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THE USAID *TIJARA* PROVINCIAL ECONOMIC GROWTH PROGRAM

INVESTOR GUIDE TO IRAQ



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This guide provides information on how to do business in Iraq. It includes guidance on obtaining licenses and permits as well as other information useful to investors, such as business registration procedures, fees, and required supporting documentation.

DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the U.S. Agency for International Development (USAID) or the United States Government.

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ACRONYMS

BIT	Bilateral Investment Treaty
BSA	Board of Supreme Audit
CBI	Central Bank of Iraq
CCCN	Customs Cooperation Council Nomenclature
CEO	Chief Executive Officer
COSQC	Central Organization of Standardization and Quality Control
CPA	Coalition Provisional Authority
CPI	Commission of Public Integrity
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
FZ	Free Zone
FZL	Free Zone Authority Law
GATT	General Agreement on Tariffs and Trade
GCIC	General Commission of Iraq Customs
GDID	General Directorate of Industrial Development
GDP	Gross Domestic Product
GDRER	General Directorate for Real Estate Registration
GoI	Government of Iraq
GTC	General Taxation Commission
HS	Harmonized System
HSBC	Hong Kong and Shanghai Banking Corporation
ICI	International Compact with Iraq
IQD	Iraqi Dinar
IFC	International Finance Corporation
IG	Inspector General
ILO	International Labor Organization
IMF	International Monetary Fund
INIC	Iraq National Investment Commission
IP	Investment Promotion
IPPA	Investment Promotion and Protection Agency
IPR	Intellectual property rights
ISC	Iraq Securities Commission
ISO	International Organization for Standardization
ISX	Iraq Stock Exchange
JSC	Joint stock company
KRG	Kurdish Regional Government
MENA	Middle East & North Africa
MIGA	Multilateral Investment Guarantee Agency
MIM	Ministry of Industry and Minerals
MoLSA	Ministry of Labor and Social Affairs
MoPDC	Ministry of Planning and Development Cooperation
MoT	Ministry of Trade
NBK	National Bank of Kuwait
NGOs	Non Governmental Organizations
NIC	National Investment Commission
OCR	Office of Company Registration
OECD	Organization for Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
OSS	One Stop Shop
PIC	Provincial Investment Commission

RCC	Revolutionary Command Council
SME	Small & Medium Enterprises
SOE	State Owned Enterprise
TBT	Technical Barriers to Trade
TIFA	Trade and Investment Framework Agreement
TRIPS	Trade Related Aspects of Intellectual Property Rights
UAE	United Arab Emirates
UN	United Nation
UNCITRAL	United Nation Commission on International Trade Law
USAID	United States Agency for International Development
USD	United States Dollar
WCO	World Customs Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

1. INTRODUCING IRAQ

BACKGROUND

Formerly part of the Ottoman Empire, Iraq was occupied by Britain during the course of World War I. In 1920, it was declared a League of Nations mandate under UK administration. In stages over the next dozen years, Iraq attained its independence as a kingdom in 1932. A republic was proclaimed in 1958, but in actuality a series of military strongmen ruled the country until 2003.

GEOGRAPHY

Iraq is located in the Middle East, bordering the Arab Gulf, between Iran; Turkey; Syria; Jordan; Saudi Arabia; and Kuwait.

LAND BOUNDARIES

Total: 3,650 km; border countries: Iran 1,458 km, Jordan 181 km, Kuwait 240 km, Saudi Arabia 814 km, Syria 605 km, Turkey 352 km.

AREA

Total: 437,072 sq km; land: 432,162 sq km; water: 4,910 sq km.

NATURAL RESOURCES

Petroleum, natural gas, phosphates, and sulfur

CAPITAL

Baghdad

PEOPLE

POPULATION

28,945,657 (July 2009 est.)

POPULATION GROWTH RATE

2.507% (2009 est.)

ETHNIC GROUPS

Arab 75%-80%, Kurdish 15%-20%, Turkoman, Assyrian, or other 5%

RELIGION

Muslim 97%, Christian or other 3%

LANGUAGES

Arabic, Kurdish (official in Kurdish regions), Turkoman (a Turkish dialect), Assyrian (Neo-Aramaic), Armenian.

LITERACY

Total population: 74.1%, male: 84.1%, female: 64.2% (2000 est.).



ECONOMY

Iraq has undergone a difficult period of both oppression and upheaval over the past three decades. Ravaged by wars and brutally controlled under a repressive and dictatorial regime, the country's economy and infrastructure have languished and fallen into disrepair.

Since the fall of the former regime in 2003, Iraq has embarked on a new path for economic Development. Current laws, regulations and policies have begun the process of rebuilding Iraq's vibrant trading culture and economic infrastructure.

OVERVIEW

Iraq's economy is dominated by the oil sector, which has traditionally provided about 95% of foreign exchange earnings. Although looting, insurgent attacks, and sabotage have undermined economy rebuilding efforts, economic activity is beginning to pick up.

GDP: \$103.9 billion at purchasing power parity (2008 est.)

GDP - per capita \$3,700 at purchasing power parity (2008 est.)

GDP - composition by sector: agriculture: 5%, industry: 68%, services: 27% (2006 est.)

Labor force: 7.74 million (2008 est.)

Unemployment rate: 18.2% to 30% (2008 est.)

Inflation rate (consumer prices): 6.8% (2008 est.)

Budget: revenues \$42.4 billion; expenditures \$49.9 billion (FY2008 est.)

Agriculture - products: wheat, barley, rice, vegetables, dates, cotton; cattle, sheep, poultry

Industries: petroleum, chemicals, textiles, leather, construction materials, food processing, fertilizer, metal fabrication/processing

Oil - production: 2.42 million bbl/day (2008 est.)

Oil - exports: 1.83 million bbl/day (2008 est.)

Oil - proved reserves: 112.5 billion bbl (1 January 2008 est.)

Natural Gas - production: 15.66 billion cubic meters (2008 est.)

Natural Gas - proved reserves: 3.17 trillion cubic meters (1 January 2008 est.)

GOVERNMENT COMMITMENTS

IRAQ'S NATIONAL DEVELOPMENT STRATEGY

The National Development Strategy 2005-2007 and 2007-2010 set out strategic priorities for Iraq's reconstruction and development. It was organized around four key drivers of prosperity that were believed to best reflect the multi-faceted and complex challenges confronting Iraq today. In each pillar, specific objectives were identified with the aim of fulfilling the fundamental national vision of restoring Iraq to its rightful place in the world community as a prosperous and market-oriented regional economic powerhouse.

The National Development Strategy

Under Part V, Revitalizing the Private Sector, Foreign Direct Investment, the objectives were:

Continue to remove all kinds of restrictions on foreign investors and to encourage the flow of foreign direct investment in a manner that ensures the flow of foreign capital, modern technology and management expertise.

