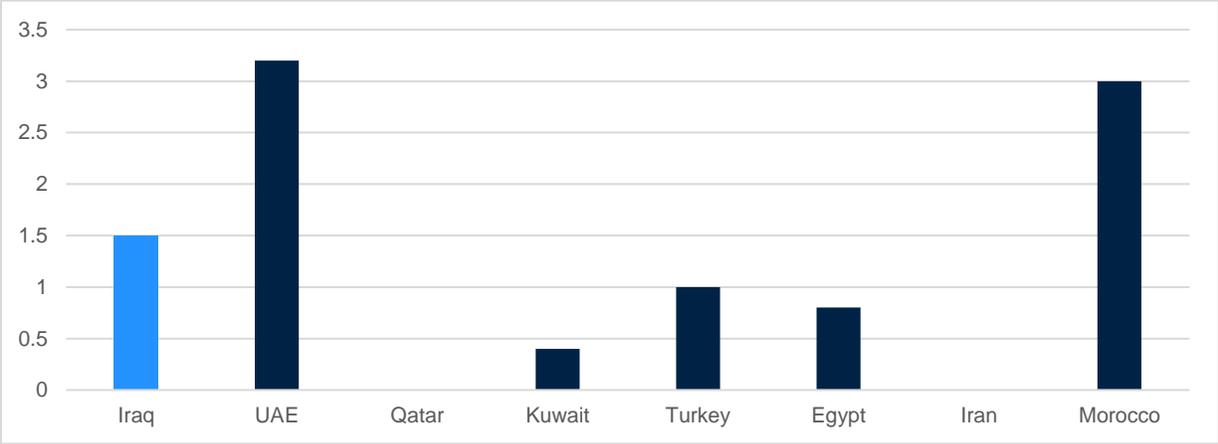
**The importance of the regulatory governance agenda to developing countries is sometimes questioned, particularly when building roads and hospitals seem more urgent.** The administrative requirements of regulatory governance reforms can seem to pose unacceptably high costs, or require preconditions not present, and the political/institutional environment is sometimes said to require other approaches than those offered by good regulatory governance. While some concerns about the difficulty of the agenda are valid and are still inadequately addressed, the potential benefits of regulatory governance are higher in developing countries than in developed countries. Governments of developing countries more often regulate against competitive and well-functioning markets, and they implement regulations more poorly. Hence, the benefits of regulation are lower, and the regulatory costs are higher. The economic gains of targeted regulatory governance reforms are likely to be greater where inefficiencies and regulatory costs

are higher. The social gains of better regulation in promoting the quality of development are also likely to be very high.

**The World Bank Global Indicators of Regulatory Governance (GIRG) explore how policymakers interact with stakeholders when shaping regulations affecting business communities.** The indicators not only provide information about legal frameworks that allow interested parties to engage in rulemaking processes, but also captures practices not required by law. The main objective of the indicators is to measure inclusiveness of regulatory rulemaking processes as well as promote good regulatory practices. The main areas covered by GIRG data include notice and comment practices in the context of new regulations, implementation of impact assessment and regulatory transparency. The data is collected through a questionnaire where questions carefully chart a logical pathway that forms the basic structure required for stakeholder interaction with regulatory authorities. As of this year, the data also provide a breakdown of regulations that are applicable to either primary or secondary laws. In addition, most regulatory practices are classified based on whether they are implemented throughout the government or only by some agencies. The indicators do not rank countries but published a composite *Global Indicators of Regulatory Governance* score. The score ranges from 0 (worst performance) to 5 (best performance).

**The quality of the regulatory governance in Iraq is hindering private sector development.** An important aspect of an enabling business environment considers the quality of the standards and the efficiency with which the legal regime is implemented. Poor policy design and implementation represent an unnecessary source of uncertainty and administrative burden for business and can foster corruption and informality. Iraq ranks extremely low in the World Bank GIRG which covers transparency rule making, public consultation in rulemaking, impact assessment, and accessing laws and regulations (Figure 14). Table 23 below summarizes the key aspects of each of these indicators.

