

## Iraq

### The Investment Law (2006)

*Official translation*

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The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

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Justifying Reasons

Item 1. The text of Articles (One) and (Two) of Item (5) is revoked from law to be replaced with the following:

Item 2. The text of Item (10) is revoked from the law and is replaced by the following:

Item 3. The text of Paragraph (A) of Article (Two) of Item (11) of the law is revoked, to be replaced by the following:

Item 4. Article (Four) of Item (20) of the law is revoked, to be replaced by the following:

Item 5. A new item is added to Chapter Seven (General Rules) of the original law. It is given the number (30), and the subsequent Items are renumbered accordingly, and as follows:

Item 6. A new paragraph is added to the text of Item (32) so that the Item then has two paragraphs (A) and (B). It reads as follows:

Rationale

# The Investment Law

No (13) of 2006 The Investment Law

In the name of the people The Presidency Council Pursuant to what was approved by the Council of Representatives and endorsed by the Presidency Council and based on the provisions of paragraph (First) of Article (61) and paragraph (Third) of Article (73) of the Constitution, the following law is promulgated:

# Chapter I. Definitions

## Article 1

The following terms, wherever mentioned in this Law, shall have the following specific meanings unless the context indicates otherwise:

- a. The Council: The Council of Ministers
- b. National Commission for Investment: The Commission established in accordance with this law responsible for drawing up the national policy and laying out its guidelines and monitoring the implementation of these guidelines and instructions in investment. It shall specialize in investment projects of a federal nature exclusively.
- c. Region's Commission: The investment commission of the region responsible for granting investment licenses in the region.
- d. Governorate Commission: The investment commission of the governorate not organized in a region responsible for investment planning and granting investment licenses in the governorate.
- e. The Commission: The National Commission for Investment or the Region's Commission or the Governorate Commission as the case.
- f. Chairman of the Commission: The Chairman of the National Commission for Investment
- g. The Project: The economic activity subject to the provisions of this law.
- h. The Assets: The tools, apparatuses, equipments, machineries, requirements, gear, transportation means and office furniture specified for exclusive use in the project, and the furniture, furnishings and the requirements of the hotels, tourist cities, hospitals, schools and colleges
- i. The Foreign Investor: Is the investor who does not hold the Iraqi nationality in the case of a real person, and is registered in a foreign country in the case of a juridical or legal person
- j. The Iraqi Investor: Is the investor who holds Iraqi Nationality in case of a real person and is registered in Iraq in the case of a juridical or legal person.
- k. Taxes and Fees: All types of taxes and fees levied in accordance with the applicable laws.
- l. The designed production capacity: Is the production capacity designed within a specific unit of time (hour, unit, day ... etc) in accordance to what is fixed in the documents incoming with the machines of the supplier.
- m. Investment Portfolio: A collection of investments in shares and bonds.
- n. Investment: Is the investment of capital in any economic or service activity or project that results in a legitimate benefit for the country.

## Goals and Means

### Article 2

This law aims at the following:

1. To promote investment and transfer modern technologies in order to contribute to the

process of developing and enhancing Iraq, and expanding and diversifying its production and service base.

2. To encourage the Iraqi and foreign private sector to invest in Iraq by providing the required facilities for establishing investment projects and enhancing its competitive capacities in the local and foreign markets for projects included in this law.
3. To develop human resources based on market demands and provide work opportunities for the Iraqis.
4. To protect the rights and properties of investors.
5. To expand exports and improve the balance of payments and the balance of trade of Iraq.

### **Article 3**

The following means shall be adopted to realize the objectives of this law:

1. To grant projects covered by the provisions of this law the necessary privileges and guarantees for its continuation and development by providing support in a way that enhances the competitive capacities of these projects in the local and foreign markets.
2. To grant projects that obtained an investment license from the Commission, additional facilities and exemptions from taxes and fees in accordance with the stipulations of this law.

## **Chapter II. The national commission for investment and the investment commissions in the regions and governorates**

### **Article 4**

1) A Commission shall be established and called the "The National Commission for Investment". It shall enjoy a juridical personality and shall be represented by the Chairman of the Commission or the person authorized by him. It shall be responsible for drawing up the national policies for investment and drawing up its plans, regulations and guidelines as well as monitoring the implementation of these guidelines and instructions in investment. It shall specialize in strategic investment projects of a federal nature exclusively.

2) The National Commission for Investment" shall be managed by a Board of Directors comprised of nine members who must be competent and specialized, and hold a college degree that suits the specialty of the Commission. They must not have been sentenced for a felony or misdemeanor of moral turpitude, or have declared their bankruptcy

3.a) Upon a request by the Prime Minister, the Council of Ministers shall nominate a Chairman of the Commission at a grade of Minister and a Deputy Chairman at a grade of Deputy- Minister for a period of five years and present them to the Council of Representative for approval.