- *Encourage partnerships between foreign and Iraqi investors.*
- *Simplify procedures for foreign investors through a one-stop approach for all procedures related to foreign investors that would draw together all Iraqi government officials concerned in one place.*
- *Create a specialized authority to provide facilities to investors and offer investment opportunities in the country.*
- *Conclude bilateral and multilateral foreign investment agreements, ratify investment guaranty agreements with the Multilateral Investment Guarantee Agency (MIGA) and effectively utilize the Overseas Private Investment Corporation (OPIC) to catalyze foreign investment*
- *Promote alternative dispute resolution mechanisms to resolve investment disputes.*
- *A “one stop” investment promotion agency will be launched. This will prove beneficial in facilitating investment and reducing initial costs of setting up and doing business in Iraq. Additionally, the Government is committed to issuing implementing regulations to the Foreign Investment Law and streamlining the process of licensing new businesses.*

INTERNATIONAL COMPACT WITH IRAQ

The International Compact with Iraq (ICI) was launched in Sharm al-Sheikh by Iraq’s Prime Minister and UN Secretary General - on May 3, 2007.

The International Compact is an initiative of the Government of Iraq for a new partnership with the international community. Its purpose is to achieve a national vision for Iraq which aims to consolidate peace and pursue political, economic and social development over the next five years.

This document lays out the Government’s program of action on the economic front, setting the broad shape and major policy initiatives. The policy framework focuses on key areas identified in the National Development Strategy: public resource management, economic reforms, social sector reforms, investment, energy and agriculture.

Broad reform and investment programs are elaborated in this document to arrive at measurable mutual commitments that the Government of Iraq and the International Community will implement together.

Under item 4.3.2 of the Compact, the following was stated:

Private Sector Development and Investment Promotion

Goal: Create an enabling environment for private investment and job creation

- *Enhance the rule of law in commercial and financial activities.*
 - *The judicial system and the legal capabilities in this field will be developed to ensure the protection of private property and the sanctity of contract.*
 - *Investment Law will be implemented and a new Commercial Code will be passed and implemented.*
- *Improve the ease of starting and exiting a business, employing workers, registering property, getting credit, dealing with licenses, trading across borders and enforcing contracts with due attention to equality issues and opportunities;*
- *Improve availability of financing to private entrepreneurs, particularly to SMEs including credit guarantees, concessionary financing including micro and SME specific packages;*
- *Include provisions for the encouragement of private sector in public procurement legislation and regulations;*
- *Join OECD-MENA and participate in their programs for private sector development and investment promotion.*
- *In addition to security, rule of law and an efficient and predictable regulatory regime, the state needs to provide other public goods essential for the development of a vibrant private sector including energy, basic services, major infrastructure and improvements in human capital through training and education.*

2. THE INVESTMENT ENVIRONMENT

INTRODUCTION

Iraq is now on the path to establishing laws and regulations intended to attract foreign investment and rebuild the economy.

Substantial progress has already been made to remove some of the obstacles to open up the market and to develop an investor-friendly business environment. Inflation had been eradicated and the value of the currency has been stabilized. Iraq has an open trade and investment regime with a focus on strengthening the private sector.

The government has made rejoining the international community a key part of its economic development strategy, and investment will play a key role. Iraq's National Development Strategy for 2005-2007 and that for 2007-2010 as well as the International Compact with Iraq mentioned previously articulate this new direction. Several goals outlined in these strategies include ensuring private sector growth through creation of a favorable legal environment, fostering a transition to a modern free market economy, and integrating Iraq into the global economy.

OPENNESS TO FOREIGN INVESTMENT

Several laws that went into effect since 2003 improved Iraq's business environment and changed the legal regime with respect to attracting foreign investment, giving foreign investors national treatment with regard to their investments:

- Trade Liberalization Policy Law No. 54 of 2004
- The Central Bank Law No. 56 of 2004
- Law No. 64 of 2004, Amending Company Law No. 21 of 1997
- Interim Law on Securities Market No. 74 of 2004
- Law No. 80 of 2004, Amending Trademarks and Descriptions Law no. 21 of 1957
- Patent, Industrial Design, Undisclosed Information, Integrated Circuits And Plant Variety Law No. 81 of 2004
- The Banking Law No. 94 of 2004
- Insurance Regulatory Law No. 10 of 2005
- Investment Law No. 13 of 2006
- Kurdistan Region Investment Law No. 4 of 2006
- Private Investment In Crude Oil Refining Law No. 64 of 2007

THE IRAQI INVESTMENT LAW AT A GLANCE

The new Iraqi investment law No.13 of 2006 passed by the Iraqi parliament in October 2006 and came into force on January 17, 2007, regulates the national and foreign investment

process in Iraq.¹ Investments less than USD 250,000 or equivalent in IQDs are not governed by this law.²

Iraqi Investors in the industrial sector not governed by Law No. 13 can apply to the Ministry of Industry and Minerals/Industrial Development Directorate pursuant to Law No. 20 of 1998, Industrial Investment Law for Private and Mixed Sectors.³

PRIVILEGES AND GUARANTEES OFFERED TO INVESTORS

Major privileges and guarantees offered to investors under the Investment Law No. 13 of 2006 include:

- Repatriation in hard currency of profit and capital brought into Iraq.
- Trading in the Iraqi Stock Exchange market.
- Leasing land needed for the project or using it on condition that the term does not exceed a period of 50 years that can be renewed.
- Insuring the investment project at any national or foreign insurance company.
- Opening accounts in Iraqi Dinar or foreign currency or both at Iraqi banks or at banks outside Iraq.
- Obtaining residency and facilitating investors' entry to Iraq and departure from Iraq.
- Non-confiscation or nationalization of the investment project.
- Non-Iraqi workers have the right to transfer their salaries and indemnities outside Iraq.
- Exemption from fees and taxes for ten years beginning with the date of starting the project. This period is renewable. Also, furniture and assets needed for expanding and modernizing the project are exempt from import duties.
- Exemption period may be extended up to 15 years in case of foreign and Iraqi partnership.

INVESTOR COMMITMENTS

- Informing the commission of the date of starting work on the project.
- Maintaining accurate book-keeping checked by an authorized auditor.
- Presenting economic and technical feasibility studies with maps related to the project.
- Keeping a record of imported materials, protecting the environment, and commitment to qualitative control systems.
- Complying with Iraqi laws and the action plan methodology presented by investors.

AREAS OF INVESTMENT

The law opened most areas of investment to Iraqi and foreign investors. Exceptions are the extraction and production of oil and gas, and the banking and insurance sectors. A separate

1. For more details go to www.investpromo.gov.iq/Investor Tools/Investment Law.

2. According to Article 1 (Third) of the Investment Statue No.2 of 2009, for details go to (www.investpromo.gov.iq/Investor Tools/Investment Statue).

3. www.investpromo.gov.iq/Investor Tools/Iraqi Laws.

hydrocarbon law is contemplated⁴, and financial services fall under their own legislation and regulations⁵.

Land cannot be owned by foreigners except for housing projects under the condition that the housing units are sold to Iraqis on project completion. For other projects the lease period is fifty years, renewable.

INVESTMENT COMMISSIONS IN IRAQ

The law stipulates the formation of two kinds of investment commissions in Iraq: The National Investment Commission is responsible for the formulation of the national policy for investment, the development of plans and controls, and monitoring the application of same. It is exclusively responsible for strategic investment projects of federal nature⁶. The chairman has the rank of Minister. The board includes in addition to the chairman, his deputy, and 4 public sector officials, three representatives from the private sector chosen by the prime minister.