**Figure 14. Global indicators of Regulatory Governance Index 2018**



Source: World Bank GIRG 2018

**Table 23. Summary of Global Indicators of Regulatory Governance for Iraq 2018**

 <b>Transparency of Rulemaking</b>	<p>Regulatory plans –that is, a public list of anticipated regulatory changes or proposals intended to be adopted/implemented within a specified time frame are not available to the general public.</p> <p>Ministries and regulatory agencies do not have the legal obligation to publish the text of proposed regulations before their enactment.</p> <p>There is no obligation for regulators to consider alternatives to proposed regulation.</p>
 <b>Public Consultation in Rulemaking</b>	<p>Ministries or regulatory agencies do not have the obligation to solicit comments on proposed (not yet adopted) regulations from the general public.</p> <p>The rulemaking body is not required by law to solicit these comments on proposed regulations.</p> <p>Ministries and regulatory agencies do not report on the results of the consultation on proposed regulation and it is not required by law.</p>
 <b>Impact Assessment</b>	<p>Ministries or regulatory agencies do not conduct an impact assessment of proposed (not yet adopted) regulation.</p> <p>There are no criteria used for determining which proposed regulations are subjected to an impact assessment.</p> <p>There is no specialized government body tasked with reviewing and monitoring regulatory impact assessments conducted by other individual agencies or government bodies.</p>
 <b>Accessing Laws and Regulations</b>	<p>Laws that are currently in effect are available in a single space updated regularly.</p>
 <b>Challenging Regulations</b>	<p>Affected parties can request reconsideration or appeal adopted regulations to the relevant administrative agency.</p> <p>Judicial review is the option typically available to affected parties when appealing against adverse regulatory decisions.</p> <p>There is no existing requirement that regulations be periodically reviewed to see whether they are still needed or should be revised.</p>

Source: World Bank GIRG 2018

### Medium-term reform recommendations

**1. Establish a participatory system for the meaningful and effective participation of the private sector in the legislative proposal-making and rule-making process through initial public comments periods.** No single law governs the legislative proposal-making process in Iraq, and the existing process does not include the private sector’s participation in the related policy development, deliberations, drafting, and commenting phases; consequently, the adopted legislation often requires multiple amendments since it is inconsistent with the original legitimate interests of stakeholders due to the lack of an initial rule-making public comments period.

**2. Amend the Official Gazette Publication Law No. 78 of 1977 to require the publication of all Iraqi legislation and Iraqi government decisions related to business environment in the Official Gazette of Iraq, and mandate that all legislation must include an adequate self-justification section.** Currently, Iraqi legislation lacks adequate explanations of the justification for their adoption; moreover, all official

decisions that impact the private sector should be timely published in the Official Gazette of Iraq in their original form without any alteration prior to publication.

**3. Implement the Electronic Signature and Electronic Correspondence Law No. 78 of 2012 to ensure the accuracy, ease, and expeditiousness of government communication and correspondence as between various ministries, departments and agencies.** Official government correspondence assumes specific forms and procedures and is subject to complicated and often inaccessible rules; additionally, official correspondence still must be handled through official government mail, by official hand delivery in certain cases, or by regular mail, and necessitates repeated follow ups and verifications. The application of Law No. 78 would allow for most correspondence to be effectuated via rapid electronic mail between the various ministries, departments and agencies. Law No. 78 has not been applied since its adoption.

## 5. Institutional Coordination for Reforms

**Governments across the world are increasingly turning their attention to the quality of the legal and regulatory environment for firms given the importance of a sound investment climate for economic growth.**<sup>193</sup> However, translating the broad competitiveness strategies – which are generally put forward by the highest levels of the executive branch of government – into concrete reform actions and results requires mobilizing multiple government agencies through strong interagency communication as well as coordination and implementation mechanisms.

**Reform efforts and inter-ministerial cooperation are urgently needed to further improve Iraq’s business and regulatory environment.** The proposed work should be led by a committee “Business Environment Reforms Higher Committee” to study indicators of international reports related to the business environment and proposals of legislative instruments, new policies, and development of new systems aimed at improving the business environment in the country. The Higher Committee should be established by a decision from the Council of Ministers. This committee should be an inter-ministerial body who reports directly to his Excellency the Prime Minister. This committee should be composed by high government officials representing different government entities that plays an essential role in the areas of business environment measure by the Doing Business report.

**The Committee’s mandate should not be limited to studying and analyzing international reports, and proposals of legislative instruments, new policies, and development of new systems aimed at improving the business environment in the country.** The Committee should have the power to convene members of ministries (and other governmental agencies) as well as representatives of the private sector to enhance the business environment. In order to achieve its objectives, the Committee should establish working groups represented by each Doing Business Indicator to discuss and design reform strategies for each topic covered by the Doing Business report. Composed by Committee members, public officials, private professionals and other specialists, these working groups should discuss reform initiatives to be implemented in the near future. Although it might be too early to evaluate how Iraq will be organizing the reform process, these actions should be in line with the practices applied by successful reformers.

