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Foreign Direct Investment: A Comparative Analysis between Iraq and the UAE

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Article	Abstract
<p>Keywords:</p> <p>Foreign Investment; Direct Investors; Iraq; Legal Framework; UAE.</p> <p>Article History Received: Mar 22, 2023; Reviewed: Jun 13, 2023; Accepted: Jul 22, 2023; Published: Jul 31, 2023.</p> <p>DOI: 10.28946/slrev.Vol7.Iss2.2773.pp262-286</p>	<p>Foreign direct investment (FDI) refers to an investment into a company or organisation through long-term or overseas expansion acquisition with the hope of forming a long-term relationship. It is a viable business tool utilised in businesses across the globe. However, in Iraq, despite the investment laws and other regulations to boost foreign direct investment, investors still need to be convinced about investing in Iraq due to several factors that might affect their investments. Many countries and some Arab countries have advanced in their FDIs, leaving Iraq behind, one of which is the UAE. Therefore, this research aims to analyse Iraqi's FDI vis-à-vis what is obtainable in the UAE to proffer effective and appropriate recommendations to be implemented to boost the Iraqi FDI for better future investments. To achieve this, the study utilised a theoretical method of review of existing literature and relevant legislations in the two jurisdictions, as well as a comparative analysis to analyse the key areas hindering the effectiveness of the Iraqi FDI compared to what is obtainable in the UAE. It was discovered that besides the dispute resolution mechanism, corruption, poor infrastructure, unskilled labour, political instability and the financial sector, the legal framework is inadequate, incomprehensive, and discouraging to foreign investors. However, these hindrances are not prevalent in the UAE. Hence, the suggestion for Iraq to boost its political stability, social security, improve its business climate and transfer knowledge and practices from the UAE to achieve a robust FDI in Iraq in fulfilment of SDG 17.</p>

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INTRODUCTION

Expanding the value of domestic and international economic investments through Foreign Direct Investment (FDI) is for economic development.¹ FDI refers to investment into a

¹ A. Shameem, 'Foreign Direct Investment and Its Impact on Insurance Sector', *Emperor Journal of Economics and Social Science Research*, 03.05 (2021), 171–79 <<https://doi.org/10.35338/ejessr.2021.3520>>.

company or organisation of another with the hope of forming a long-term relationship. FDI is distinct from foreign portfolio investments, where investors hold foreign assets without active involvement.² Foreign direct investment can be made by acquiring a long-term stake or expanding a company overseas. Despite the investment laws and other regulations to boost foreign direct investment in Iraq, investors continue to face challenges with Iraq's legal framework, bureaucracy, weak financial structure, and corruption.³ On the other hand, United Arab Emirates (UAE) has enhanced its FDI framework and invested heavily in infrastructure. This paper will analyse the Iraqi FDI development to date vis-à-vis that of the UAE and propose lessons that can be learnt for better and more robust FDI in Iraq.

Investment in emerging or mature economies is the most potent and stimulating weapon for economic growth. As a result, one of the main principles that must be applied to attain high economic and social growth is increased spending and efficiency.⁴ Barrier reduction would eventually close the gap between demand and output, increase the efficiency of using a country's resources, and establish new initiatives to absorb many people and develop potential. Convincing foreigners to invest in a country requires a robust, effective, and viable legislation and regulatory framework and a stable economic climate because countries compete for the development and growth of their economy by attracting and stimulating foreign investments from around the world through FDI.

Foreign Investors in Iraq have been experiencing significant difficulties that have deterred its progress for years. This includes an inability to resolve issues between entities and the Iraqi government, purchasing disputes, timely payments, and securing public bids (Asaad et al., 2020). Foreign companies operating in Iraq frequently complain about challenges with corruption, licensing, customs controls, anomalous and high tax obligations, undefined visa and residency permit guidelines, arbitrary application of regulations, and a lack of alternative dispute resolution mechanisms.⁵ Investors are burdened by shifting, arbitrary and inconsistent implemented restrictions.

Researchers have argued that investors are mostly interested in investing in countries with abundant natural resources like oil and gas.⁶ Therefore, the abundance of Iraqi natural resources, like oil, gas, minerals, and petroleum, require foreign capital investment, technology, and management expertise for exploitation, development, and production, making Iraqi a viable market for FDI.⁷ In fact, Iraq is the fourth largest proven oil reserve in the world, needing major construction and infrastructural development efforts.⁸ Foreign companies are strongly interested in investing in Iraq by exporting and importing goods, forming joint ventures with

² R. Dolzer, U. Kriebaum, and C. Schreuer, 'Principles of International Investment Law', *Oxford University Press*, 2022 <<https://global.oup.com/academic/product/principles-of-international-investment-law-9780192857811>>.

³ A. Z. Yehia et al., 'Focusing on the Investment Disputes and Right of Protection of Foreign Investors in Iraq', *International Journal of Criminal Justice Sciences (IJCJS)*, 17.1 (2022), 162–72 <<https://doi.org/10.5281/zenodo.4756097>>.

⁴ A. Shameem.

⁵ A. Z. Yehia et al.

⁶ Azzutti Alessio, 'FDI in Post-Conflict Countries: Iraqi Case', *Researchgate.Net*, 2016 <https://www.researchgate.net/publication/292315250_FDI_in_post-conflict_countries_Iraqi_case>.

⁷ Alessio. A. Shameem.

⁸ Lloyds Bank, 'Foreign Direct Investment (FDI) in Iraq', *International Trade Portal*, 2023 <<https://www.lloydsbanktrade.com/en/market-potential/iraq/investment>>.

Iraq, and purchasing Iraqi company stocks. Also, besides the abundant natural resources, the Iraqi government has made concerted efforts to encourage and entice foreign investment by launching investment projects to boost the Iraqi economy.⁹

However, for most developing countries with abundant natural resources, they experience both internal and external crises, which in turn harms their FDI¹⁰ like Iraq. Because while investors are interested in investing, they seldom would invest because of political instability and social insecurity. In most cases, even the business climate could be more favourable.¹¹ From 1921 to date, Iraq has seen a series of governments, including British colonialism, a series of nominal republican regimes headed by military officers through coups, a socialist government, a pan-Arab Baath party¹² and democratic federal government.¹³ These successful governments affected its political and economic/business climate as well as its legal regimes¹⁴ leading to present-day Iraq and, invariably, its FDI. Many changes were experienced in Iraq in 2003 after its invasion by the United States and the removal of Saddam Hussein. That year, Pau Bremer announced a new foreign investment policy in Iraq on 20 September 2003, outlined in the Coalition Provisional Authority Order 39 (CPA Order 39)—an unprecedented radical legal framework.¹⁵ Shameen¹⁶ argued that the fall of Saddam opened the Iraqi economy to the outside world by enacting new legislation related to foreign investment. Because the aim was to increase benefits from experts, advanced technology and increase income through various investment strategies. However, more must be achieved by inviting foreign direct investors to invest in Iraq.

The current Iraqi legal framework on FDI needs to be revised to provide for robust FDI development. The constitutional and administrative regulations in Iraq pose a challenge to foreign investors. For instance, Article 7 of the Iraqi Investment law¹⁷ require a minimum capital level specified by the Council of Ministers before an investment license for projects is granted. The Council of Ministers are responsible for determining the minimum requirement for investment and must approve the license before the investment commission can approve the license. This enormous power and lack of certainty and specification of "minimum" requirement for investment application, alongside the need to obtain the Council's permission, has resulted in so much bureaucracy, increasing tension, and enabling corruption to thrive, hence jeopardising the possibilities of foreign investors to invest in Iraq. This factor, together with the problem of

⁹ S. M. Ali, 'Effective Factors to Encourage the Foreign Direct Investment in Iraq', *MATEC Web of Conferences*, 162 (2018) <<https://doi.org/10.1051/MATECONF/201816202038>>.

¹⁰ Alessio. A. Shameem.

¹¹ Alessio.

¹² Alessio.

¹³ E. K. Dosmukhamedov, 'The Legal Framework for FDI: Origins, Principles and Structure', *Foreign Direct Investment in Kazakhstan*, 2002, 51–76 <https://doi.org/10.1057/9780230502178_4>.