Because Iraq adopted a federal structure through the law on the formation of regions, the investment law has also provided for the establishment of commissions at the regional and governorate level. The regional and governorate commissions will have the power to grant investment licenses (except for strategic projects of federal nature), encourage investment, and open local branches in areas under their jurisdiction in consultation with the National Investment Commission. The local investment plans must not contradict the federal investment plans.

All Iraq's fifteen governorates (provinces) within the federal government⁷ have already established their provincial investment commissions (PIC). The Kurdistan Region has its own Investment Board in Erbil with two branch offices in the other 2 provinces, Dahuk and Sulaymaniyah. The Kurdistan Investment Board was established according to Investment Law No. 4 of 2006 issued by the KRG covering investments in the Kurdistan Region only.⁸

EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT

The new Gol investment law allows for foreign investors to trade in shares and bonds listed in the Iraqi Stock Exchange (ISX). It also allows foreign investors to form investment portfolios. The ISX is governed by law # 74 of 2004 Interim Law on Securities Markets. From June 2004 till March 2009 Trading transactions and buy and sell orders were written manually on grease boards in trading sessions. This system did not allow for full transparency in terms of timing of market participants or knowledge of who has placed the bid. Electronic Trading started on April 19, 2009. The automation of the ISX will provide much greater transparency as well as pave the way for foreign investment on the exchange. In addition, a new permanent securities law is being drafted as well as rules and regulations for the Iraq Securities Commission (ISC). Table 1 below shows Iraq Stock Exchange (ISX) major data.

4. Draft Oil and Gas Law is still under discussion at the Council of Representatives (Parliament).

5. Foreign investments in the banking sector are governed by the Banking Law No. 94 of 2004, while branches of foreign insurance companies are governed by the Insurance Regulatory Law No. 10 of 2005.

6. See definition of Strategic Investments in Article 4 (Second) of the Investment Statue No. 2 for 2009.

7. Iraq consists of 18 governorates (provinces) 15 within the federal government and 3 within the Kurdistan Region.

8. For Kurdistan Investment Law incentives go to www.kurdistaninvestment.org.

TABLE NO.1: IRAQ STOCK EXCHANGE (ISX) MAJOR DATA 2005-2009

Indicators	2005	2006	2007	2008	2009 ⁹
Market Capitalization (Bill. USD) ¹⁰	2.142	1.471	1.752	1.965	2.440
Banking Sector Market Cap. (Bill. USD)	1.663	1.095	1.335	1.470	1.689
Banking Sector Share %	77.6%	74.4%	76.2%	74.8%	69.2%
Trading Volume (Million USD)	248.7	110.9	351.7	257.1	188.7
Banking Sector % of Trading Volume	76.3%	79.0%	95.3%	88.7%	74.2%
Trading Volume growth Index (% of previous year)	-	(55.4%)	217.1%	(26.9%)	- ¹¹

EXPROPRIATION AND COMPENSATION

Iraqi law affords protection to foreign investors from expropriation. Article 23 (Second) of the new Constitution prohibits expropriation in Iraq, unless it is "for the purpose of public benefit in return for just compensation." The constitutional provision further stipulates that this provision shall be regulated by law. Although this provision offers protection to foreign investments, a law has yet to be considered. Article 12 (Third) of the new Iraqi investment law also guarantees, "non-seizure or nationalization of the investment project covered by the provisions of this law in whole or in part, except for a project on which a final judicial judgment was issued."¹²

DISPUTE SETTLEMENT

While the law of domestic arbitration is fairly well developed in Iraq, international arbitration is not sufficiently supported by Iraqi law. Iraq is a signatory to the Arab League Convention on Commercial Arbitration (1987) and the Riyadh Convention on Judicial Cooperation (1983), but it has not signed or adopted the two most important legal instruments for international commercial arbitration: The United Nations New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (1958) (commonly called the New York Convention) and the attendant rules and procedures established by the UN Commission on International Trade Law (UNCITRAL).

Dispute resolution is laid out in Article 27¹³ of the new investment law, which details the rights of Iraqis and foreigners with respect to Iraqi law. Domestic arbitration is also provided for in Articles 251-276 of the Iraqi Civil Procedure Code. Arbitration agreements must be in writing. Panels of arbitrators are available through the Iraqi Union of Engineers, the Iraqi Federation of Industries, and private arbitrators.

9. 2009 data are as of end of June 2009.

10. USD exchange rates as per CBI auctions on Dec. 31 were as follows: 2005 = IQD 1475, 2006 = IQD 1325, 2007 = IQD 1215, 2008 = IQD 1172, and June 2009 = IQD 1170.

11. 2009 data are for 6 months.

12. The Iraqi National Investment Commission has become a member of the World Bank's Multilateral Investment Guarantee Agency (MIGA).

13. Article 27 of the Investment Law No. 13 states: "Disputes arising between parties who are subject to the provisions of this law shall be subject to the Iraqi law unless otherwise agreed....."

CORRUPTION

Corruption in all areas remains a significant problem. Under Saddam's regime, corruption was a fact of life for every Iraqi and touched upon every economic transaction. The former regime's control of the economy left a legacy of heavy state procurement and subsidies distorting market prices.

The CPI (Commission of Public Integrity) is an independent, autonomous Iraqi governmental agency, established by CPA Order No. 55, responsible for anti-corruption, law enforcement and crime prevention, as well as public education on these topics. CPI investigates nationwide allegations of corruption within the government and refers cases to the Iraqi judiciary. It acts as an enforcement arm of Iraq's anti-corruption laws, and performs its duties in conjunction with the Board of Supreme Audit (BSA) and the Inspector General (IG) from each ministry.

BILATERAL INVESTMENT AGREEMENTS AND REGIONAL COOPERATION

Iraq is signatory to thirty-two bilateral, and nine multilateral agreements within the Arab League, with respect to Investment Promotion and Protection (IPPA). There are also existing bilateral agreements with India, Iran, Japan, Jordan, Kuwait, Mauritania, Republic of Korea, Sri Lanka, Syria, Tunisia, Turkey, the United Kingdom, Vietnam and Yemen amongst others. In addition, Iraq has bilateral free trade area (FTA) agreements with UAE, Oman, Qatar, Algeria, Egypt, Jordan, Lebanon, Syria, Tunisia, Yemen, and Sudan. On July 11, 2005, Iraq and the U.S. signed a Trade and Investment Framework Agreement (TIFA) as a first step toward creating liberalized trade and increasing investment flows between the U.S. and Iraq.

Apart from the relevant provisions of national legislation, and in addition to the above mentioned, Iraq is a signatory to or a member of many other bilateral and multilateral agreements).

FREE TRADE ZONES AND PORTS

The Free Zone Authority Law No. 3/1998 (FZL) permits investment in Free Zones through industrial, commercial, and service projects. This law operates under the Instructions for Free Zone management and the Regulation of Investors' Business No. 4/1999. Under the Free Zone Authority Law, goods imported and exported from the FZs are exempt from all taxes and duties, unless imported into Iraq. However, this exemption does not apply to the Reconstruction Levy (CPA Order No. 54). Capital, profits, and investment income from projects in the FZ are exempt from all taxes and fees throughout the life of the project, including in the foundation and construction phases. The application process for an investor involves submitting an application and a fee of US\$100 to the Free Zone Authority. The investor must sign a lease within 30 days of lease approval.