**Reformer economies may vary widely in their political systems, the quality of their institutions, income level and administrative structure, yet they all share some common elements which have contributed to initiating and sustaining their reform process:**

✓ **High-level leadership and ownership of the reform agenda.** Countries that took reform efforts seriously and succeeded at achieving significant results are often those that commit to these issues at the highest political level. Oftentimes a clear champion can be identified—e.g. the President, Prime Minister, or a powerful Minister—with strong ownership of the reform agenda. These champions often personally and publicly commit to achieving specific goals and are able to mobilize support from stakeholders inside and outside government to ensure the reform effort move forward. Countries like Rwanda, Russian Federation, and Kazakhstan have strong Presidents who have championed the business environment reform efforts. Other mechanisms may be necessary to mobilize stakeholders in the reform effort. For example, in Peru, despite changes in Government, significant progress has been achieved since 2009 due to the existence of a National Competitiveness agenda. An inter-ministerial institution with private sector

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<sup>193</sup> World Bank. 2004. World Development Report 2005: A Better Investment Climate for Everyone. Washington DC: World Bank.

representation, the National Competitiveness Council regularly consults and reports to the private sector and general public on implementation progress.

✓ **A long-term vision with clear objectives.** Reform programs need to define clear objectives that are related to the long-term strategic vision of the country. Malaysia and Mauritius set goals in their national development plans to become among the world's most competitive economies and achieve the status of a high-income economy by 2020. Colombia wants to become one of the three most competitive countries in Latin America. Successful governments follow a longer-term agenda that aims at increasing the competitiveness of the economy. Adopting a more comprehensive approach increases the chances of success and impact, given that reforms in different areas tend to be complimentary. Many countries like Mauritius, the Russian Federation, Kazakhstan and Peru have targeted specific improvements in the *Doing Business* ranking. Improvements in the ranking can be difficult to predict but having a specific goal can generate momentum and focus efforts around achieving that objective.

✓ **Inclusive reform with an appropriate institutional mechanism.** Regulatory reforms often span a wide range of areas and require the involvement of multiple agencies. Successful reformers establish reform processes that are inclusive—including all relevant public agencies and private sector representatives—and create clear mechanisms to ensure coordination and information flows across all parties involved. Many establish high level oversight committees that work to prioritize the reform agenda and maintain reform momentum. Technical working groups then lead implementation at the agency level. The most successful technical committees have representatives from all key agencies involved in a particular area, as well as knowledgeable members of the private sector. A Ministry or dedicated team is designated to take responsibility and lead the coordination of the overall reform efforts. Many of the governments that succeeded in ambitious reform programs had dedicated reform teams connected to the top of government and in charge of formulating the reform strategy and coordinating its implementation. A study of five countries that have achieved sustained economic progress over the last 30 years also concluded that relying on a small, dedicated team with direct access to the top government was a common feature of their reform strategies. The advantage of these structures is that they are embedded in the policy process, yet at the same time are relieved of daily administrative matters. Therefore, they are in an ideal position to suggest actions to the national leadership and monitor their progress. The approach to create institutional coordination mechanisms varies by country. Countries like Malaysia and the Russian Federation, created new autonomous entities, separated from the government structure. In Latin America, countries like Colombia, Costa Rica and Peru have relied on national competitiveness councils, with public and private participation, to drive the investment climate reform agenda. Other countries, like Burundi, Côte d'Ivoire, and Rwanda created dedicated inter-ministerial committees including relevant ministers, as well as representatives of other government entities focused specifically on the investment climate reform agenda. All the countries above created specific technical working groups, often organized around the areas of business regulation measured by *Doing Business*, but also going beyond those to include topics such as gender issues, human capital development, agribusiness, among others. Oftentimes, the agency in charge of coordinating the reform effort has a mandate to promote investment, support SMEs or improve the business environment. In order to give the needed mandate to the institutional mechanism, governments often pass decrees, circulars or other instruments establishing these mechanisms and giving these structures an official mandate. Terms of Reference (ToR) describing the role and functions of these mechanisms are frequently approved to ensure accountability and commitment to implementation from all involved stakeholders.