¹⁴ N. J. Calamita and A. Al-Sarraf, 'The Development of Investment Arbitration in Iraq: Domestic Law, the ICSID Convention and Iraq's Investment Treaties', *BCDR International Arbitration Review*, 3.2 (2016), 343–59 <<https://doi.org/10.54648/BCDR2016032>>.

¹⁵ J. E. Toone, 'Foreign Direct Investment in Post-War Iraq: An Investor's Introductory Guide to the Legal Framework', *SSRN Electronic Journal*, 2013 <<https://doi.org/10.2139/SSRN.2152037>>.; Azzutti.

¹⁶ A. Shameem.

¹⁷ Article 7 of the Iraqi Investment Law No. 13 of 2006 as Amended in 2015', *Republic of Iraq Presidency of Minister's Council, National Investment Commission*, 2015 <https://investpromo.gov.iq/wp-content/uploads/2016/10/invest_law_En-1.pdf>. > [accessed 19 July 2023].

insecurity, has invariably restricted foreign investment to organisations with high-risk tolerance to investment in the country. Furthermore, insecurity, corruption, bureaucratic bottlenecks and others have affected the business climate in Iraq, affecting a transparent, wide, and effective policy environment conducive to investment like other countries.

On the other hand, UAE's political and economic stability has been its major strength alongside other aspects like easy access to oil resources, low energy costs, willingness to diversify its economy and high purchasing power. More to UAE's assets is its pool of expatriate labour, strong and profitable banking sector, absence of direct business taxation for corporations (except on banks, oil companies and telecommunication) and individuals, direct income taxation, exchange controls, and lack of limits on repatriation of capital.¹⁸ Leading to great success in its FDI. The UNCTAD's world investment Report 2021 found that UAE FDI inflow increased by 11% in 2020 from 18 billion USD in 2019 to 20 billion USD in 2020 during the covid-19 global pandemic. While over the same period, the stock of FDI rose to 151 billion USD. Transactions in its natural resources have shot up its FDI over the years. Hosting the Dubai Expo in 2020 boosted business enterprise and assisted in increasing its FDI. The bulk of the UAE's FDI is in the trade, real estate, finance and insurance, manufacturing, mining and construction sectors. While its major investors are the United Kingdom, India, the United States, France and Saudi Arabia.¹⁹

Although UAE also has some weaknesses, such as the small size of its domestic markets, dependence on imports, lack of flexibility in monetary policy, inadequacy of its national statistical system, degradation of regional geopolitical environment, legal obstacles to foreign investment, international financial situation (it ranked 16th out of 190 countries in the World Bank 2020 Doing Business report, losing five positions in a year) and in its hydrocarbon sector.²⁰ Nevertheless, despite the weaknesses, it is one Arab country that has advanced in its FDI that other Arab countries like Iraq need to learn from. Therefore, this research is very important because highlighting the major setbacks in existing FDI practice in Iraq vis-à-vis what is obtainable in developed economies through FDI like UAE will expose the impracticability of achieving a robust FDI within the existing regime. This way, the Iraqi government would see the need to review its current practices, tackle existing challenges and become at par with other economies regarding FDI.

This research is divided into five sections. The first section discusses the introduction, the second section addresses the literature review, and section three discusses the legal framework for both jurisdictions (Iraq and UAE). Section four is the obstacles, problems or challenges to the effectiveness of Iraq's FDI, and the last section will discuss the conclusion and recommendations.

The economic development of developing countries is strengthened through FDI via the transfer of technology, employment opportunities, an increase in productivity at all levels, and

¹⁸ UNCTAD, 'Foreign Direct Investment (FDI) in the United Arab Emirates', *International Trade Portal*, 2023 <<https://www.lloydsbanktrade.com/en/market-potential/united-arab-emirates/investment>>.

¹⁹ UNCTAD.

²⁰ UNCTAD.

decreased dependence on imports while enhancing exports.²¹ To achieve their aim, developing countries simplify investment procedures, grant tax incentives, and inculcate a liberal and stabilised economy.²² Similarly, their financial system is developed to include a financial market geared towards FDI.

UAE is one of the six Arab exporting countries that established the Gulf Cooperation Council (GCC), a political and economic alliance established in May 1981. Other members are Oman, Saudi Arabia, Qatar, Kuwait, and Bahrain.²³ The GCC is considered the wealthiest country in the world as per capita GDP. Their economy is highly reliant on hydrocarbon exports and public expenditure realised from oil revenue.²⁴ The significant improvement in their infrastructure, favourable economic prospects, and political instabilities within the GCC countries in the last two decades is attributed to their success in FDI.²⁵ The GCC try to protect their economy from oil price changes through less reliance on oil as their main revenue source. Thus, with FDI, their purpose of diversification is achieved because FDI brings in expertise, technological capacity, skills and capital that could not develop on their own over the years.²⁶ Knowing how important FDI is to the GCC's economic growth, they adopted new measures to attract and encourage FDIs, such as establishing/authorising new incentives like establishing regulatory, institutional and legal frameworks to govern FDI made by their policymakers. Hence, as of 2016, both Saudi and UAE are the largest recipients of FDI amongst the GCC.²⁷ This shows the eagerness of GCC to benefit from FDI and develop a financial market as a policy priority, especially with UAE's Vision 2021 introduced by the government in 2010, which made UAE's FDI consist of 5% of its Gross National Product as well as its relationship with Turkey as its major business partner for exportation of construction materials like iron and steel.²⁸

Furthermore, in 2020, UAE enacted the FDI Decree 2020, which further liberalised its FDI regime. The decree facilitated foreign investments with the inclusion of features like extending some of the free zone incentives to the wider community, allowing up to 100% foreign ownership for 122 economic activities across 13 industries, increasing its competitiveness with the launch of 50 economic initiatives; attracting 150 Billion USD to its domestic projects by 2030; forty laws dealing with trade and online security, copyright, residency, narcotics and other social issues were implemented; government entities shifted to a four-and-a-half-day week.²⁹ It has also diversified into Greenfield investments, a form of FDI where a parent

²¹ H. al Samman and S. A. Jamil, 'The Impact of Foreign Direct Investment (FDI) on Stock Market Development in GCC Countries', *Pertanika Journal of Social Sciences and Humanities*, 26.3 (2018), 2085–2100.

²² Samman and Jamil.

²³ M. A. Ramady, 'Political, Economic and Financial Country Risk : Analysis of the Gulf Cooperation Council', *Business and Economics*, 2013, 281 <https://books.google.com/books/about/Political_Economic_and_Financial_Country.html?id=NPZJnwEACA-AJ%3E>.

²⁴ Samman and Jamil.

²⁵ El-Wassal.

²⁶ S. Kurtishi-Kastrati, 'The Effects of Foreign Direct Investments for Host Country's Economy', *European Journal of Interdisciplinary Studies*, 2013.

²⁷ Ramady. Samman and Jamil..

²⁸ M. Nsour, 'Economic Cooperation between the United Arab Emirates and Turkey: Legal and Policy Considerations', *Arab Law Quarterly*, 33.1 (2019), 5–34 <<https://doi.org/10.1163/15730255-12331006>>.