ACTIVITIES PERMITTED IN FREE ZONES

- Industrial activities (both production and consumer), assembly, installation, sorting and refilling processes;
- Storage, re-export and trading operations;
- Service and storage projects and transport of all kinds;
- Banking, insurance and reinsurance activities; and

- Supplementary and auxiliary professional and service activities. Prohibited activities include actions disallowed by other laws in force, such as weapons manufacture, environmentally-polluting industries and those banned by the place of origin of the investor.

CURRENT FZ LOCATIONS

- Basra/Khor al- Zubair Free Zone: This one million square mile zone is located 40 miles southwest of Basra on the Arabian Gulf at the Khor al-Zubair seaport and has been in operation since June 2004;
- Ninewa/Falafel Free Zone: this 400,000 square meters zone is located in the north, near roads and railways that reach Turkey, Syria, Jordan and the Basra ports;
- Sulaymaniyah Free Zone: this zone is located in northern Iraq; and
- Al-Qayim Free Zone; this zone is being developed in two stages near the Iraqi-Syrian border. It is close to roads and railways that reach Turkey, Basra, and Jordan. The zone's first phase is limited to commercial and service activities.

IRAQ'S BANKING SYSTEM

HISTORICAL BACKGROUND

Rafidain Bank, the biggest Iraqi state-owned bank was founded in 1941 and was originally a privately-owned bank. By the early 1960s the following banks were represented in Baghdad: Ottoman Bank; the Eastern Bank (British owned); the British Bank of the Middle East; Federal Bank of Lebanon; National Bank of Pakistan; Arab Bank; Intra Bank (Lebanon); and the Iraqi banks, Rafidain, Commercial Bank, Credit Bank and Bank of Baghdad. In 1964 a wave of nationalizations took place and banks were seized and merged into four groups – Rafidain, Commercial, Bank of Baghdad and Credit Bank.

In 1970 a further consolidation took place, with banks merged into either Rafidain or Commercial, and in 1974, the Commercial group was put under the Rafidain banner, leaving the country with one state-owned bank. On January 1, 1989, the Rasheed Bank was spun off from Rafidain.

Following the Gulf War of 1991, the government once again allowed the establishment of private banks. Indeed, the motive for establishment of these banks was an attempt to reach some of the vast majority of small businesses in Iraq. The state-owned banks alone were allowed to lend to state-owned enterprises, and such lending explains the high portion of government risk on their books.

Prominent industrialists and trading families took advantage of this relative liberalization of the financial sector, and established banks whose hidden goal was financing endeavors associated with the founders' core lines of business.

As of September, 2009, the Iraqi banking system consists, in addition to the Central Bank, of seven state-owned banks, 30 private sector banks, and 6 foreign banks¹⁴.

STATE-OWNED COMMERCIAL BANKS

As mentioned above, Iraq nationalized its commercial banks in 1964. In 1974, four commercial banks were merged into one – Rafidain -- which had a commercial banking

14. See CBI's website – www.cbi.iq

monopoly until Rasheed bank was established by the government. Before the Gulf War, Rafidain was the Arab world's largest commercial bank with total assets of USD 47 billion.

Public sector banks include also four special-purpose banks: The Real Estate Bank; the Agriculture Bank; the Iraq Bank (formerly the Socialist Bank) and the Industrial Bank. These four specialized banks have become commercial banks as well. After 2003 another state-owned bank, the Trade Bank of Iraq was established.

PRIVATE BANKS

In addition to 6 foreign, there are (30) Iraqi private banks licensed and in operation, 7 of which operate on Islamic banking principles. By contrast, there were eighteen private banks licensed and operating in the country in 2003, most of them having opened their doors in the early 1990s.

Six foreign banks have been licensed by the CBI – T.C. Ziraat Bankasi of Turkey (the state agricultural bank), Bank Mili Iran (the national bank of Iran), Byblos Bank (Lebanese), the Arab Banking Corporation (ABC) from Bahrain. ABC maintains an office in Baghdad but is not engaged in retail banking operations, Intercontinental Bank and Beirut and the Arab Countries Bank are operating in Erbil.

After the second Gulf War in 2003, the expectation was that, as the situation in Iraq stabilized, and as foreign investment in the banking sector took place, there would be closures of weaker banks and a series of mergers to create larger, more competitive private banks. In fact, despite a certain degree of post-conflict euphoria, foreign investment in the banking sector has been limited to seven banks, and there were no mergers. No new foreign investments have been made since 2005.

The seven Iraqi banks with foreign shareholding are:

- Commercial Bank, 49% owned by al-Ahli United Bank of Bahrain (through the Iraqi Holding Company);
- Bank of Baghdad, 49% owned by the United Gulf Bank of Bahrain;
- National Bank of Iraq, 49% owned by the Export and Finance Bank of Jordan (Subsequently renamed Capital Bank);
- Credit Bank of Iraq, 75% owned by the National Bank of Kuwait (NBK) and 10% by the International Finance Corporation (IFC);
- Dar as-Salaam Bank, 70% owned by Hong Kong and Shanghai Banking Corporation (HSBC);
- Economy Bank, 49% held by the A'ayan Company of Kuwait; and
- Al-Mansour Bank, 60% owned by the National Bank of Qatar.

No bank mergers have taken place. Although some private banks remain small, they have managed to increase capital to satisfy the IQD 50 billion (USD 42.735 million)¹⁵ requirement mandated by the Central Bank of Iraq (CBI).

In Kurdistan, the Emerald Bank, Kurdistan International Bank, North Bank, Ashur Bank, Al-Warka Bank, Bank of Baghdad, Basrah Bank, Gulf Bank, Investment Bank, Middle East

15. Exchange rate on September 30, 2009 was one USD = IQD 1170.

Bank, Mosul Bank, Byblos Bank (of Lebanon), and the Intercontinental Bank are operational. Standard Chartered Bank has a representative office in Erbil.

BANKING PRODUCTS AND SERVICES

Services offered by Iraqi commercial banks include current accounts, savings accounts and time deposits, short-term overdraft and bills discounted facilities, as well as short-term loans and advances. Banks also offer bid, advance payment, and performance bonds (but the maximum period is 12 months). A few banks offer loans over one year term.

Since the issuance of the Banking Law, banks started offering additional services such as trading in foreign exchange through the Central Bank's Daily Auction, internal and foreign transfers, opening of L/C and documentary credits.

The Central Bank does not encourage consumer finance (it was prohibited in the past) and real estate lending is confined to the Real Estate Bank. The environment, however, is changing.

Table No 2. below shows Iraqi Banks' Branches and Paid-up Capital for 2009 (banks in the northern Kurdistan Region are excluded).