✓ **Monitoring of Goals and clear accountability.** Having a reform structure in place does not guarantee success. Effective reformers are able to identify priority areas, set specific measurable goals and actions to achieve them, along with clearly defined deadlines and responsibilities. Many countries, such as Colombia, Mauritius, Rwanda and Peru have developed specific action plans, which are monitored and updated regularly. Progress is monitored during implementation to identify areas of success as well as areas where further effort is needed. Clear accountability mechanisms and oversight at the highest levels of government are common features in countries with successful reform track records. Reform steering committees, like the ones set up in Burundi and Rwanda meet regularly to discuss progress. In other countries, like Korea and Peru, reporting progress to the public provides another dimension of accountability. Ensuring the flow of information across the different levels of the reform structure is critical to ensuring progress is monitored and bottlenecks are addressed. In countries as diverse as Albania, Macedonia FYR, and the Russian Federation, the Minister or agency in charge of coordinating the reform effort reports regularly to the President or Prime Minister.

✓ **Private sector participation and effective communication.** Consultation and collaboration with the private sector is another key aspect in the reform process. Without understanding private sector’s concerns and the barriers that prevent them from starting, operating and growing their businesses, no government can claim to set up a comprehensive reform agenda. Successful governments have established an effective platform that allows regular consultations between the public and private sectors, making the latter an important part of the reform process. In most, if not all, the countries that have successfully reformed and improved the ease of Doing Business, the private sector has participated in the reform process to some degree. This involvement ranges from having private sector membership in Steering committees and working groups, like in Cote d’Ivoire and to a greater extent in Malaysia, to a broader consultative process including businesses, like in the Russian Federation. Finally, strong reformers communicate their success. Communicating reforms effectively to implementing agencies, the business and legal communities, and the general public, ensures that changes are accepted and put in practice consistently.

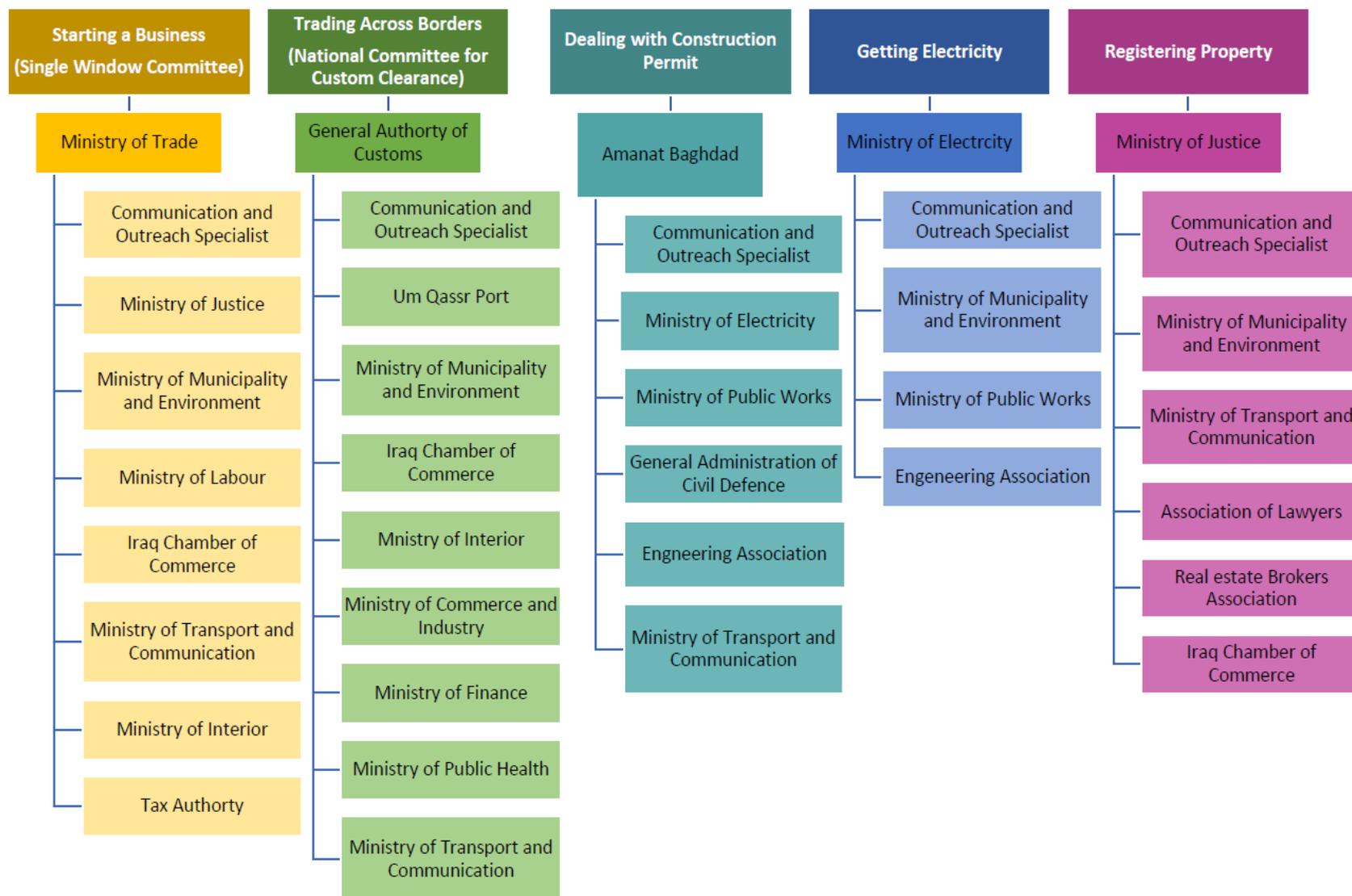
**There is no “one size fits all” for regulatory reform.** However, countries which have undertaken successful reforms share certain features which include strong high-level leadership, a long-term vision, an institutional mechanism that measures and communicates successes, and extensive consultation and engagement with the private sector. The suggested governance structure and key responsibilities for the different components of Doing Business task-force as presented in Table 24.