²⁹ UNCTAD.

company starts a new business in a foreign country by constructing new operational facilities from the grassroots to the top.³⁰ Others are 100% of foreign ownership, reduction of corporate taxes, and improvement of foreign investors' access to stock.³¹ A very rich hydrocarbon resources, powerful sovereign funds and favourable regulations for foreign investments, geographical location of the country, making it a potential platform of influence on the Gulf, Iran, Asia and the Middle East, as well as good transportation infrastructure (financed by hydrocarbon income). UAE also has a greater index in its transaction transparency, manager's responsibility and shareholders' power, making it a viable place for foreign investors to invest.³²

However, in the case of Iraq, its regulatory framework is cloudy, shady and shredded with anomalies. The Investment Law does not create a comprehensive legal framework for investment. Corruption, ambiguous legislation, and bureaucratic delays provide significant obstacles for businesses looking to compete in the public tendering process or participate in significant infrastructure projects.³³ Beginning in 2016, the Kurdistan region government implemented procurement reform initiatives to solve these issues, but more progress is needed. Iraq's civil and business rules often need to meet international standards. Despite several amendments to the Iraqi investment legislation to its current amendments with many benefits for investors, investors still need to be convinced about investing in Iraq.³⁴

The UAE is home to a large number of free trade zones. Foreign companies often have the same investment prospects within certain zones as Emirati nationals. Free trade zones' main selling point is that foreigners can own up to a hundred per cent of the capital in a trading bloc firm.³⁵ All free trade zones offer hundred per cent exemptions from importation taxes, hundred per cent exemptions from commercial taxation, hundred per cent equity and earnings repatriation, multi-year leaseholds, simple entry to ports and airports, houses for lease, and electricity connections. Authorities for free trade zones also offer a variety of support services, including sponsorship, worker housing, food options, and physical security. The Federal Commercial law applies to commercial firms operating in the United Arab Emirates. The Federal Law of 2018 No.19 dismissed the limits on foreign ownership of firms merged onshore. The new legislations permit foreign firms to possess up to 100% of the share of investment in the UAE operating in some sectors, subject to licensing necessities. Markedly, the UAE cabinet permitted a list of economic segments eligible for one hundred per cent foreign proprietorship comprising one hundred and twenty-two economic activities within thirteen sections such as service industry, agriculture, and industries.³⁶

³⁰ UNCTAD.

³¹ Samman and Jamil.

³² Lamou Ruten, 'A Primer on New Techniques Used by the Sophisticated Financial Fraudsters with Special Reference to Commodity Market Instruments', *UNCTAD*, 11 (2003), 7. UNCTAD.

³³ A. E. Gudzenko, 'The Role of Free Trade Zones in UAE Export Growth', *Russian Foreign Economic Journal*, 4 (2021), 124–34 <<https://doi.org/10.24411/2072-8042-2021-4-124-134>>.

³⁴ Lee John, 'FDI and Legal Compliance in Iraq's Oil Industry', *Iraq Business News*, 2015 <<https://www.iraq-businessnews.com/reports/fdi-and-legal-compliance-in-iraqs-oil-industry/>; Yehia>.

³⁵ A. E. Gudzenko.

³⁶ A. E. Gudzenko.

The Iraqi Government's rule-making procedure could be more clear and prone to arbitrary application.³⁷ For instance, internal ministerial regulations are not subject to the same publication requirements as regulations placing obligations on individuals or private companies. This loophole enables officials to establish internal standards or guidelines with little to no scrutiny, which could add to the burdens investors and companies face. Furthermore, appropriately evaluating the regulatory environment can be challenging due to the absence of regulatory cooperation between the Government of Iraq ministries and national and provincial authorities. Furthermore, accounting and legal practices often don't adhere to international norms and must be clearer and consistent.³⁸ The draft legislation, such as investment laws, is closed to public comment. The sudden issuance of new rules and requirements for investor guarantees has sometimes dragged down projects. The Government of Iraq supports private sector associations, although, given the predominance of state-owned enterprises (SOEs) in the Iraqi economy, these associations typically have little influence.³⁹ Private sector organisations have some sway in the Iraqi Kurdistan Region (IKR), and many of them, like the contractors' union, are particularly involved in IKR government lobbying.

Iraq's governmental finances and government debt need to be fully transparent. Budgets made available to the public should have specified revenue sources and expenses by the ministry. The budget had few specifics regarding payments to and profits from SOEs. Financial reports for the majority of SOEs were typically kept private. The Central Bank and MOF websites only provided little information on debt commitments.⁴⁰ Similarly, Iraq's legal framework for protecting intellectual property (IP) rights needs to be revised, and violations are frequent. The Iraqi market is littered with counterfeit goods, especially pharmaceuticals. Eighty-five per cent of Iraq's software was unlicensed in 2017, according to the Business Software Alliance's 2018 study on self-reported piracy, consistent with the proportions discovered in each survey since 2009. The registration certificate has not passed any new intellectual property-related legislation or regulations over the past year. The Government of Iraq has been trying to keep tabs on drug seizures.⁴¹ The reporting system is erratic. The Government of Iraq handles all intellectual property complaints on behalf of the IKR because it lacks autonomous intellectual property protections.

Furthermore, Iraq imposed new legal restrictions on foreign company ownership in Iraq, which has deterred foreign investors when direct foreign investment is needed to aid in economic diversification and make up for the country's shrinking investment budget. The recent restrictions on ownership of firms in Iraq come from the legislation enacted in 2019 that stipulates those foreign companies and owners cannot own more than forty-nine per cent of any firm within the country. A draft intellectual property law, which should comply with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and consolidate

³⁷ R. Owen, *State, Power and Politics in the Making of the Modern Middle East: Third Edition*, 2013 <<https://doi.org/10.4324/9780203403259/STATE-POWER-POLITICS-MAKING-MODERN-MIDDLE-EAST-ROGER-OWEN>>.

³⁸ R. Owen.

³⁹ R. Owen.

⁴⁰ R. Owen.

⁴¹ R. Alguliyev and R. Mahmudov, 'Problems of Protection of Intellectual Property Rights in the Information Society', *Problems of Information Society*, 06.2 (2015), 4–12 <<https://doi.org/10.25045/JPIS.V06.I2.01>>.

all intellectual property responsibilities into a single body, has been redrafted several times but has yet to progress in Iraq.⁴²

Similarly, one important factor that serves as a nation's economic engine is its commercial banks. The success of FDI depends significantly on the financial capability of a country. The effectiveness of a nation's banking system, the number of banks it has, the services it offers, and the number of branches it has are all indicators of a strong economy.⁴³ The effectiveness of each nation's financial systems varies. Developed nations have an effective and efficient financial system that uses the most recent technologies to make transactions easier and more convenient.⁴⁴ In contrast, most developing nations lack a banking infrastructure compatible with the global banking industry's technological advancements, necessitating frequent branch visits for financial transactions.⁴⁵ Furthermore, concerning the populations of those nations, the number of these banks' affiliates is quite low. The lagging state of the banking system in Iraq has been a major hindrance to the success of its FDI to date.

RESEARCH METHODS

The doctrinal research method using a comparative analysis approach was utilised. Doctrinal methods⁴⁶ is the traditional legal methodology for carrying out legal research.⁴⁷ The doctrinal analysis in this research focused primarily on the regulatory provisions on FDI in two jurisdictions – Iraq and UAE. They highlighted current FDI regimes in the two jurisdictions regarding practice and procedures. It also highlighted successes and setbacks and the development of FDI to current FDI status in the two jurisdictions under study through a comparative analysis. Comparative analysis is comparing items, bringing out their distinguished similarities and differences. Conducting a comparative analysis provides a better understanding of the problem under study or assists in answering research questions effectively.⁴⁸ This approach was necessary because it enabled the study to provide a critically descriptive understanding of existing FDI regimes in the two jurisdictions and insights into current reforms that Iraq should adopt. Therefore, Iraq can clearly understand its current FDI status and strive for a change in its economic development.

⁴² V. Prabhakar Gantasala & W. Ibraheem T. Na'El Al-Tawil, 'The Potential Impact of the 2020 UAE FDI Decree and Side Agreements', *ICSID Review*, 36.3 (2021), 518–35 <<https://doi.org/10.1093/ICSIDREVIEW/SIAB032%3E>>. Oxford

⁴³ Nsour.

⁴⁴ Z. Gal and A. Schmidt, 'Role of Financial Sector FDI in Regional Imbalances in Central and Eastern Europe', *Politeja*, 14.6(51) (2013), 235–60 <<https://doi.org/10.12797/POLITEJA.14.2017.51.12>>.

⁴⁵ Gal and Schmidt. Nsour.

⁴⁶ The doctrinal research is often described as 'black-letter law'. For details about the doctrinal research methodology, see Dawn Watkins and Mandy Burton (eds), *Research Methods in Law* (2nd edn) Routledge 9-21, 2018.

⁴⁷ Roger Brownsword, *An Introduction to Legal Research*, ed. by Caroline Morris, Cian Murphy, and Getting a PhD in Law, 4th edn (Oxford: Hart Publishing, 2006).