TABLE NO. 2: IRAQ BANKS IN 2009¹⁶

Bank Name		Establish. Date	No. of Branches	Paid Up Capital ¹⁷	
				Billion IQD	Million USD ¹⁸
1.	Rafidain Bank	1941	145	10.0	8.55
2.	Rasheed Bank	1988	144	2.0	1.71
3.	Industrial Bank	1947	5	25.0	21.37
4.	Real-Estate Bank	1948	15	1.1	0.94
5.	Agricultural Cooperative Bank	1936	40	0.6	0.51
6.	Al-Iraq Bank	1991	5	1.0	0.85
7.	Trade Bank of Iraq	2003	5	195.5	167.09
TOTAL STATE-OWNED BANKS		-	359	235.2	201.02
1.	Baghdad Bank	Feb,1992	20	85.0	72.65
2.	Iraq Commercial Bank	Nov,1992	3	60.0	51.28
3.	Basra Bank	Oct,1993	11	55.0	47.01
4.	Investment Bank of Iraq	July,1993	20	50.4	43.08
5.	Iraqi Middle East Bank	July,1993	12	55.0	47.01
6.	Islamic Bank	Dec,1992	5	51.2	43.76
7.	United Bank for Investment	1994	6	100.0	85.47
8.	Al-Ahli Bank (National)	Feb,1995	4	50.0	42.73
9.	Iraqi Credit Bank	July,1998	12	70.0	59.83
10.	Dar Alsalam Bank	July,1998	15	67.0	57.26
11.	Economic Bank	March,1999	6	70.0	59.83
12.	Babylon Bank	June,1999	4	50.0	42.74
13.	Summer Bank	July,1999	6	50.0	42.74
14.	Al-Warka'a Bank	Nov,1999	24	75.0	64.10
15.	Gulf Bank	Oct,1999	7	50.0	42.73
16.	Al-Mousl Bank	Aug, 2001	5	50.0	42.73
17.	North Bank	July, 2003	3	100.0	85.47
18.	Iraqi Union Bank	2004	1	50.0	42.73
19.	Kurdistan International Bank	March, 2005	2	50.0	42.74
20.	Ashur International Bank for Investment	April, 2005	1	50.0	42.73
21.	Al-Mansour Bank	2006	1	75.0	64.10
TOTAL PRIVATE BANKS		-	168	1313.6	1122.72
GRAND TOTAL		-	527	1548.8	1323.74

16. The table contains data only for 21 private banks listed on the Iraq Stock Exchange (ISX) by September, 2009.

17. Data for State-owned banks are for 2006 while data for private banks are as of Sept 19, 2009.

18. One USD = ID 1170 as per Central Bank of Iraq (CBI) auction exchange rate on Sept 19, 2009.

3. THE REGULATORY FRAMEWORK

TRANSPARENCY OF THE REGULATORY SYSTEM

Potential investors in Iraq face complex procedures under various laws, regulations and administrative requirements. However, the government intends to begin a program to reduce such difficulties, and the new investment law was the first step in that direction. In addition, Iraq intends to improve and simplify various procedures for obtaining investment licenses and project establishment licenses and permits, and expects the new National Investment Commission to lead the way.

Regulation of investment is not an exclusive federal power. The Kurdish Regional Government (KRG) and the national government both have the right to regulate investment. The KRG passed the Kurdish investment law No. 4 on July 3, 2006. The most significant difference between the KRG investment law and the national law is that the KRG law allows foreigners to own land¹⁹. Under the Iraqi Constitution, when there is a contradiction between regional and national legislation, the regional law²⁰ prevails. How this rule of federalism will work in practice is still vague. The relationship between the regional Kurdistan Investment Law and the Federal Investment Law will be clarified shortly.

INSTITUTIONAL FRAMEWORK

According to the Investment Law No. 13 of 2006, an investor is required to apply to the NIC or a PIC for an investment license to start a business in Iraq. An investment license is issued within forty five (45) working days if the application form is properly completed.

Investment Regulations No. 2 of 2009 have set the minimum investment limit not be less than USD 250,000/-.²¹

As mentioned in 2.3.3, the Law allows both foreigners and Iraqis to invest in all activities, except those relating to Oil Extraction & Production and Banks & Insurance companies²². Ownership of land is not allowed for foreigners. Foreign investors may, however, lease land for up to 50 years renewable. They can, however own land for housing projects on the condition that the housing units shall be allocated for ownership by the Iraqis after completion of the project.

In addition, Iraq imposes no limit on equity ownership. Foreign ownership of up to 100% is allowed. Investors are also free to bring in and take out their capital.

19. According to Article 4 (Sixth) of KRG Investment Law No. 4 of 2006 the investor may purchase and lease lands and real estates necessary for the establishment, expansion, diversification and development of the project within the limits of area and period set in light of the objectives of the project and its actual needs,

20. Thus far in Iraq there is only one Region, Kurdistan.

21. Iraqi investors with Industrial investment projects which are not covered by Law No. 13 may apply to the Ministry of Industry and Minerals – General Directorate of Industrial Development to receive incentives under Law No. 20 of 1997 Industrial Investment Law for Private and Mixed Sectors.

22. See footnotes Nos. 4 & 5.

THE ONE-STOP-SHOP

The One-Window (One Stop Shop) is a requirement of the new Iraqi legislation. Current legislation places the One-Stop-Shop within the National Investment Commission (and Provincial Investment Commissions) linked to the Prime Minister and suggests a strong model with the authority to issue investment licenses.

In setting up the OSS within the NIC and PICs, it was expected that all investment-related issues would be handled by the NIC and PICs through the “One-Stop-Shop”. This means having all services such as licenses and permits, immigration, customs, land, utilities, etc would be processed by NIC or PICs.

For the time being, the NIC OSS is only handling investment applications and facilitating visa issuance for potential investors who contact the NIC²³.

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS (IPRS)

This section discusses the processes needed to register patents, trademarks, industrial designs, and copyrights.

PATENTS

Iraq’s patent law and procedures are similar to the laws and registration procedures of many other countries.

The Ministry of Planning and Development Cooperation administers the country’s patents law— *“Patents, Industrial Design, Undisclosed Information, Integrated Circuits and Plant Variety Law.”*²⁴ This law covers inventions and innovative ideas in technology, products, and manufacturing processes;

- Patents may be granted for new products, new industrial methods, or new applications of known industrial methods
- Patents are not granted for the following items:
 - Publicly developed applications completed within or outside Iraq.
 - Applications for which there has been a published or publicly available description or drawing, in or outside Iraq that would enable the application to be exploited.
 - Items which have already been granted patents for the application or part thereof to a person other than the inventor, if the rights have already been assigned, or if others have already applied for the same patent, or part thereof.

The government registers patents in the inventor’s name unless the product is patented in another country. If this is the case, the government will register the patent in the name of the company, organization or association that owns it.

The government grants patents for a twenty-year period from the application date. Patent rights are not affected by the exploitation of the technique on land, sea, air or any means of

23. Item First/b of Article 25 of the Investment Statue No. 2 of 2009 sets out the powers of relevant ministries representatives within the OSS to include taking decisions relating to the Investment License only, thus limiting the possibility of providing other services related to other licenses and permits required by the investor.

24. The current competent authority is the Central Organization of Standardization and Quality Control (COSQC), which is a department at the Ministry of Planning and Development Cooperation (MOPDC). Plant Variety is covered by the Ministry of Agriculture. CPA Order No. 81 proposes three separate IP registries but nothing has been done about moving these registries/functions to the designated organizations. The issue has been addressed by a special committee at the PM’s office, which recommended establishing one central department as a sole competent authority for all IP related areas.

transport belonging to any of the countries that are members of the Paris Convention for the Protection of Industrial Property or the World Trade Organization or that treat Iraq on a reciprocal basis during their temporary or accidental existence in Iraq. The patent holder cannot object to the exploitation by these parties of the patent, i.e., there is no restriction or any of the penalties mentioned above on the use of this patent by them.