3.b) The Prime Minister shall appoint four members for a period of five years at a grade of Director General.

3.c) The Prime Minister shall select three members from the private sector for five years after their nomination by Chairman of the Commission and specifying their compensations according to the bylaws.

3.d) At the conclusion of the membership of any member of the Commission referred to in Paragraph (A and B) of this Article in cases not involving dismissal and resignation, the Prime Minister shall assign them to any governmental entity at the same grade. Those mentioned in (A) of this article shall be retired on pension when not assigned to a government position equivalent to their grade.

3.e) The Council of Representatives may directly dismiss the Chairman of the National Commission for Investment and his Deputy, or upon a request by the Prime Minister for compelling reasons.

3.f) The Council of Ministers may dismiss or replace any member of the Commission or replace him with others in case he does not adhere to the standards and regulations of the Commission.

3.g) The Board of Directors of the National Commission for Investment shall meet at the invitation of its Chairman. A bylaw issued by the Commission shall specify the quorum, decision taking, making recommendations and the course of work of the Commission and any other issue.

3.h) The National Commission for Investment shall be connected to the Prime Minister.

3.i) The salary scale and entitlements of the Commission's employees shall be determined by a decision of the Prime Minister based on a proposal from the Chairman of the National Commission for Investment.

4) The Commission's headquarters shall be in Baghdad and it may appoint representatives in the regions and governorates.

5) The National Commission for Investment shall draw up an overall national strategic policy for investment identifying the more important of the sectors and shall prepare a map of investment projects in Iraq in the light of the information it receives from the regions and governorates. It shall also prepare lists of investment opportunities in strategic and federal investment projects with initial information about these projects and making it available to those wishing to invest.

## **Article 5**

1) In the regions and governorates that are not affiliated with a region, Investment Commissions are to be formed, which have corporate personalities, and are represented by their heads or anyone authorized by the head, and are funded from the region or governorate budget, and have the authority to issue Investment Licenses, investment planning, and encouragement, and can open branches in the area where they have jurisdiction in coordination with the National Commission of Investment to ensure that the law is properly enforced.

2.a) The commission is headed by an employee with expertise and specialization, who is to be appointed in the post of a general manager for (5) years as suggested by the government that is not affiliated with a region and with the approval of the Presidential Council. The head of the commission is to be the chairman of the board of directors for the commission.

- 2.b) The head of the commission has a deputy to be appointed in the post of an assistant general manager for (5) five years by the region or the governorate not affiliated with a region, and is to be the deputy chairman of the board of directors.
- 2.c) The commission has a board of directors made up of (7) seven members including the head of the commission and his/her deputy.
- 2.d) The region or the governorate not affiliated with a region is to appoint two of its local officials from related agencies, with an administrative level of no less than a manager, as part time members in the board of directors for (3) three years.
- 2.e) The region or the governorate not affiliated with a region is to appoint, based on the suggestion of the head of the commission, three private sector individuals, with expertise and specialization, and with at least a college degree, and who have committed no felony or disgraceful offence, or declared their bankruptcy, as members in the board of directors for (3) three years, with rewards to be determined according to the internal code of the commission.
- 2.f) It is stipulated in the appointment of the chairman of the board and his deputy and the members of a region or a government not affiliated with a region, that it be done in coordination with the National Commission of Investment, and that they not be members in a Governorate Council or be deputies or assistants of the Governor.
- 2.g) The Governor, his deputies, his assistants, and the Governorate Council chairman and members do not have the right to be chairman, deputy chairman, or members of the Investment Commission in the region or the governorate not affiliated with a region.
- 2.h) The appointment and dismissal of the chairman and members of Investment Commission in the Governorate not affiliated with a region is done in coordination with the National Commission of Investment.
- 3) The regions and governorates not organized in a region shall establish a mechanism of forming the investment commission of the region and the governorate and removing the Commission's members in case he/she does not adhere to the standards and charters of the Commission in a way which is not in conflict with the provisions of this law.
- 4) The Investment Commissions of the regions and governorate shall coordinate their work with the National Commission for Investment, and shall coordinate and consult with local governments regarding investment plans and facilities.
- 5) The regions and governorates commissions shall draw up their investment plan in a way that does not contradict with the federal investment policy and shall prepare list of the investment opportunities in the areas that are subject thereto, with initial data about these projects and offer it to those wishing to invest.
- 6) The region's Commission shall be connected to the Prime Minister of the region and is subject to the scrutiny of the region's Council. The governorate commission shall be connected to the Governor and is subject to the scrutiny of the governorate council in way that does not contradict with the provisions of this law.
- 7) Regions and Governorates Commissions board of directors shall convene upon an invitation from their chairman. The quorum of convening and adopting resolutions and recommendations shall be determined by absolute majority. The conduct of work shall be organized by by-laws issued by the Commission.