⁴⁸ Frank Esser and Rens Vliegthart, 'The International Encyclopedia of Communication Research Methods', 2017 <<https://doi.org/Doi:10.1002/2781118901731.iecrm0035>>.

ANALYSIS AND DISCUSSION

Legal Frameworks on FDI in Iraq and UAE

Iraqi's FDI Legal Framework

Many changes were experienced in Iraq in 2003 after its invasion by the United States and the removal of Saddam Hussein. The new foreign investment policy in Iraq on 20 September 2003 was announced by Pau Bremer, which is outlined in the Coalition Provisional Authority Order 39 (CPA Order 39)—an unprecedented radical legal framework.⁴⁹ This Order 39 brought substantial changes to Iraqi FDI, such as replacing all existing Iraqi foreign investment laws, and opened the door for foreign firms to significantly dominate several sectors of the Iraqi economy through 100% foreign ownership of all sectors like manufacturing except natural resources.⁵⁰ Banks were included in the foreign investment scheme but under separate legislation within the same period. Hence, a takeover of Iraqi banks by six foreign banks. Similarly, foreigners were allowed to lease lands for as long as 40 years.⁵¹ Before Order 39, foreigners could not invest in Iraq except in Arab countries with the Arab Investment Law 62 2002. The CPA made substantial efforts in establishing a framework for Iraq with a major priority on stabilising the Iraqi economy, including levying the same tax rate for domestic and foreign firms.

In 2006, the government of Iraq passed the new Investment Law of 2006 after repealing the CPA Order 39 alongside other legislations like the Insurance Regulatory Law No. 10 2005, Crude Oil Refining Law No. 64 2007 and later Investment Regulation No.2 2009.⁵² The investment law and its 2009 amendments provided numerous privileges and guarantees to foreign investors, such as profit and capital repatriation, the ability to trade on the Iraqi Stock Exchange, the ability to obtain insurance for investment projects from any national or foreign insurance company, ability to open accounts using Iraqi Dinars or foreign currency at Iraqi or foreign banks, ability to obtain Iraqi residency, free entrance and exit from Iraq, protection of investment project from confiscation and nationalisation, the ability of non-Iraqi workers to transfer their salaries and indemnity outside Iraq, and exemption from taxes and fees for investment projects for 10 years beginning from the business start date of project.⁵³

In 2011, the parliament passed Regulation No. 1 of 2011, which amended the regulations on leasing and selling public sector properties for investment purposes. The government also promoted other initiatives to boost Iraqi FDI, for instance, the International Compact with Iraq (a 5-year national plan that includes benchmark and mutual commitments from Iraq and the International community) for economic reconstruction in Iraq.⁵⁴ Unfortunately, despite all efforts towards boosting and restructuring the Iraqi economy, only a few investments were attracted. This was argued to be attributed to the political and security conditions of the country and its business environment for foreign investments that could have affected its FDI.⁵⁵ This is

⁴⁹ Alessio. J. E. Toone.

⁵⁰ A. Shameem.

⁵¹ J. E. Toone. Alessio.

⁵² Alessio. J. E. Toone.

⁵³ J. E. Toone.

⁵⁴ Alessio.

⁵⁵ Alessio.

reflected in its World Bank status for ease of doing business. Iraq was almost at the bottom with a rank of 152 in 2009 and 156 in 2015, unlike the UAE at 22, Saudi Arabia at 49, and Jordan at 117.⁵⁶ In 2020 with the hit of the covid-19 around the world, Iraq fell to 172 in ranking.⁵⁷ Other factors for its low profile in FDI include corruption, and its ranking for transparency has consistently ranked bottom, mostly around 170 of 177 countries. Thus, corruption, high rate of unemployment, and decline in educational level are some of the problems not only affecting the standard of living of the people to 25.00%, leaving below the poverty rate despite the enormous income realised from its natural resources but also on the development and success of its FDI.⁵⁸

The Iraqi FDI is currently governed by the amended investment law of December 2015. It was revised to strengthen investment terms with international investors. Under the law, land purchase for specific projects is within the investment licensing process. This modification also allows foreign nationals to purchase commercial and residential land. However, the process takes much work to achieve.⁵⁹ Similarly, Iraq became a member of the International Convention for the Settlement of Investment Disputes between States and Other States (ICSID) in 2015⁶⁰ as part of its intention to boost the economy of Iraq through FDI. This is clearly seen in the recent shift of Iraq's government strategies towards infrastructure and economic progress.⁶¹ Foreign investors have been permitted to invest in Iraq so long as the business venture does not threaten Iraq's economic and political survival. Hence, foreign investors are accorded comparable terms with domestic investors.⁶²

The investment law did not restrict the degree of audience engagement. However, the national legislation applies when the investment reaches \$250,000. Similarly, the law does not prohibit or criminalise the ownership of natural resources. Also, foreign investors and foreigners can acquire land for residential, industrial, or construction projects, provided an Iraqi partner is involved.⁶³ Furthermore, although foreign investors enjoy the same status as domestic investors, Iraq reserves the right to scrutinise all foreign investments. Unfortunately, the screening procedure is not specified, thus allowing for corruption and bureaucratic bottlenecks. In the same vein, there is a restriction on a particular amount of share capital that a foreign investor can invest in Iraqi banks. Other restrictions are on foreign ownership and control of

⁵⁶ Open Knowledge Repository Beta, 'The World Bank Annual Report 2014, Washington. World Bank', 2014 <<https://openknowledge.worldbank.org/entities/publication/042594d1-0557-5f3c-acc2-8c720f312a91>> [accessed 19 July 2023].

⁵⁷ World Bank, 'Doing Business 2020', *World Bank Group*, 2020 <<https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf>>.

⁵⁸ Alessio.

⁵⁹ A. Z. Yehia et al.

⁶⁰ Kadhim Noor, 'The Curious Incident of Iraq and the ICSID Convention' <<https://arbitrationblog.kluwerarbitration.com/2015/11/23/the-curious-incident-of-iraq-and-the-icsid-convention/%3E>> [accessed 23 November 2015].

⁶¹ A. R Parra, 'The Development of the Regulations and Rules of the International Centre for Settlement of Investment Disputes', *ICSID Review - Foreign Investment Law Journal*, 22.1 (2007), 55–68 <<https://doi.org/10.1093/ICSIDREVIEW/22.1.55>>.

⁶² Calamita & Al-Sarraf, 'Itisaluna Iraq and Others v. Iraq, Award' <<https://jusmundi.com/en/document/decision/en-italuna-iraq-llc-munir-sukhtian-international-investment-llc-v-tel-holdings-ltd-v-tel-middle-east-and-africa-limited-v-republic-of-iraq-none-currently-available-thursday-13th-april-2020%3E>> [accessed 13 April 2020].

⁶³ Yehia.

property and establishment in Iraq. Such as, 1) to acquire an investment license, 50% of project employees or labourers must be Iraqi nationals (Investment Regulation No. 2 Iraqi law); 2) Priority must be given to the employment of Iraqi nationals over foreign workers;⁶⁴ 3) Only State-owned banks and businesses can hold government contracts and investments, thus discriminatory to domestic and international investors; and 4) there is no restriction on Iraqi domestic investors' ability to invest abroad.⁶⁵ However, all these restrictions have stood as barriers to improving the FDI status in Iraq.