Variants

Chemicals. For pharmaceuticals and/or agricultural chemicals containing new substances, the Ministry requires test data and any other available data it may deem necessary for granting market access. The Ministry shall protect such data from unauthorized commercial use until five years after approval to market the products. The Ministry will also protect the data from disclosure except if the disclosure is necessary to protect the public or if the Ministry takes the necessary precautions to guarantee unclassified commercial use of such data.

Integrated Circuit Designs. Integrated circuit designs are recorded separately at the Register of Integrated Circuit Designs of the Ministry of Industry and Minerals. Applicants must provide information related to product design. Applicants must also provide patent holder names and addresses. Applicants must handwrite information regarding any relevant certificates issued for the integrated circuit designs, and provide information about:

- any transfer, acquisition, assignment, or licensing to third parties; and
- any mortgage, lien, seizure, levy or any constraint in utilizing the design.

The protection of integrated circuit designs extends to foreigners, whether natural or juridical persons, on a basis no less favorable than that afforded to Iraqi nationals.

Plants. Iraqi law protects new varieties of plants. The Ministry of Agriculture maintains a Register of New Plant Varieties containing data related to new plant varieties. The Registrar grants applicants provisional protection from the date of registration of the variety through application publication in the Official Gazette. The applicant may use the plant, and is entitled to reasonable royalties during this period, unless an objection is filed before the final registration of new plant variety is completed.

The term of protection is set at twenty years from the date of application, except for trees and vines, which may be protected for twenty five years. Rights to protected varieties are heritable.

Undisclosed Information. Undisclosed or secret information is protected under the following conditions:

- Natural and legal persons may prevent information lawfully within their control from being disclosed to, acquired by, or used by others without their consent or unfairly, so long as such information:
 - is not generally known among, or readily accessible to, persons experienced with the kind of information in question
 - has commercial value because it is secret
 - has been subject to reasonable efforts intended to keep it secret
- If the Minister requires the submission of data pertaining to secret tests, or data derived from development and approval procedures for pharmaceuticals or chemical agricultural products containing new substances, then the Minister shall protect such data from

commercial use through prohibiting any unauthorized use for five years from the application for protection, except if:

- disclosure is necessary to protect the public, or
- the Minister takes necessary precautions to guarantee unclassified commercial use of the data

Patent Infringement. The owner of intellectual property rights may, in case of infringement of their rights, bring a case before a Court in Iraq. The Iraqi Law on Civil Procedure Code No. 83 of 1969 provides for effective action against infringement of intellectual property rights, and also provides enforcement procedures. Article 45 of the Copyright Law and article 35 & 36bis of the Trademark and Geographical Indications Law provide for criminal procedures and penalties for trademark counterfeiting and copyright piracy. Furthermore, the Civil Procedure Code No. 83 of 1969 provides for appeal provision of any administrative decision. The decision of lower Court is subject to appeal before the Court of Appeal. All related laws and regulations are published in the Iraqi Gazette. The decisions of the Courts are available to any concerning parties. The decisions of superior courts are published regularly.

The owner of a patent or an industrial design that is registered in Iraq may seek to prevent infringement by undertaking the following procedure: file a complaint with the competent court and deposit a bond, which the court may require. Subsequently, provisional measures shall be taken to discontinue any possible infringement; seize any products resulting from the alleged infringement; and preserve evidence that related to the infringement.

TRADEMARKS

Iraq enacted its first trademark law in 1931. The subsequent Iraqi Trademark Law No. 21 of 1957 remained in force until April 2003. The government modified the trademark law through CPA Order No. 80 of 2004 renaming it to "Law of Trademarks and Geographical Indications". CPA Order 80 amended existing Iraqi trademark law by suspending enforcement of the Arab League Boycott in the trademark registration process.

Investors register trademarks with the Trademark Registration Office at the Ministry of Industry and Minerals. The government protects certain well-known trademarks even if they are unregistered in the country. A number of measures to prevent potentially confusing indications apply to trademarks. For instance, Article 5 of the Iraqi Trademark Law No. 21 of 1957 states that trademarks may not be "confusing, contrary to public order and morality, and may not mislead the public by purporting to be flags, state emblems, or the Red Cross".

The penalty for contradicting the law is a maximum of five-year imprisonment, or a fine of up to ID 50,000,000-100,000,000 or both.

An investor may transfer a registered trademark. He/she may also license a trademark. There is no provision for compulsory licensing of trademarks. Iraqi law protects registered trademarks for ten years, renewable indefinitely for a further 10 years in the last year. The owner may apply for renewal within six months of the expiration date. The ownership of the trademark cannot be contested if it has been in use for five years.

INDUSTRIAL DESIGNS

Approvals pertaining to industrial designs or models shall be granted where the design or model is new or original. The Ministry of Planning and Development Cooperation is the responsible Ministry with respect to Industrial Design registration. Designs are protected for

a period of ten years. An industrial design or model is not considered novel in the any of the following cases:

- The product has been displayed or described publicly prior to the date of application
- The product's description or display was made public after an application was filed in a country that has reciprocity with Iraq
- The product has been displayed in national or international exhibitions, or has been made public in a conference or scientific journals not more than six months prior to the date of the application in Iraq
- The product entails minor differences from prior industrial designs or models, or entails applying a product or technique in a new fashion

Applications pertaining to industrial designs that are defined essentially by technical or functional considerations may not be granted, if the patent holder would be able to prevent a third party from making, selling, or importing copies or imitations of the protected design when such acts are undertaken for commercial purposes. The Minister may provide limited exceptions to the protection of industrial designs, provided such exceptions do not unreasonably conflict or prejudice the legitimate interests of the patent owner for normal exploitation, and taking into account the legitimate interests of third parties.

COPYRIGHTS

Iraqi copyright law is intended to meet the current internationally recognized standards of protection. The Copyright Committee at the Ministry of Culture is responsible for copyright registration. The current rules protect the rights of creators or authors of original literary, artistic, and scientific works. The person in whose name the work is published is considered the author. Protection includes works in writing, sound, drawing, painting, and performance. Authors have the exclusive right for reproduction, translation, distribution, or transmission of any work. Rights to a work created for another person remain with the author absent a written agreement stating otherwise.

Work published in newspapers or periodicals may not be adapted as commercially distributed novels, short stories or other literary, artistic or scientific works except by permission of the author. The rights of an author are protected for the life of the author plus 50 years after death.

New legal provisions (CPA Order No. 83) also protect performers, sound recorders, broadcasters, and innovative forms of communication in accordance with internationally accepted standards. There are no fees associated with registering copyrights in Iraq.

UPCOMING NEW TRADE RELATED LEGISLATIONS

The GOI is in the process of developing a new intellectual property rights (IPR) law in line with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), but the exact structure of this and related legislation is still being determined:

Intellectual Property (IP). Iraq has a comprehensive draft IP law in compliance with the requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement). The proposed legislation is undergoing the review process for ultimate passage in parliament. The GOI has submitted its completed ACC/9 and the draft IP law to the WTO.