**Table 24. Suggested governance structure**

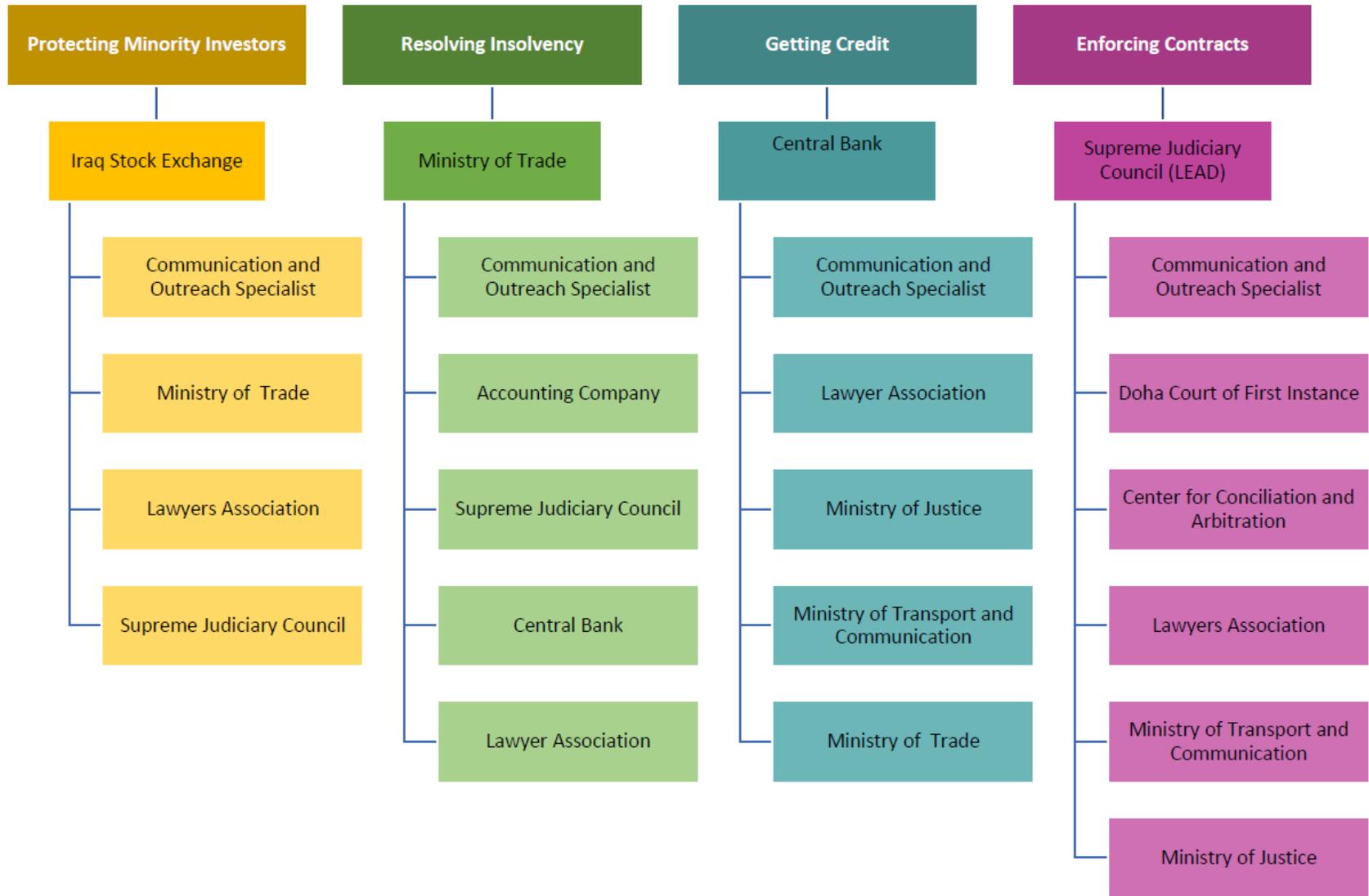
Level	Features	Responsibilities
Business Environment Reforms Higher Committee	<ul style="list-style-type: none"> <li>- High level representation from key ministries and agencies;</li> <li>- Reports directly to the Council of Ministers (every 3 months)</li> <li>- Meets every month with the working groups to follow up on the implementation</li> </ul>	<ul style="list-style-type: none"> <li>- Responsible for the overall reform effort across all areas of business regulation covered by the Doing Business report;</li> <li>- Determines long-term vision and reform priorities (i.e. the “National Reform Agenda”);</li> <li>- Sets Key Performance Indicators (KPIs) relating to the above-mentioned reform agenda.</li> </ul>