Similarly, Iraq signed and ratified the Investment Promotion and Protection Act (IPPA). Under the IPPA, foreign investors may bring cash and non-cash capital into Iraq, such as equipment, know-how, trademarks, brand names, and other specialised services and capital.⁶⁶ The IPPA has many advantages to foreign investors, including; 1) non-discriminatory treatment of foreign investors and investments; 2) protection against nationalisation and expropriation through payment of compensation; 3) repatriation of capital and profit in foreign currency at an official rate through the banking system and 4) the Foreign Direct Investment in Open Market (FDIOA) which distinguishes between two types of investments.⁶⁷ Therefore with the IPPA, foreign investors can invest in Iraq with ease. The investment legal framework adheres to the WIPO and several international intellectual property treaties. Such that investors would more readily accept being bound by a law other than the Iraqi law as the applicable law and permitting international arbitration.⁶⁸

Despite the availability of a good investment client, the Constitution of the Islamic Republic of Iraq made it mandatory for the Parliament and Board of Ministers to approve arbitration that involves public and state properties inclusive of foreign investments. This provision has contributed to the uncertainty and incoherence of the Iraqi legal framework on arbitration such that foreign investors are sceptical of investing in Iraq.⁶⁹

UAE's FDI Legal Framework

Decree-Law No. 19 on Foreign Direct Investment (FDI) enacted on 23 September 2018,⁷⁰ had the main objective of encouraging FDI in the UAE.⁷¹ The law applies to any foreign investment in legal entities created according to the 2015 enacted federal legislation, such as LLCs, Public

⁶⁴ World Bank, 'Iraq Investment Protection and Retention: Investors' Grievances and Investors' Dispute Settlement', *The World Bank Group*, 2023 <<https://www.worldbank.org/en/programs/competitiveness-for-jobs-and-economic-transformation/brief/Iraq-Investment-Protection-and-Retention>; World Bank, 2020>.

⁶⁵ Yehia.

⁶⁶ Yehia.

⁶⁷ Lee John.

⁶⁸ United Nations, 'GOI & KRG Agree on Centralized Database for Information', *Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD)*, 2019 <<https://www.unitad.un.org/news/goi-kr-agree-centralized-database-information>>.

⁶⁹ Rafieian Zahra, Sarami Jafar, and Jalalian Zahra, 'A Study of the Conflicts between Iran's Foreign Investment Protection Law and Iran's Sixth Development Plan Law in the Tobacco Industry', *Journal of Humanities Insights*, 2020 <https://jhumanities.net/article_109837.html>.

⁷⁰ Idir Adjau Ait Ben, 'The UAE's New FDI Regime: Five Key Things to Know in the Context of an M&A Transaction', *Norton Rose Fulbright* <<https://www.nortonrosefulbright.com/en-gb/knowledge/publications/6f454a94/the-uaes-new-fdi-regime>>.

⁷¹ IQDecision, 'FDI - Regulatory Framework in the UAE. IQ Decision.Com' <<https://iqdecision.com/en/fdi-regulatory-framework-in-the-uae/%3E>>.

and Private JSCs.⁷² The UAE then adopted Federal Decree-Law No. 26 of 2020 to entice foreign investment the more. The new order repealed the Foreign Direct Investment Law of 2018 and revised the Commercial Companies Law of 2015.⁷³ To ensure that the international firms are the only beneficiaries and decision-makers of the business, sponsors and overseas investors typically had to sign nominal shareholder commitments or related agreements and transfer the shares and associated obligations of the nominal equity investors to the foreign investors⁷⁴ equivalent compensation, the sponsor typically levies a certain fee. Additionally, the sponsor offers support with administrative matters like mediating disputes between businesses and government agencies.⁷⁵ Except in "strategic impact" operations, the new decree eliminates the necessity that the chair and majority of the board be UAE residents and reduces the conditions for holding shareholders' meetings. The ownership criterion for investors with the right to make suggestions was also cut to 5.0% under the modified law, which reduced the number of shareholders attending the meeting to 50%.⁷⁶ By lowering the maximum shareholding percentage, this modification further enhances the safeguards for the rights of international investors, who frequently hold minority stakes in domestic companies.

The decree granted authorised foreign investment companies the same status and treatment as domestic companies to the extent provided in the law. The 100% foreign ownership in some negatively listed economic sectors includes 14 large industries in UAE.⁷⁷ While in 2020, a positive list of economic sectors became eligible for 100% foreign ownership. The list of positive economic sectors includes activities in 13 sectors such as renewable energy, space, agriculture, manufacturing, transport and logistics, hospitality and food services, information and communication services, professional and scientific as well as technical activities, administrative and support services, education, healthcare, art and entertainment, and construction. The 100% ownership innovation of the FDI Decree negates the existing "Rule 51/49", where UAE residents hold a majority shareholding.⁷⁸ These legal frameworks, as it stands still, favour national investors.⁷⁹ In the UAE, international investors do not enjoy national treatment, and there remains a limitation on acquiring foreign lands and ownership of shares.⁸⁰ However, foreign investors still complain about the UAE's arbitration proceedings, its intellectual property rights weaknesses, and lack of transparency.⁸¹

Regulatory framework for enterprises still varies depending on the emirate the enterprise is located.⁸² Abu Dhabi has been trying to improve its business climate by deploying Abu Dhabi Vision 2030 to attract FDI in non-oil sectors like industry, tourism, transport and logistics, financial services, real estate, and telecommunication.⁸³ Furthermore, for UAE to protect itself,

⁷² IQDecision.

⁷³ Alguliyev and Mahmudov.

⁷⁴ Na'El Al-Tawil et al.

⁷⁵ Na'El Al-Tawil et al.

⁷⁶ Alguliyev and Mahmudov.

⁷⁷ IQDecision.

⁷⁸ IQDecision.

⁷⁹ Rutten.UNCTAD.

⁸⁰ Rutten.

⁸¹ Rutten.

⁸² Rutten.

⁸³ Ben.

it included some businesses in the negative list which shall remain partially or completely restricted from foreign ownership. Some of the sectors on the list include oil exportation, drilling and production, the defence sector and the manufacturing of arms, equipment, insurance, financial institutions, haj and Ummrah, postal services, telecommunication, ground and air repair, blood banks, quarantines, and venom/poison banks.⁸⁴

FDI Licensing

Despite the privileges afforded to foreign investments in the FDI decree and other government policies, an investor must apply for a license authorising foreign investment in the UAE.⁸⁵ The procedure for foreign investment license has also been streamlined such that a competent authority is expected to approve the application within five working days failing which the application is considered rejected haven exceeded the deadline.⁸⁶ Some of the benefits of licensing are that, with the license, the company is considered a national company to the extent to which the law permits. However, in terms of change in share capital, amendments of articles and memos and MOUs, the consent of all regulators is involved.⁸⁷

Obstacles/Barriers to Effective Development of FDI in Iraq

Iraqi's Legal Regime Towards Investment Promotion

The present legal regime on FDI and arbitration remains a problem of FDI in Iraq. Investors fear investing in Iraq because of the scope and implications of the existing legal regime.⁸⁸ Acknowledgement of investor's complaints, failure in handling dispute settlement in Iraq, and the revised arbitration legislation are obstacles to FDI in Iraq.⁸⁹ Despite Iraqi's parliament efforts towards enhancing investor protection and investment climate to foreign nations,⁹⁰ through Iraq's membership to the New York Convention for settlement of International Investment Disputes, foreign investors remain sceptical about investing in Iran due to its restriction on applying domestic legislation in transactions above \$250,000 because the investment regulation applies to domestic and international investments above \$250,000.⁹¹ This limitation has slowed down investment prospects for Iraq, unlike in the UAE, where there is no such limit on investment and no regulation that requires domestic legislation to apply in such situations. That is why the UAE has thrived in its FDI over the years with little stress.

The Public government contract law No. 1 2008 permits arbitration in contracts between foreign nationals, corporations, individuals, and the Iraqi government. Art 11 IPPA allows the leading agency in the contract to select international arbitration for dispute settlement arising from any investment. The contract shall provide an arbitration facility where a foreign partner is involved alongside an international arbitration association selected as representative of the

⁸⁴ Ben.

⁸⁵ Ben. IQDecision.

⁸⁶ IQDecision.

⁸⁷ IQDecision.

⁸⁸ A. Shameem.

⁸⁹ A. Z. Yehia et al.

⁹⁰ Lloyds Bank.

⁹¹ Muayad Mustafa, 'Insight into Investment Law in Iraq', *Salt & Associates Law Firm*, 2021 <<https://saltandassociates.com/insight-into-investment-law-in-iraq/>>.

international party or as a governance party.⁹² Although both foreign investors and domestic partners are aware of this settlement of dispute procedure, yet, there exists a limit imposed by the investment law requiring approval from the Iraqi parliament and minister's board before referring conflicts to arbitration and in determining the competence of the arbitral tribunal. Where Art. 27 of the Iraqi Investment law provides that disputes arising between partners or parties subject to the investment law shall be subject to Iraqi law. This means that investment law permits domestic and international arbitration but subjects it to the application of Iraqi international arbitration law.⁹³ This requirement serves as a barrier to the successful implementation of the IPPA⁹⁴ hence a discouraging factor for investors.