## **Article 6**

In addition to ordinary correspondence, the Commission may adopt electronic mail with the official entities connected with the work and activity of the Commission through local networks or the Internet according to guidelines set by the Commission.

#### **Article 7**

- a) The Commission shall accept investment license requests for projects whose capital is not less than the minimum amount determined by the Council of Ministers or the Council of Ministers of region as the case, by a regulation issued based on a proposal by the Commission.
- b) The Commission must obtain the approval of the Council of Ministers before granting the license if the value of the investment project is more than two hundred and fifty million dollars.
- c) The Commission shall make its final decision concerning the requests of investment license within a period not exceeding (45) forty five days from the date of filing a request.
- d) The decisions of the Commission regarding the approved investments projects shall be obligatory for the purposes of this law.

#### **Article 8**

The Commission shall have an independent annual budget whose revenues shall be made up of its allocated amounts in the State General Budget.

#### **Article 9**

The Commission shall promote investment by working on the following:

1. Building confidence in the investment environment, identifying investment opportunities, and promoting and stimulating investment in them.
2. Simplifying the procedures for registration, issuing of investment projects licenses, and following up on existing projects and giving them priority in processing with the official entities. Completing the procedures of answering investor requests and obtaining the required approvals for the investor and the project.
3. Establishing one window at the National Commission for Investment and the Regions and Governorates Commissions, which includes authorized representatives from the ministries, and members nominated by the Councils of the regions and governorates as the case and the concerned authorities to undertake issuing licenses and obtain the approvals of other authorities in accordance with the law.
4. Providing advice, information, and data to investors and issuing special manuals in this regard.
5. Setting forth and implementing programs to promote investment in different areas of Iraq in order to attract investors.
6. Facilitating the allocation of the needed lands and renting them out for establishing projects for a sum to be determined by the Commission in coordination with the concerned authorities.
7. Establishing secure and free investment areas with the agreement of the Council of Ministers.
8. Encouraging Iraqi investors (residing in Iraq) through providing them with easy loans and financial facilities in coordination with the Ministry of Finance and with the assistance of Banking Institutions, provided that the investor obtaining the loan shall

- employ a number of unemployed Iraqis proportional with the volume of the loan.
9. Any other tasks related to its work and assigned by the Council of Ministers.

## **Chapter III. Privileges and guarantees**

### **Article 10**

- 1) The Iraqi or foreign investor enjoy the same privileges, facilities, and guarantees, and submit to the obligations stated in this law.
2. a) The Iraqi or foreign Investor have the right to own lands and properties which belong to the government, for a revenue to be calculated based on a special system, and have the right to own lands and properties belonging to mixed and private sectors for the exclusive purpose of executing housing projects.
2. b) A mark to prevent discretion is to be placed on the property deed until the foreign investor completes the execution of his obligations, with a confirmation from the Investment Commission that issued the license.
- 2.c) The Iraqi or foreign investor commits to abide by the purpose for which the land or property ownership was given, and not to trade in it.
2. d) If the Iraqi or foreign investor who was given ownership of a land or property as per this law, failed to fulfill their obligations in the period specified in the agreement made with the Investment Commission who issued the license, then the Real Estate Registration Administration, based on a request from said commission, would revoke the registration and return the land or property to its former owner in return for paying back the sale price.
- 2.e) The Iraqi or foreign investor commits to make residential units within a period specified in the agreement, and to sell or lease them to citizens as per the directives issued for that purpose. The Iraqi or foreign investor can handle the rest of the residential project for as long as the license is valid as per the agreement terms made with the investor.
3. a) The Iraqi or foreign investor can lease lands and properties from the Government, private, or mixed sectors to establish investment projects on them for a period that does not exceed the period of the license, which does not exceed (50) fifty years that can be renewed after considering the nature of the project and its economic feasibility.
3. b) The investment commission which issues the license can make an agreement with the Iraqi or foreign investor to return the project to the government, the region, or the governorate not affiliated with a region after the expiry of the license period and with the terms agreed upon in the agreement signed with the investor.
- 3.c) The Iraqi or foreign investor can transfer the ownership of the investment project in whole or in part during the period of the license to any other Iraqi or foreign investor, provided that the new investor continues the work of the project in the same specialization or in another specialization after securing the approval of the commission which granted the license. The new investor replaces the old one in terms of rights and obligations stipulated by this law and the terms of the agreement signed with the said investor. In case the Iraqi or foreign investor transfers the ownership of the project during the period in which they have privileges, facilities, and guarantees granted by the agreement, then the new investor continues to enjoy them until the end of that period.