- **Technical Barriers to Trade:** Iraq has a draft WTO-compliant TBT law which is undergoing review for ultimate passage in parliament. The legislation calls for Iraq to adopt international technical regulations, standards and conformity assessment procedures when these are effective in fulfilling Iraq's legitimate objectives. The GoI has submitted its completed ACC/8 (for TBT) and the draft TBT law to the WTO.
- **Agriculture:** Iraq is in the process of preparing a revised ACC/4 for submission to the WTO.
- **Sanitary and Phytosanitary Measures:** Iraq is reviewing its laws and drafting the necessary legislation to comply with the WTO Agreement on Sanitary and Phytosanitary Measures.

Services. Iraq is currently reviewing its services regime with an eye towards further reform in opening up service sectors. Iraq is also in the process of preparing its ACC/5, for tourism, financial, telecommunications and transportation services.

Iraq is also a member of several international intellectual property conventions, and of regional or bilateral arrangements which include:

- Paris Convention for the Protection of Industrial Property (1967 Act) ratified by Law No. 212 of 1975.
- World Intellectual Property Organizations (WIPO) Convention; ratified by Law No. 212 of 1975. Iraq became a member of the WIPO in January 1976.
- Arab Agreement for the Protection of Copyrights; ratified by Law No. 41 of 1985.
- Arab Intellectual Property Rights Treaty (Law No. 41 of 1985).

IRAQ'S WTO ACCESSION

The conditions for Iraq's accession to WTO membership are embedded in three key commitments:

- A goods offer that complies with the provisions of the GATT and WTO agreements on trade in goods;
- A services offer that complies with the WTO General Agreement on Trade in Services (GATS); and
- Enactment and implementation of legislation that complies with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

To support these commitments, the GOI responds to periodic questions and requests for documents from the WTO Working Party for Iraq's Accession. To begin the accession process, Iraq submitted a Memorandum on Iraq's Foreign Trade Regime (MFTR) in 2005. This memo served as the basis for a series of questions and document requests that have been posed by the Working Party. The Legislative Action Plan (LAP) is one of the WP's key tools for tracking progress on compliance with the WTO agreements.

A draft of Iraq's initial Goods Offer has been completed and will be submitted to the WTO as soon as GOI reviews are completed. The Goods Offer consists of a proposed schedule of bound tariff rates according to the Harmonized System of goods categories; a proposed agricultural subsidy offer; and a schedule of commitments to enact and implement legislation that complies with the provisions of WTO agreements on technical barriers to trade (TBT), sanitary and phytosanitary measures (SPS), trade-related investment measures (TRIMS),

customs administration and intellectual property rights. With respect to legislation affecting the Goods Offer, laws have been drafted (with English translations) on customs tariff administration, technical barriers to trade (TBT), food safety (SPS), and intellectual property rights. Once the initial Goods Offer is submitted to the WTO, negotiations will proceed with WTO members having significant interests in goods trade with Iraq. During the negotiations, additional legislation will be undertaken to bring Iraq's goods trading regime into compliance with WTO agreements.

Positions on market access to services have been drafted for the tourism, finance, computer and R&D services, telecommunications and transportation services sectors, covering 81 of the 152 services sub-sectors of the GATS framework. The GOI intends to draft additional positions on market access to services in the health, education, environment and construction sectors. An initial Services Offer is expected to be submitted to the WTO and negotiations are expected to be started with WTO members having significant interests in services trade with Iraq, before all of the sector services positions are completed. During the negotiations, additional legislation will be undertaken to bring Iraq's services trading regime into compliance with the WTO GATS and TRIMS.

Finally, Iraq has drafted a new intellectual property law that is compliant with the WTO TRIPS agreement. While providing systematic protection of patents, trademarks and copyrights, the new law will complement Iraq's new investment legislation by affording investors the same intellectual property rights as all other WTO member countries.

4. ESTABLISHING A BUSINESS

BACKGROUND/GOVERNING LAWS

Iraq's Commercial Law No. 30 of 1984 (Articles 5 to 15) regulates all 'trading activities' undertaken by the Iraqi public and private sectors. 'Trading' is defined as for-profit economic activities in a wide range of industry sectors including importing/exporting, manufacturing, logistics and transportation, construction, tourism, banking, insurance, buying and selling of securities and stocks and contracting.

The Commercial Law differentiates between two categories of 'traders'. These are:

Retail trader — a natural person who carries out commercial activities that are registered in his/her own name. He/she is a sole trader, buying and selling as an individual or as an intermediary. Retail traders/natural persons' activities are governed by Commercial Law No. 30 of 1984.

Legal trader — a legal entity or company: Legal traders' activities, i.e. companies', are governed by Companies Law No. 21 of 1997 as amended by CPA Order No. 64 which was issued in February 2004.

FORMS OF BUSINESS

This section of the Investor Guide categorizes the types of businesses that can be registered in Iraq in accordance with the Companies Law. They are as follows:

COMPANIES

Companies Law no. 21 for 1997 as amended lists the following types of companies:²⁵

Joint stock companies—private or with state shareholding

Joint stock companies must be formed by at least five natural or legal persons. They offer shares through public subscription. All shareholders are responsible for company debts to the extent of the value of their respective shares.

Iraqi law requires insurance, re-insurance, and financial investment firms to be joint stock companies (Article 10 of the Companies Law No. 21 of 1997). Founding shareholders must post an incorporation deposit (Article 28 of the Companies Law No. 21 of 1997) in a bank authorized to operate in Iraq.

Financial investment companies operate as financial intermediaries investing in financial securities. They are governed by the Companies Law as any other joint stock company. Their operations, however, are supervised by the Central Bank of Iraq in accordance with the Iraqi Central Bank Law and CPA Order No. 56 of 2003.

Sole Proprietorships

Sole proprietorships may be established by a single natural person. In sole proprietorships the owner assumes personal, unlimited liability. In Iraq a sole proprietorship is called a "sole owner enterprise".

25. For details go to www.investpromo.gov.iq/Investor Tools/Iraqi Laws/Company Law.

Joint liability companies

Joint liability companies are formed by a number of investors ranging between two and twenty five natural or legal persons. Owners participate in proportion to their respective quotas and they have unlimited personal liability.

Simple companies

Simple companies are established by a number of investors ranging between two and five, each of whom contributes capital to the company in the form of cash or in kind. The Companies Law requires simple companies to have notarized incorporation papers. Simple company's owners must deposit a copy of the incorporation document, delineating the shareholders and their shares with the Iraqi Office of Company Registration (OCR) at the Ministry of Trade (MoT).

Limited companies - private or with state shareholding

The Companies Law stipulates that limited companies can be established by no less than two and no more than 25 founders. Founders of a limited company may be natural or legal persons and are responsible for company debts to the extent of the nominal value of their respective shares. A mixed company may be formed by agreement between one or more legal persons from the public sector and one or more from other sectors, i.e., private, mixed, and/or cooperative, provided that public sector shares represent no less than 25 percent of the total company capital. If the percentage of state-owned shares falls below 25 percent, the company is considered a private company. The vast majority of registered enterprises in Iraq are limited companies. Limited liability companies may also be established by a single natural or legal person.