The Financial Sector

The main aim of the state-owned financial institutions in Iraq is to serve and settle the country's public sector payroll. Until recently, privately-owned banks in Iraq functioned exclusively as exchange enterprises except for a few regionally-owned commercial banks.⁹⁵ Some financial institutions, however, have initiated commercial lending programmes.⁹⁶ Similarly, there needs to be a credit monitoring system in Iraq which delays the creation of legal guarantees for lenders. Also, Iraq's limited links to foreign banks have resulted in a shortage of commercial lending.⁹⁷ Furthermore, financial institutions in Kurdistan are still recovering from years of economic instability, and the Central Bank of Iraq (CBI) has sanctioned Kurdistan's financial institutions since its independence in 2017.

Iraq has few banking institutions, and those that exist frequently hesitate to lend money to companies. This makes it challenging for companies to obtain the finance they require to grow and draw in foreign direct investment. Iraq's reliance on traditional banking for outside funding indicates a need for more experience with other finance options. Iraqi business owners must be aware of alternate funding options that could reduce their reliance on home-country money for foreign domestic investment.⁹⁸ Several businesses hold foreign securities in some of their investments. The economy of Iraq is majorly cash-based, with most banks acting as little more than Automatic Teller machines. Credit in Iraq is expensive and difficult to get. Nonetheless, the Government of Iraq is executing a project to distribute public funds electronically. Firms are principally self-financed or get credit from investors in private transactions. Kurdistan Region lacks an international bank, which challenges foreign investors in financial transactions.⁹⁹

⁹² R. A. Atya, 'The Legal System of Arbitration as a Name of Setting Foreign Investment Disputes in Iraqi and Kurdistan Region Legislation', *Journal of Legal Sciences*, 32.2 (2017) <<https://www.iasj.net/iasj/article/135412>>.

⁹³ Atya.

⁹⁴ Calamita and Al-Sarraf. A. Z. Yehia et al..

⁹⁵ S. C. Young, 'Foreign Direct Investment Disputes with Unrecognised States: FDI Arbitration in Kosovo', *Journal of International Arbitration*, 33.5 (2016), 501–23 <<https://doi.org/10.54648/JOIA2016037>>.

⁹⁶ W. Omran, Marketing of Banking Services in Iraq. *Business*, (2015); Yehia.

⁹⁷ Yehia.

⁹⁸ Hamawandy Majeed Nawzad and others, 'The Role of Segment Financial Reports in Rationalising Investment Decisions in Iraq', *Journal of Contemporary Issues in Business and Government*, 27.1 (2021) <https://www.researchgate.net/publication/350189499_The_Role_of_Segment_Financial_Reports_in_Rationalising_Investment_Decisions_in_Iraq>.

⁹⁹ Nawzad and others.

Another major issue with the Iraqi financial system is the government's disregard for the private sector and its absence of adequate financial backing for those banks. As a result, the government units that receive deposits from ministries and departments only deal with the outputs of those banks, monopolising their interactions with government entities and preventing private banks from being beneficiaries of the profits.¹⁰⁰ Despite laws being passed requiring ministries and government agencies to work with private banks and accept certified checks and other payment methods, these laws remained on paper because these ministries and agencies refused to work with private banks and instead restricted their dealings to government banks. Since few private banks are truly experiencing financial difficulties and some have been placed under the Central Bank's custody, ministers and government agencies refrain from dealing with them.¹⁰¹

Corruption

Due to the impact of corruption on market dynamics and incentives, resources could be allocated more efficiently. It shifts resources and expertise, particularly human resources, away from productive endeavours and into lucrative rent-seeking pursuits like defence. It lowers revenue for businesses by acting as an inefficient tax.¹⁰² While manufacturing costs rise, investment profits reduce. Reducing resource quality can once more impair investment productivity. For instance, corruption lowers a country's capital by reducing the availability and calibre of healthcare and education services. Self-seeking behaviours can result in errors, resource waste, and decreased efficacy of government expenditure over time.¹⁰³ The significance of FDI has increased over time, and it has grown in importance as a source of concern for policymakers and a hot topic among economists. Iraq was ranked 160 out of 180 by the Corruption Perception Index in 2020.¹⁰⁴

Corruption within the public sector is the greatest obstacle to foreign direct investment growth. Notably, corruption is prevalent in government procurement. Fiscal and administrative corruption has adversely affected Iraq's domestic and foreign direct investment. Little foreign investment will happen when corruption is rampant.¹⁰⁵ The UAE has a business-friendly climate, the least corrupt government in the Arab world, and a well-functioning public sector. According to the Penal Code, bribery, theft, and misuse of power are all crimes in the UAE. Laws against corruption and fraud are strictly enforced, and bribery and other forms of minor corruption are not commonplace. The anti-corruption system in the UAE regulates gifts and hospitality. Payments made for assistance are considered bribes and are, therefore, unlawful.¹⁰⁶

¹⁰⁰ المحياوي, ص. ن. ع., 'Foreign Investment in Iraq after the Economic Openness', 2018(6.1, □□□□□□ □□□□ 468–457 <<https://www.asjp.cerist.dz/en/article/54762>>.

¹⁰¹ Kadhim Noor. Lloyds Bank.

¹⁰² A. Hakimi, 'Does Corruption Limit FDI and Economic Growth? Evidence from MENA Countries, *International Journal of Emerging Markets*, 12.3 (2017) <<https://doi.org/10.1108/IJoEM-06-2015-0118>>.

¹⁰³ A. Hakimi, 'Does Corruption Limit FDI and Economic Growth? Evidence from MENA Countries, *International Journal of Emerging Market*, 12.3 (2017) <<https://doi.org/10.1108/IJoEM-06-2015-0118>>.

¹⁰⁴ B. Kharabsheh and O. K. Gharaibeh, 'Corruption, Political Instability and Their Impact on Investment: An FMOLS Approach', *Investment Management and Financial Innovations*, 19.1 (2022), 77–90 <[https://doi.org/10.21511/IMFI.19\(1\).2022.06](https://doi.org/10.21511/IMFI.19(1).2022.06)>.

¹⁰⁵ Hakimi, 'Does Corruption Limit FDI and Economic Growth? Evidence from MENA Countries.

¹⁰⁶ Ben.

Planning needs to be improved at both the conceptual and project levels in government entities in charge of providing infrastructures. However, Iraq's FDI is adversely affected. Some major areas for improvement are better communication among important stakeholders and unclear project prioritisation procedures. Proper planning, like developing infrastructure, may make a big difference in how well an organisation performs throughout a project.

Political Instability

Government stability is a factor considered favourably by investors as the capacity of the government to implement its plans and hold onto power. Political stability also contributes significantly to the legitimacy of a regime.¹⁰⁷ A change in leadership frequently ushers in a new set of political or philosophical philosophies or economic growth strategies that may weaken foreign investors' faith and disrupt policy continuity. Where political structures are strong, this aspect of political risk also helps to increase the trust of foreign investors, as is the case with UAE and its GCC compatriots. The institutions can better handle different situations under strain and respond to challenges. They can also bounce back rapidly from shocks.¹⁰⁸ There is also a political efficacy when management has debt commitments, both in good and bad economic times.

The Economy of the UAE has experienced political stability over the years. The UAE is a well-developed country that provides a good quality of life and a high standard of living. "The country is ranked 16th out of 45 in the markets around the world by expats as a destination to live and work".¹⁰⁹ With the UAE's high rank, higher above average, it would be great for foreigners to move into the UAE to have a good quality of life. The business within the country provides many job opportunities. The UAE holds a good ranking in political stability.¹¹⁰ Due to the good political will and foresight of its leaders in developing policies for the development of the nation and the wealth of all citizens and foreign investors, there has not been any significant political turmoil in UAE to date, and there is little reason to believe that things will get bad any time soon.