	<p>of the reform national agenda to improve the business environment.</p> <ul style="list-style-type: none"> <li>- Should include private sector representation as to ensure that private sector has a saying in defining reform priorities.</li> </ul>	<ul style="list-style-type: none"> <li>- Takes action to remove obstacles to reform implementation (together with the Council of Ministers).</li> </ul>
ERU Team	<ul style="list-style-type: none"> <li>- Technical staff from the Prime Minister Office.</li> <li>- Direct reporting line to Business Environment Reforms Higher Committee.</li> <li>- Liaises and ensures flow of information between the Technical Working Groups and Business Environment Reforms Higher Committee.</li> </ul>	<ul style="list-style-type: none"> <li>- Monitors reform implementation across all areas of business regulation benchmarked by Doing Business;</li> <li>- Ensures that reform action plans and deadlines are abided to by the Technical Working Groups.</li> <li>- Reports on reform progress and escalates implementation issues to Higher Committee.</li> </ul>
Technical working groups	<ul style="list-style-type: none"> <li>- Each working group is led by a specific Ministry (or Agency) and includes all key stakeholders involved in the reform effort in a given area of business regulation (see tables below);</li> <li>- Working groups comprise high-ranking officials from relevant ministries (or agencies) as well as technical personnel, as needed;</li> <li>- Working groups also include private sector representatives (i.e. the end-users of the reforms) to ensure that private sector can give its technical contribution and feedback relating to reform design and implementation;</li> <li>- Frequent, structured meetings (e.g. every week, or every two weeks).</li> </ul>	<p>Each working group:</p> <ul style="list-style-type: none"> <li>- Is responsible for reform implementation relating to a specific area of business regulation (e.g. starting a business, dealing with construction permits, resolving insolvency, etc.);</li> <li>- Develops and implements a detailed action plan for reform in its area of responsibility based on the long-term vision and priorities set by the Higher Committee (“National Reform Agenda”);</li> <li>- Defines specific implementation responsibilities for each ministry (or agency) involved in the working group;</li> <li>- Is responsible for communication campaigns and training events related to each reform.</li> </ul>

## Business Environment Reforms Higher Committee – Time and Motion Indicators



**Business Environment Reforms Higher Committee – Legal Indicators**



## 6. Acknowledgments

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Topic contributions were made by Ms. Maika Chiquier (Private Sector Specialist), Mr. Christian De la Medina Soto (Private Sector Development Consultant), and Ms. Daniela Gomez Altamirano (Private Sector Development Consultant), with overall technical supervision from Mohamed Abdulkader (Senior Private Sector Specialist, Co- Task Team Leader), and Alexandre Laure (Senior Private Sector Specialist, Co- Task Team Leader). Valuable inputs and comments were received from Ms. Sylvia Solf (Senior Private Sector Specialist), Wael Mansour (Senior Economist), and Gharam Alkastalani Dexter (Private Sector Specialist).

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