3.d) The commission which granted the license can make an agreement with the Iraqi or foreign investor to own the investment project as land and building, or just as building, depending on whether the project was a housing one or not respectively and consecutively, after the end of the license period without enjoying the privileges, facilities and guarantees stated in this law.

4.a) The procedures of leasing government properties to Iraqi and foreign investors for establishing investment projects as per this law are excluded from the directives of the Sale and Lease of Government Assets Law No. (32) for the year 1986, or any other law replacing it. The basis of calculating the rent is determined by a system made for this purpose.

4.b) The procedures of selling government properties to Iraqi and foreign investors for establishing housing projects as per this item of the law are excluded from the directives of the Sale and Lease of Government Assets Law No. (32) for the year 1986, or any other law replacing it.

#### **Article 11**

The investor shall enjoy the following benefits:

1) The investor shall have the right to take out the capital he brought into Iraq and its proceeds in accordance with the provisions of this law and pursuant to the instructions of the Central Bank of Iraq in an exchangeable currency after paying all his taxes and debts to the Iraqi Government and all other authorities.

2) The foreign investor shall have the right to:

a. Dealing in Iraq Stock Exchange with shares and bonds that are dealt in it, and acquiring membership of private stock and mixed companies, even when there are properties within the assets of said companies.

b. Form investment portfolios in shares and bonds.

3) Renting or leasing lands needed for the project for the term of the investment project, provided that it does not exceed 50 years renewable with the agreement of the Commission, and provided that the nature of the project and its benefit for the national economy is taken into consideration when determining the period.

4) Insuring the investment project with any foreign or national insurance company it deems suitable.

5) Opening accounts in Iraqi or foreign currency or both at a bank inside or outside Iraq for the licensed project.

#### **Article 12**

This law shall guarantee the following for the investor:

1) Priority in recruitment and employment shall be given to Iraqi workers. The right to employ and use non-Iraqi workers in case it is not possible to employ an Iraqi with the required qualifications and capable of performing the same task in accordance with guidelines issued by the Commission.

2) Granting the foreign investor and non-Iraqis working in the investment projects the right of residency in Iraq and facilitating his/her entry and exit to and from Iraq.

- 3) Non-seizure or nationalization of the investment project covered by the provisions of this law in whole or in part, except for projects on which a final judicial judgment was issued.
- 4) Non-Iraqi technicians and administration employees working in any project shall have the right to transfer their salaries and compensations outside Iraq in accordance with the law after paying their dues and debts to the Iraqi government and all other entities.

#### **Article 13**

Any amendment to this Law shall not have any retroactive affect regarding the guarantees, exemptions, and rights recognized by this Law.

## **Chapter IV. Investor obligations**

#### **Article 14**

The investor shall observe the following:

1. To notify the National Commission for Investment (inserted in handwriting ), the Region or Governorate Commission in writing immediately after the installation and equipping of the fixed assets for the purposes of the project and the date of the beginning of commercial activity.
2. To keep proper records audited by a certified accountant in Iraq in accordance with the law.
3. To provide an economic and technical feasibility study for the project and any information, data or documents required by the Commission or other competent authorities regarding the budget of the project and the progress made in its execution.
4. To keep records of the project's duty-free imported materials in accordance with the provisions of this Law and specifying the depreciation periods of these materials.
5. To protect the safety of the environment and to adhere to the valid quality control systems in Iraq and international regulations accredited in this field, also the laws related to security, health, public order and values of the Iraqi society.
6. To adhere to the valid Iraqi laws regarding salaries, vacations, work hours and conditions and others as a minimum.
7. Commitment to the correspondence of the work progress schedule submitted by the investor with reality provided that the time difference shall not exceed six months, and that the National Commission for Investment shall set forth punitive conditions in case of exceeding the six-month period and that the Commission shall have the right to withdraw the license.
8. To train and rehabilitate its Iraqi employees as well as raising their efficiency, skill and capabilities. Priority in employment and recruitment shall be given to the Iraqis.

## **Chapter V. Exemptions**

#### **Article 15**

1. The project that has obtained an investment license from the Commission shall enjoy exemption from taxes and fees for a period of (10) ten years as of the date of commencing commercial operations in accordance with the areas of development defined by the Council of Ministers at the suggestion of the National Commission for

Investment based on the degree of economic development and the nature of the investment project.

2. The Council of Ministers shall have the right to propose draft laws to extend or grant exemptions in addition to the exemptions stipulated in paragraph (First) of this Article, or provide incentives, guarantees or other benefits to any project or sector or region and for the years and percentages it deems appropriate in accordance with the nature of the activity, its geographical location and its contribution to manpower employment and its effect on driving the economic development, and for considerations of national interest.
3. The National Commission for Investment has the right to increase the years of tax and fees exemption in a way directly proportional to the increase in the Iraqi Investor share in the project to reach fifteen years if the Iraqi Investor share in the project was more than 50%.