Political crises only occur when there is frustration among the populace, and as far as UAE's residents are concerned, most are confident and satisfied with plenty of job opportunities to realise their ambitions with little effort.¹¹¹ Therefore, foreign investors may be confident that they will be treated well in the UAE, that their money won't be frozen, and that they will experience little bureaucratic bottlenecks and corruption. Political stability in UAE makes it a desirable location for foreign investments.¹¹² The political leaders of the UAE have a strategy for the country that promotes FDI with a politically stable framework, expanding industries to grow the economy and implementing laws that encourage foreign direct investment. Through long-term plans and vision, the political stability of the United Arab Emirates is achieved and managed. Therefore, steady politics in the UAE is seen in the implementation of laws, standardisation of leaders' visions, coordination between emirates,

¹⁰⁷ Nsour.

¹⁰⁸ UNCTAD.

¹⁰⁹ UNCTAD.

¹¹⁰ Kharabsheh and Gharaibeh.

¹¹¹ Samman and Jamil. Ramady..

¹¹² K. El-wassal, 'I – Introduction', 37.3 (2009), 28–30. A. Z. Yehia et al..

uniformity of processes, and transparency in government procurement has attracted foreign investors to the UAE.¹¹³

Social Insecurity

For decades, violence and instability have ravaged Iraq. This has made it challenging for companies to function in Iraq and deterred foreign investors from investing in the country. There is a lack of security in many parts of the nation, notably the threat posed by emerging extremist organisations preventing FDI.¹¹⁴ The devastation of infrastructure investment, particularly in the ISIS-controlled territory in Mosul and northern and western Iraq sections, and significant interruptions to important domestic and international lines are other long-lasting repercussions of the struggle against ISIS.¹¹⁵ Even after military operations against ISIS were over, certain militia organisations participating in the conflict remained on the ground. Additionally, certain militias seem to be only loosely controlled by the state and have been connected to several illegal activities, such as abduction. Though it differs around the nation, the security environment is often better in the Iraqi Kurdistan Region.¹¹⁶ For instance, the former prime minister, Adil Abd al-Mahdi, resigned due to massive street demonstrations in October 2019. Foreign investors were forced to leave the country due to the protests, greatly agitated the nation.¹¹⁷

Inflation

Severe inflation adversely affects a country's FDI. Increased rates of inflation point out the tensions in a nation's economic environment and are indications of the government's hesitancy to have a stable fiscal policy. Iraq's economy is slowly recovering from Corona Virus and the drop in oil prices in 2020.¹¹⁸ Oil and non-oil progress are likely to return to pre-epidemic points as production of oil increases and Corona Virus restrictions are lifted, thereby reviving the local economy. As oil prices rise daily, financial and external shortages have returned to surpluses.¹¹⁹ There are still significant risks, including uncertainties about the impact of geopolitical tensions, the ongoing pandemic, climate change, and security challenges. Inflation is a macroeconomic issue that harms both economic and social indicators. The Iraqi economy suffered due to these phenomena and still bears the consequences.

Inflation in Iraq has led to political instability. Following the March 2003 invasion, Iraq experienced sustained increased inflation, which concluded in late 2008 when inflation was regulated. In recent years, high inflation has proven to be one of the most challenging aspects of managing the economy of Iraq.¹²⁰ Commodity scarcity, persistent violence, widespread dollar rises, a feeble financial transmission mechanism, and a lack of data all led to problems in

¹¹³ Samman and Jamil.

¹¹⁴ J. E. Toone.

¹¹⁵ J. E. Toone.

¹¹⁶ Kharabsheh and Gharaibeh. Mustafa.

¹¹⁷ A. Shameem. A. Z. Yehia et al..

¹¹⁸ B. N. Bousari and others, 'Impact of Exchange Rates and Inflation on GDP: A Data Panel Approach Consistent with Data from Iran, Iraq and Turkey', *International Journal of Nonlinear Analysis and Applications*, 14.1 (2023), 147–61 <<https://doi.org/10.22075/IJNAA.2022.6278>>.

¹¹⁹ Zeravan Abdulmuhsen Asaad and Bayar Mohamed Rasheed Marane, 'The Influence of Human Development, Institutional Quality and ISIS Emergence on Foreign Direct Investment in Iraq', *Technium Social Sciences Journal*, 10 (2020), 318–32 <<https://doi.org/10.47577/TSSJ.V10I1.1402>>. Lee John.

¹²⁰ Bousari and others.

implementing policies to reduce inflation.¹²¹ Inflation has caused fluctuations in foreign exchange rates. Iraq has high inflation rates, and there have been foreign exchange rate fluctuations since the fall of the former Iraqi regime in 2003. In the region, the relationship between the US dollar and inflation is positive and statistically significant.¹²² There is a statistically significant negative relationship between the Euro and inflation.

Inflation in Iraq has also led to distortion in exchange rates. There is a negative long-run relationship between GDP and money supply.¹²³ Controlling inflation thus demands a proportional level of economic and price activity, such that the money-to-income ratio grows significantly consistent with macroeconomic stability policies and financial growth. Furthermore, a flexible exchange rate for the Iraqi Dinar should be used to avoid large fluctuations.¹²⁴ Given the long-term importance of the Iraqi dinar exchange rate, achieving a flexible exchange rate for the Iraqi Dinar that increases its attractiveness compared to the US dollar and reducing the level of hedging in foreign currencies is critical.

Poor Infrastructure

The infrastructure of Iraq is far less than expected of a country with an enormous amount of natural resources. The cost of transportation and the quality of the infrastructure plays a major role in whether an investment is desirable. A nation may have little labour pay, but if shipping expenditures to transport products to the international marketplace are high, it hinders effective investment.¹²⁵ Accessibility to water gives states an edge over landlocked nations, where shipping commodities will be more expensive. The infrastructure of Iraq was destroyed during the wartime period and needs to be properly restored. Due to this effect, it has become challenging for companies to operate in the nation and foreign investors to bring money in the form of FDI.¹²⁶

An insufficient and inconsistent power source, a proxy for bad public infrastructure service delivery, dramatically lowers profitable FDIs. The nation's major policy issue is a need for more private-sector investment. Poor infrastructure raises trading expenditures and limits admittance to domestic and international economies, which deters FDI. Considering viable doctrines and conveying accountability for providing substructure facilities through contractual agreements or lease agreements like build-operate-transfer (BOT), build-own-operate (BOO), and full privatisation, higher quality can be obtained by extending infrastructural development. Privatisation has created a valuable method of luring inward overseas investment.¹²⁷ UAE invests significantly in road infrastructure construction, airport improvement projects, and port expansion plans. Etihad Rail is one of the most significant construction projects in the United Arab Emirates because it links the seven emirates, facilitating travel between them and

¹²¹ Zeravan Abdulmuhsen Asaad and Marane. Bousari and others.

¹²² Nawzad and others. Samman and Jamil.

¹²³ Bousari and others.

¹²⁴ Bousari and others.

¹²⁵ J. E. Toone.

¹²⁶ J. E. Toone.

¹²⁷ J. E. Toone.

reducing truck traffic on the nation's roadways. Thus, making multinational corporations move around the UAE more quickly, safely, and effectively.¹²⁸

Lack of Competitiveness in Iraq Industries

Iraq's industry is unable to rival imported goods in price. When Iraq established a liberal trade regime with low tariff barriers for imports under the CPA, lack of competition became a significant obstacle to investment. As a result, it resulted in low returns on investment or the closure of companies across a range of businesses. Iraq must therefore coordinate its investment portfolio with its economic plan.¹²⁹ as well as close the competitive gap with its neighbours and rivals. This would allow stakeholders to earn decent profits in a wider variety of socio-economic enterprises than in recent times.

