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Iraq: The Private Sector's Take on the Investment Law

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Arab countries have witnessed important economic changes and most have begun serious work on providing an attractive investment climate as a means to comprehensive economic development. In Iraq, the parliament approved a new investment law in October 2006, which was published in the *Official Gazette of Iraq* in January 2007. The law aims to facilitate investment by Iraqi and foreign private investors, for example by protecting their rights and property. The law, however, has not yet been enacted, nor has the investment commission been selected. Consequently, one must wonder whether the law is mere ink on paper, despite the urgency with which it was passed. Moreover, there was no substantial discussion of the law in the private sector, which was marginalized.

With this in mind, the Center for Market Research and Consumer Protection, in cooperation with other private sector organizations, conducted a sample of economic organizations and business associations in Iraq from June through September of 2007 to get a detailed picture of the private sector's views on the law. The study sample included the presidents, vice-presidents, and board members of forty economic organizations and business associations encompassing all of Iraq. The goal was to uncover concerns about the law and to pass them on to executive authorities before it is enacted.

More than three quarters of the business people surveyed supported the law and considered it implementable in its current form. They thought it would be better, however, with some revisions. Among the most important suggestions was to increase the number of private sector representatives in the National Commission for Investment, as well as the regional and provincial commissions, so it would equal, or be larger than, that of public sector representatives. Business people are concerned that the commissions, whether at the national or lower levels, will fall under political influence. In fact, it is believed that one of the reasons for the failure to enact the law so far is that it includes the unpopular sectarian quota system.

Other suggestions for improvement include clarifying and strengthening the respective roles of national, regional, and provincial commissions. In addition, respondents believed that the National Commission must formulate its investment strategies by means of a scientific program that includes

providing a vision, formulating goals, and preparing yearly plans. These strategies should be subject to periodic evaluation, a process that can begin once the mechanisms of the Commission, as well as its relationship to investors and investment projects, are clearly defined,

It is the nature of capital to favor markets in which a single, clear, comprehensive law is applied regarding investment, and where a single authority is responsible for this law. Therefore, stability, clear principles and rules that govern investment operations, and modernizing laws to simplify regulations are considered the main means for providing a suitable investment climate. When there is no comprehensive investment law, and rules governing investment are spread across multiple laws, the result is confusion. A law should stipulate the limits of a foreign investor's involvement in order to prevent foreign investors from controlling and monopolizing the market, as well as accord investors protection from exploitation and corruption. In order to attract the greatest possible number of investors, the period of tax exemption provided to new investments should be lengthened.

Proper application of the current law will also depend upon a culture of good corporate governance, protection of intellectual property rights, and greater knowledge about laws concerning investment, the economy, and financial administration. Training is the surest way to overcome these shortcomings. The government should also study ways to decrease the paperwork required of an investor to obtain the necessary authorizations, and provide mechanisms to allow the Commission to interface with government agencies on the investor's behalf.

Finally, there is an ongoing need for special courts to resolve investment disputes. Such disputes should be resolved by legal means only, as long as Iraqi courts possess the requisite material, human, and intellectual resources to render quick judgments. Disputes with the government should be handled by a committee specialized in investment law and headed by a judge.

Taking these suggestions from business people into account would greatly enhance the effectiveness of the investment law once it is implemented, helping it achieve the goals of improving Iraq's investment climate and strengthening the private sector.

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