#### **Article 16**

If the project is moved during the granted period of the exemption from a development area to another, the project shall receive, for the purposes of the exemption mentioned in paragraph (First) of Article (15) during the remaining term, the treatment of the projects in the development areas it is moving to, provided that the Commission is informed of such move.

#### **Article 17**

The project that obtains an investment license shall also enjoy the following:

1. Assets imported for the purposes of the investment project shall be exempted from fees, provided that their entry to Iraq is made within (3) three years from the date of granting the investment license.
2. Second: are brought in within three years from the date of notifying the Commission of the expansion or development. Expansion, for the purposes of this law, shall mean adding fixed capital assets aimed at increasing the designed capacity of the project in commodities or services or materials by a percentage exceeding (15%) fifteen percent. Development, for the purposes of this law, shall mean replacing project machines with more developed ones, totally or partially or making a development on the standing devices and equipments of the project by adding new machines and devices or parts thereof with the aim of raising the productive efficiency or improving and developing the quality of the products and services.
3. Spare parts imported for the purposes of the project shall be exempted from fees if the value of these parts does not exceeded (20%) twenty percent of the fixed assets value, provided that they are not be used for any other purpose.
4. Hotels, tourist institutions, hospitals, health institutions, rehabilitation centers and educational and scientific organizations projects shall be granted additional exemptions from duties and taxes on their imports of furniture, furnishings and requisites for renewing and updating purposes at least once every four years, provided that these items are brought into Iraq or used in the project within (3) three years from the date of the approval decision of the Commission on the import lists and their quantities, and provided that these items are not used for purposes other than the imported purposes.

#### **Article 18**

If it is found that the fixed assets exempted, in whole or in part, from taxes or fees were sold in violation of the provisions of this law or were used in anything other than the project or for purposes other than the authorized purposes, the investor must pay the taxes, fees, and fines incurred pursuant to the law.

## **Chapter VI. Procedures for granting investment and project establishment license**

### **Article 19**

- 1) The investor shall obtain the license in addition to obtaining the rest of the licenses for the purpose of enjoying the privileges and exemptions provided by the Commission.
- 2) The Commission shall grant the license for investment or project formation based on a request submitted by the investor according to conditions facilitated and prepared by the Commission. The request submitted by the investor shall include the following:
  - a. Filling a request form prepared by the Commission
  - b. Financial competency from an accredited bank
  - c. Projects performed by the investor inside or outside Iraq
  - d. Details of the project intended to invest in and its economic feasibility.
  - e. A timetable for completing the project.

### **Article 20**

- 1) The Commission must issue the establishing license through establishing one window in the region or the governorate not organized in a region that includes authorized representatives of the ministries and relevant bodies. The Commission shall grant project formation license and obtain approvals from the entities in accordance with the law.
- 2) The Commission must help the investor to obtain licenses by approaching the competent authorities and exploring the opinions of the entities concerning the issuance of the formation license. These entities must issue the decision to reject, approve or request amendment within 15 days from the date of being notified. The failure to reply from the entity from which the opinion is solicited shall be deemed as an approval and in case of a rejection there must be cause for it.
- 3) In case of disagreement between the National Commission for Investment decision and the other relevant entity regarding the granting of the license other than the Region's Commissions, the dispute shall be brought before the Prime Minister for settlement.
- 4.a) When a foundation request is denied, then the applier can request reconsideration from the head of the commission of the Region or governorate not affiliated with a region within (15) fifteen days from the date of notification of the rejection. The head of the addressed commission should make a decision about the request within (7) days from the date the plea was registered in his office.

4.b) The plea submitter can make an objection at the National Commission of Investment within (15) fifteen days from the date the rejection decision was issued. The Commission has to make a decision about the objection within (15) fifteen days from the date it was registered at the office of the head of the National Commission of Investment.

4.c) If the National Commission of Investment refused a foundation request submitted to it, then the requester can ask the Commission to reconsider its decision within (15) fifteen days from the date the requester was notified of the refusal decision. The Commission has to make a decision about the reconsideration plea within (7) seven days from the date it was registered at the office of the commission head. The commission's decision can be objected to at the Council of Ministers within (15) fifteen days from the date of its notification.

## **Chapter VII. General provisions**

### **Article 21**

The project capital subject to the provisions of this law shall be made up of the following:

1. Cash transferred to Iraq through financial banks and companies or any other legal means with the aim of investing it for the purposes of this law.
2. The in-kind assets and incorporeal rights imported to Iraq or purchased from the local markets by the cash transferred into Iraq:
  - a. In-kind assets related to the project.
  - b.. The machinery, tools, equipment, buildings, constructions, transportation means, furniture and offices appliances required for establishing the project.
  - c. The incorporeal rights that include patents, registered trade marks, technical know-how, engineering services, administrative and marketing services and the similar.
3. Profits, proceeds and reserves resulting from the capital invested in Iraq in the project if the capital of such a project was increased or was invested in another project covered by the provisions of this law.