Lack of Skilled Labour

There needs to be more skilled workers in Iraq for its FDI. There are several jobless individuals in Iraq, and many employed need to gain the requisite skills to draw in foreign investment. Some industries, including pharmaceuticals and electronics, demand higher ability-level workers.¹³⁰ Multinational corporations will therefore invest in nations with low wages and high labour productivity and skills. For example, despite having low wages and a large percentage of the population that speaks English, India has seen tremendous investment in contact centres, unlike Iraq.¹³¹

The Investment law of 2009 stipulates that 50% of workers must be Iraqi nationals if an investment is approved. Similarly, it mandates investors to prioritise Iraqi natives before employing foreigners. The Government of Iraq in 2015 imposed pressure on foreign firms to absorb more native employees. The Government of Iraq generally favours State-owned enterprises and government-controlled financial institutions in competition for tenders. Nevertheless, Iraq still has a high unemployment rate, a sizable informal economy, unsatisfactory working conditions, and a sizable unskilled worker population.¹³² One of the main barriers to investing in Iraq, cited by domestic and foreign companies, is the scarcity of skilled Iraqi workers. In recent years, many highly knowledgeable Iraqis have left the nation due to political instability. Over 1.7 million Iraqis remain displaced as of April 2021, with the majority population unable to obtain employment or engage in livelihood activities to support their families, despite the Iraqi Government's successful war to destroy ISIS in late 2017. IDP women remained at risk of financial exploitation and hostile working environments. According to the World Bank, the jobless rate was 16.9% in 2018. According to 2015 UNDP research, highly educated young people in Iraq experienced greater unemployment rates than the general youth population.¹³³ Twenty-three per cent of all labour is in the agricultural sector, while fifty-

¹²⁸ J. E. Toone.

¹²⁹ J. E. Toone.

¹³⁰ B. Becker and others, 'FDI in Hot Labour Markets: The Implications of the War for Talent', *Journal of International Business Policy*, 51.9 (2019), 1355–90 <<https://doi.org/10.1057/s41267-019-00285-x>>.

¹³¹ K. van der Straaten, K., and Pisani & A. Kolk, 'Unravelling the MNE Wage Premium', *Journal of International Business Studies*, 51.9 (2019), 1355–90 <<https://doi.org/10.1057/s41267-019-00285-x>>. Becker and others.

¹³² K. van der Straaten, K., and Kolk. Mustafa.

¹³³ Mustafa.

three per cent of all employment is in the service industry. Even though the oil industry generates more than 90% of the government's revenue and accounts for over 60% of Iraq's GDP, it only employs 1% of its workforce.¹³⁴ That is why it becomes necessary for Iraq to do something about its FDI to address this menace of unemployment in the country.

Lack of Respect for Government Policies on Ease of Business

The Iraqi government established the e-government system for information and communication technology. Both direct and indirect e-government channels can increase foreign direct investment inflows. First, by reducing costs and waiting times while increasing efficiency, e-government can help FDI inflows into the host nation. That is, by connecting many state departments into a single online resource, the implementation of e-government services increases the efficiency of the internal operational processes of agencies.¹³⁵

As a result, when compared to the conventional method of handling operations, offering services online dramatically saves the processing time and expenses of numerous activities.¹³⁶ In the past, an investor who wanted to open a business in a certain nation had to fill out applications and go to various government departments and organisations to provide the necessary documentation. As opposed to this, the e-government model eases these processes, improving the quality-of-service delivery in equity, attainability, effectiveness, and cost. Secondly, electronic government enhances citizens' access to information and public services by enhancing governments' inclusiveness, effectiveness, accountability, and transparency.¹³⁷ Since electronic -government services improve access to a wider range of data derived and gathered by the government, they can increase government transparency to the general public. However, Iraq's e-Government initiative still needs to meet its objectives because there are still numerous obstacles and issues with the four pillars of electronic Government success.¹³⁸

The absence of a political process that supports the electronic Government project aims, such as consolidating ministries and other government departments, falls under the process category. More manual G2C services are available, which can only be transformed with political action. From a technological standpoint, Iraq's infrastructure needs to be stabilised, with energy and the internet being key elements for e-Government access. The legal ambiguity severely hampers foreign investors attempting to enter the Iraqi market in that country. Investing in developing nations with transitional economies frequently results in legal and political uncertainties for foreign investors.¹³⁹ Therefore, a foreign investor would frequently employ contractual terms to safeguard against risk in the modern economic paradigm where a government lacks the internal operating strategies of authority, such as policies and independent court systems.

¹³⁴ Lloyds Bank. Mustafa.

¹³⁵ Nawzad and others.

¹³⁶ Abuobaida Mohd Burhanuddin Mohammed Abdulameer Mohammed and others, 'E-Government and Its Challenges in Developing Countries: Case Study Iraqi e-Government', *The Social Sciences*, 11.17 (2016), 4310–19 <<https://medwelljournals.com/abstract/?doi=sscience.2016.4310.4319>>.

¹³⁷ Nawzad and others.

¹³⁸ Mohammed Abdulameer Mohammed and others.

¹³⁹ Ali; Mustafa.

The Pandemic (Corona Virus)

The global pandemic has had a tremendous effect on world economies. Many nations have been compelled to lock their borders and impose travel restrictions to stop the virus from spreading. Organisations that depend on FDI were significantly affected.¹⁴⁰ One of the numerous nations impacted by the pandemic is Iraq. The market suffered due to the nation's efforts to contain the spread of the virus. Iraq is heavily dependent on oil exports,¹⁴¹ and the drop in crude oil prices devastated the nation. The demand for Iraq's oil decreased due to the epidemic.¹⁴² The Covid-19 pandemic significantly impacted the world economy and precipitated the worst economic downturn in the previous decades. The catastrophe and the public health response resulted in a significant reduction in worker accessibility and interruptions in the production process and a significant reduction in demand due to lower consumption and a decline in trust in Iraq. However, the situation was different in the UAE because its 2020 GDP rose far above two years prior to Covid-19.¹⁴³ This revealed that where an economy is stable, it can withstand a heavy storm.

CONCLUSION

In conclusion, the FDI's legal framework in Iraq suffers countless obstacles to its development compared to the UAE. The Iraqi legal regime on investment promotion, financial sector, corruption within ports, procurement of tenders, lack of finances, Covid-19 pandemic, and lack of infrastructure has resulted in a low level of investments in the country with a greater threat to its FDI. Similarly, bureaucracy amongst government officials in making significant decisions about investments in the country provides a significant obstacle for businesses to participate in tenders or significant infrastructure projects in Iraq. The Iraqi Investment Law has witnessed several amendments to encourage and entice foreign investors. However, despite the series of modifications, only a few investments have been achieved over the year. On the other hand, the UAE has an advanced legal framework. Foreign investors can own up to 100% of their investments in the country. The country established a strong corruption mechanism that prohibits bribery among government officials.

RECOMMENDATIONS

The Iraqi government is aware of the obstacles in luring outside investment. The government has implemented several policies to attract international investors, but all efforts have yet to prove abortive. Therefore, the following suggestions are offered:

Develop and Execute an Effective Investment Plan

Iraq can create and implement a strong investment plan by improving its investment climate and production sectors by first developing political stability and ensuring social security. This will encourage investors to invest because they would be confident in losing their investment in the short run due to social insecurity or political instability.

¹⁴⁰ K. Hayakawa, H. H. Lee, and C. Y. Park, 'The Effect of COVID-19 on Foreign Direct Investment', 2022 <<https://doi.org/10.22617/WPS220092-2>>.

¹⁴¹ J. E. Toone.

¹⁴² Hayakawa, Lee, and Park.

¹⁴³ IQDecision.

Improve the Legal Framework

Research has shown that one of the major problems affecting the development of FDI in Iraq is its legal regime, which consists of all the processes required to have a robust FDI, such as the existing legislation that favours foreign investments, procedures for successful registration of businesses, dispute resolution mechanisms, finance, political stability, social security, business climate and the likes. Iraq is lacking in all the listed criteria, hence the need for removing restrictions in areas like a limitation on capital investment, restricting arbitration to domestic legislation, restricting government contracts to local banks, and addressing corruption while removing bureaucratic bottlenecks.

Transfer knowledge, Technology and Strategies from the UAE.

Since research has revealed that the UAE has advanced in its FDI far above the average, Iraq can learn from her. It is the requirement of SDG 17 for nations to transfer knowledge, technology and strategies as well as policies from other countries to achieve sustainable development. Therefore, for Iraq to develop its FDI for future benefits, Iraq can borrow knowledge, strategies and policies that have worked effectively in developing the UAE's FDI to boost its FDI.

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