### **Article 22**

The foreign investor shall enjoy additional privileges in accordance with international agreements signed between Iraq and his country or multilateral international agreements which Iraq has joined.

### **Article 23**

If the project ownership is transferred during the granted period of the exemption, it shall continue to enjoy granted exemption, facilities and guarantees until the end of that period, provided that the new investor continue to work on the project in the same specialization or in another, with the approval of the Commission. The new investor must take the place of the former investor in the rights and obligations consequent to the provisions of this law.

### **Article 24**

- 1) The investor, with the approval of the Commission, may sell exempted fixed assets or relinquish it to another investor benefiting from the provisions of this law, provided that he uses them in his project.

- 2) The investor, after informing the Commission, may sell the exempted fixed assets to any person or other project not subject to the provisions of this law after paying the outstanding fees and taxes.
- 3) The investor, with the approval of the committee, may re-export the exempted fixed assets.

#### **Article 25**

In the event two or more companies or enterprises merge, the new company or entity resulting from the merger must set up separate accounts for each project before the merger in order to register and apply exemptions and facilitations stipulated in this law during the remaining period of the exemption.

#### **Article 26**

Any project approved in accordance with the provisions of the previous applicable laws shall continue to benefit from all exemptions granted to it pursuant to that law and until the expiration of the exemption period and under the same terms.

#### **Article 27**

Disputes arising between parties who are subject to the provisions of this law shall be subject to the Iraqi law unless otherwise agreed, contrary to the cases that are subject to the provisions of the Iraqi law exclusively or the jurisdiction of Iraqi courts.

1) Disputes arising from the work contract shall exclusively be subject to the provisions of the Iraqi law and the jurisdiction of Iraqi courts. Non-Iraqi laborer shall be exempted if the work contract stipulated otherwise.

2) If parties to a dispute are non-Iraqis and in disputes not arising from a crime, the opponents may agree on the law to be applied, the competent court or any other agreement to resolve their dispute.

3) If a dispute between the partners or between the owner of the project and others in a project subject to the provisions of this law resulted in the stoppage of work for a period exceeding three months, the Investment Commission may withdraw the license and ask the owners of the project to settle the dispute within a period not to exceed three months. If such period elapsed without settling the dispute between the partners or between the owner of the project and others, the commission may take legal measures to liquidate the project and notify the owner of the project or one of the partners of such action. The liquidation money shall be deposited in one of the banks after paying the dues of the State or any other dues after final judgment of their entitlement is rendered.

4) If one of the parties to a dispute is subject to the provisions of this law, they may, at the time of signing the agreement, agree on a mechanism to resolve disputes including arbitration pursuant to the Iraqi law or any other internationally recognized entity.

5) Disputes arising between the Commission or any governmental entity and any of those subject to the provisions of this law on matters not related to violations of one of the provisions of this law shall be subject to Iraqi law and courts on civil matters. As for commercial disputes, parties may resort to arbitration provided that such an arrangement is stipulated in the contract organizing the relationship between parties.

#### **Article 28**

In case the investor violates any of the provisions of this law, the Commission shall have the right to warn the investor in writing to remove the violation within a specific period. In case the investor does not remove the violation within the specified period, the Commission shall summon the investor or who represents him to state his position and grant him other respite to settle the issue. Upon repeating or not removing the violation, the Commission shall have the right to withdraw the investor's license it issued and order stoppage of work on the project and retain the State's right to deny the investor the granted exemptions and privileges from the date of the violation and allow others to retain their rights to demand compensation for the damage caused by this violation, without breaching any punishments or other compensations stipulated in the applicable laws.

#### **Article 29**

All areas of investments shall be subject to the provisions of this law except:

1. Investment in Oil and Gas extraction and production.
2. Investment in banks and insurance companies sectors.

#### **Article 30**

The Ministry of Finance, and the Ministry of Municipal and Public Works, Baghdad and other governorate municipal administrations, Commissions and other agencies not related to a ministry are committed to provide lands and properties appropriate for establishing investment projects and notifying the National Commission about their numbers, areas, ownerships, classifications and uses. The National Commission assigns them to Iraqi or foreign investors according to a system suggested by the National Commission and with the approval of the Council of Ministers.

#### **Article 31**

The Council of Ministers shall have the right to:

1. Issue regulations to facilitate the implementation of the provisions of this law.
2. Issue bylaws defining the Commission's formations, divisions, tasks, process of its work, its authorities, financial affairs, employee affairs and any others matters.

#### **Article 32**

- a) The directives of this law apply to mixed and private sector working projects by request from their administrations and the approval of the commission without a backward effect.
- b) The public sector projects contracted for rehabilitation or operation with private and mixed sectors can have all the privileges, facilities and guarantees permissible by the law. This also applies to projects that were contracted before this law was passed, provided that the application does not mean exemption from any fees or taxes which were due before this law was passed.

#### **Article 33**

The Provisions of this law shall be applied to the existing and operating projects of the mixed and private sectors which have commenced before the issuance of this law and upon a request from its management and the approval of the Commission with no retroactive effect.

#### **Article 34**

No text shall be valid which contradicts the provisions of this law.

### **Article 35**

The (dissolved) CPA Order No. 39 of 2003 shall be revoked.

### **Article 36**

The Arab Investment Law no (62) of 2002 issued by the dissolved Revolution Command Council shall be annulled.

### **Article 37**

This Law shall enter into force from the date of its publication in the Official Gazette.

## **Justifying Reasons**

For the purpose of driving the process of economic and social development and bringing technical and scientific experience and developing human resources, and for creating work opportunities for the Iraqis by encouraging investments and supporting the process of establishing investment projects in Iraq and their expansion and development at various economic levels and by granting privileges and exemptions for these projects, this law is legislated.

In the name of the people

Presidency Council

Decision No. (2)

Based on what the House of Representatives passed, as per the directives of Article One of Item (61) and Paragraph (A) of Article Five of Item (138) of the constitution,

The Presidential Council has decided in its session held on 04 January 2010 to pass the following into law:

No (2) for the year 2010

First Amendment on Investment Law

No (13) for the year 2006

## **Item 1. The text of Articles (One) and (Two) of Item (5) is revoked from law to be replaced with the following:**

1. In the regions and governorates that are not affiliated with a region, Investment Commissions are to be formed, which have corporate personalities, and are represented by their heads or anyone authorized by the head, and are funded from the region or governorate budget, and have the authority to issue Investment Licenses, investment planning, and encouragement, and can open branches in the area where they have jurisdiction in coordination with the National Commission of Investment to ensure that the law is properly enforced.

2.a. The commission is headed by an employee with expertise and specialization, who is to be appointed in the post of a general manager for (5) years as suggested by the government that is not affiliated with a region and with the approval of the Presidential Council. The head of the commission is to be the chairman of the board of directors for the commission.



- 2.b. The head of the commission has a deputy to be appointed in the post of an assistant general manager for (5) five years by the region or the governorate not affiliated with a region, and is to be the deputy chairman of the board of directors.
- 3.c. The commission has a board of directors made up of (7) seven members including the head of the commission and his/her deputy.
- 3.d. The region or the governorate not affiliated with a region is to appoint two of its local officials from related agencies, with an administrative level of no less than a manager, as part time members in the board of directors for (3) three years.
- 3.e. The region or the governorate not affiliated with a region is to appoint, based on the suggestion of the head of the commission, three private sector individuals, with expertise and specialization, and with at least a college degree, and who have committed no felony or disgraceful offence, or declared their bankruptcy, as members in the board of directors for (3) three years, with rewards to be determined according to the internal code of the commission.
- 3.f. It is stipulated in the appointment of the chairman of the board and his deputy and the members of a region or a government not affiliated with a region, that it be done in coordination with the National Commission of Investment, and that they not be members in a Governorate Council or be deputies or assistants of the Governor.
- 3.g. The Governor, his deputies, his assistants, and the Governorate Council chairman and members do not have the right to be chairman, deputy chairman, or members of the Investment Commission in the region or the governorate not affiliated with a region.
- 3.h. The appointment and dismissal of the chairman and members of Investment Commission in the Governorate not affiliated with a region is done in coordination with the National Commission of Investment.

**Item 2. The text of Item (10) is revoked from the law and is replaced by the following:**

1. The Iraqi or foreign investor enjoy the same privileges, facilities, and guarantees, and submit to the obligations stated in this law.
- 2.a. The Iraqi or foreign Investor have the right to own lands and properties which belong to the government, for a revenue to be calculated based on a special system, and have the right to own lands and properties belonging to mixed and private sectors for the exclusive purpose of executing housing projects.
- 2.b. A mark to prevent discretion is to be placed on the property deed until the foreign investor completes the execution of his obligations, with a confirmation from the Investment Commission that issued the license.
- 2.c. The Iraqi or foreign investor commits to abide by the purpose for which the land or property ownership was given, and not to trade in it.
- 2.d. If the Iraqi or foreign investor who was given ownership of a land or property as per this law, failed to fulfill their obligations in the period specified in the agreement made with the Investment Commission who issued the license, then the Real Estate Registration Administration, based on a request from said commission, would revoke the registration and return the land or property to its former owner in return for paying back the sale price.

2.e. The Iraqi or foreign investor commits to make residential units within a period specified in the agreement, and to sell or lease them to citizens as per the directives issued for that purpose. The Iraqi or foreign investor can handle the rest of the residential project for as long as the license is valid as per the agreement terms made with the investor.

3.a. The Iraqi or foreign investor can lease lands and properties from the Government, private, or mixed sectors to establish investment projects on them for a period that does not exceed the period of the license, which does not exceed (50) fifty years that can be renewed after considering the nature of the project and its economic feasibility.

3.b. The investment commission which issues the license can make an agreement with the Iraqi or foreign investor to return the project to the government, the region, or the governorate not affiliated with a region after the expiry of the license period and with the terms agreed upon in the agreement signed with the investor.

3.c. The Iraqi or foreign investor can transfer the ownership of the investment project in whole or in part during the period of the license to any other Iraqi or foreign investor, provided that the new investor continues the work of the project in the same specialization or in another specialization after securing the approval of the commission which granted the license. The new investor replaces the old one in terms of rights and obligations stipulated by this law and the terms of the agreement signed with the said investor. In case the Iraqi or foreign investor transfers the ownership of the project during the period in which they have privileges, facilities, and guarantees granted by the agreement, then the new investor continues to enjoy them until the end of that period.

3.d. The commission which granted the license can make an agreement with the Iraqi or foreign investor to own the investment project as land and building, or just as building, depending on whether the project was a housing one or not respectively and consecutively, after the end of the license period without enjoying the privileges, facilities and guarantees stated in this law.

4.a. The procedures of leasing government properties to Iraqi and foreign investors for establishing investment projects as per this law are excluded from the directives of the Sale and Lease of Government Assets Law No. (32) for the year 1986, or any other law replacing it. The basis of calculating the rent is determined by a system made for this purpose.

4.b. The procedures of selling government properties to Iraqi and foreign investors for establishing housing projects as per this item of the law are

Assets Law No. (32) for the year 1986, or any other law replacing it.

**Item 3. The text of Paragraph (A) of Article (Two) of Item (11) of the law is revoked, to be replaced by the following:**

A. Dealing in Iraq Stock Exchange with shares and bonds that are dealt in it, and acquiring membership of private stock and mixed companies, even when there are properties within the assets of said companies.

**Item 4. Article (Four) of Item (20) of the law is revoked, to be replaced by the following:**

4.a. When a foundation request is denied, then the applier can request reconsideration from the head of the commission of the Region or governorate not affiliated with a region within (15) fifteen days from the date of notification of the rejection. The head of the addressed commission should make a decision about the request within (7) days from the date the plea was registered in his office.

4.b. The plea submitter can make an objection at the National Commission of Investment within (15) fifteen days from the date the rejection decision was issued. The Commission has to make a decision about the objection within (15) fifteen days from the date it was registered at the office of the head of the National Commission of Investment.

4.c. If the National Commission of Investment refused a foundation request submitted to it, then the requester can ask the Commission to reconsider its decision within (15) fifteen days from the date the requester was notified of the refusal decision. The Commission has to make a decision about the reconsideration plea within (7) seven days from the date it was registered at the office of the commission head. The commission's decision can be objected to at the Council of Ministers within (15) fifteen days from the date of its notification.

**Item 5. A new item is added to Chapter Seven (General Rules) of the original law. It is given the number (30), and the subsequent Items are renumbered accordingly, and as follows:**

The Ministry of Finance, and the Ministry of Municipal and Public Works, Baghdad and other governorate municipal administrations, Commissions and other agencies not related to a ministry are committed to provide lands and properties appropriate for establishing investment projects and notifying the National Commission about their numbers, areas, ownerships, classifications and uses. The National Commission assigns them to Iraqi or foreign investors according to a system suggested by the National Commission and with the approval of the Council of Ministers.

**Item 6. A new paragraph is added to the text of Item (32) so that the Item then has two paragraphs (A) and (B). It reads as follows:**

a. The directives of this law apply to mixed and private sector working projects by request from their administrations and the approval of the commission without a backward effect.

b. The public sector projects contracted for rehabilitation or operation with private and mixed sectors can have all the privileges, facilities and guarantees permissible by the law. This also applies to projects that were contracted before this law was passed, provided that the application does not mean exemption from any fees or taxes which were due before this law was passed.

Tariq Al-Hashimi

Vice President

Adel Abdul Mahdi

Vice President

Jalal Talibani

President

## **Rationale**

In order to facilitate and organize work in the National Commission of Investment, and create a climate that encourages investment in Iraq, especially in the housing sector, and to remove any legal obstacles that might stand in its way, in a manner that positively expedites the economical development and rehabilitation in Iraq, this law was passed.

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