Iraq ranks favorably in comparison to its neighbors with regard to minimal capital requirements for private companies. Article 28 of Companies Law No. 21 specifies minimum capital requirements for various types of companies: Joint Stock Company - (IQD 2000,000)²⁶; Limited Company - (IQD 1000,000); other types of companies (IQD 500,000). Iraq ranks favorably compared to regional competitors, such as Egypt, Jordan, Kuwait, Saudi Arabia, Syria, and the UAE.

COMPANY REGISTRATION PROCEDURES

- Notarized Power of attorney to a lawyer empowering him to carry out establishment procedures.
- Reserve the Company trade name at the relevant Chamber of Commerce and the Union of Chambers of Commerce.
- Founding shareholders sign a contract in which they clarify company's activity and relationship among partners and contract obligations with others.
- Deposit company's capital in Iraqi Dinars in an authorized bank in Iraq and notify the Office of Companies Registrar (OCR).
- A copy of passport for foreign founders or Iraqi ID for Iraqi founders as well as for the representative authorized to lodge the application to the OCR (while submitting the original to OCR later to verify the authenticity of the copy).
- Establishment forms to be completed and signed by founders or their legal representative with founders' addresses, emails and phone numbers.

26. On September 30, 2009, One ID = USD 1170 on CBI Auction

- Pay processing charges to OCR.
- If the application is to establish a joint stock company (JSC), a feasibility study should be submitted to OCR along with a document signed by the founders showing their subscriptions in the company and a bank document showing the deposited subscription amounts.
- The economic activity of the company should be mentioned and included in the contract of incorporation.
- The company may issue bylaws to organize its work and the relation among members and others.
- Nomination of a legal consultant for the company (attorney) according to a letter from the Iraqi Lawyers Syndicate.
- Nomination of a chartered accountant from Iraqi Union of Accountants and Auditors.
- Nomination of the managing director.
- All foreign shareholders in the company are obliged to get permission of the Ministry of Interior. This process is completed by OCR directly.

Only joint stock companies, mixed or private, can issue publicly traded stock. The founders of a mixed joint stock company shall subscribe to not less than 30% and not more than 55% of its nominal capital and it must include a minimum of 25% for the state (public) sector.

Founders of private joint stock companies must subscribe at least 20% of the initial capital, and offer the remaining shares through an initial public offering within 30 days of company approval. Private joint stock companies issue a public offering through an announcement to be published in the Bulletin of OCR and at least two daily newspapers in Iraq. This takes place after receiving the OCR approval to do so. If the OCR finds the company's documents potentially misleading to investors it refers the case to the Securities Commission.

For joint stock companies, limited liability companies, and sole proprietorships, the capital must be paid up before the issuance of the certificate of establishment.

Time needed

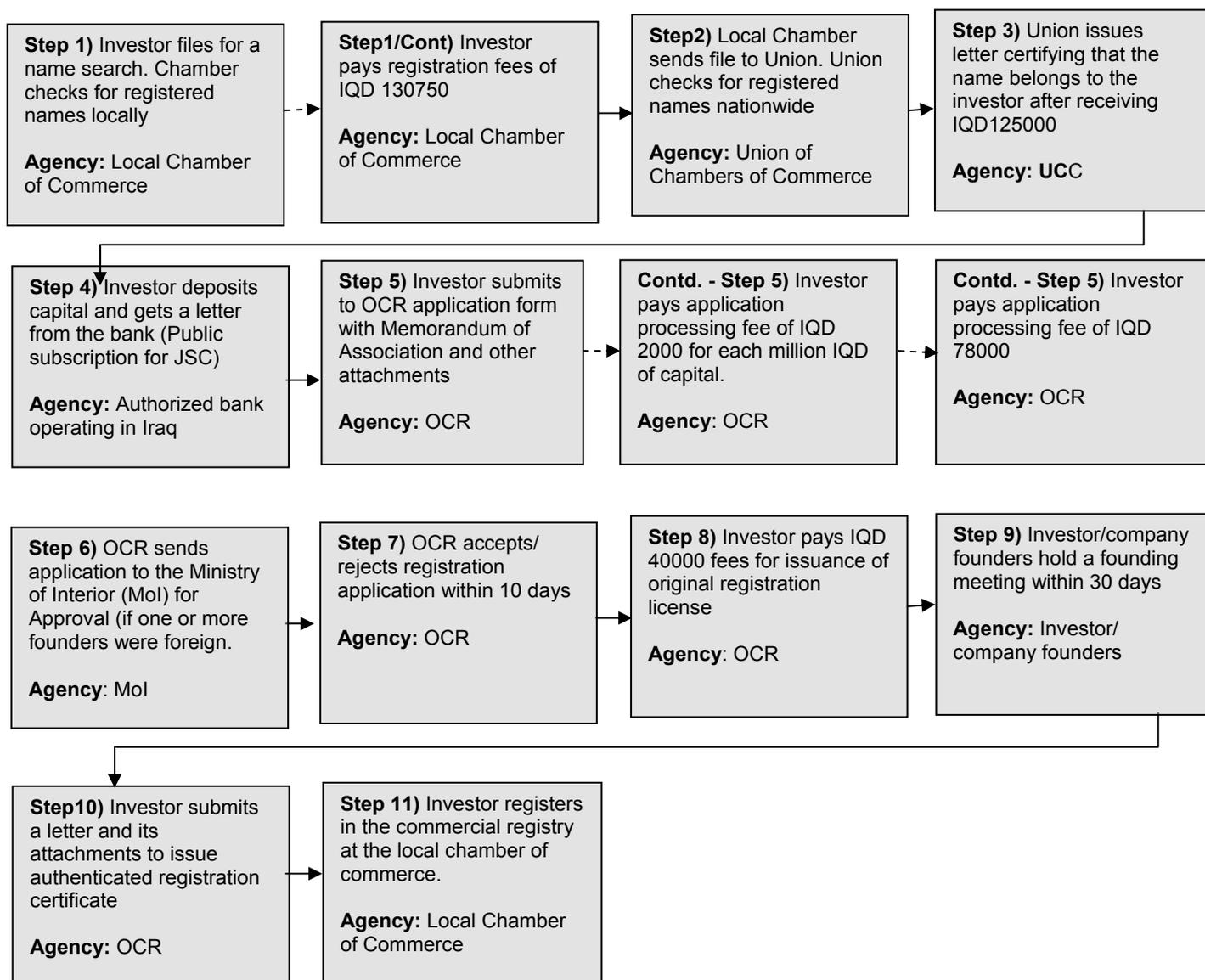
The time that the investor needs to complete all steps mentioned above is estimated to be:

- Approximately two months for a joint stock company.
- Approximately 20-25 days for all other company types.

FINANCIAL CONTROLS

A controller, assigned at the company's general meeting, controls and audits private companies' accounts. Audits and other financial reports are generally subject to acceptance by shareholders at the company's annual meeting. For joint stock companies, annual reports and audited results must be signed by the Chairman of the Board and the managing director. At other companies the managing director is the responsible officer. The Board of Supreme Audit (BSA) governs mixed companies' accounts.

Summary of steps for registering a company in Iraq



LCC: Local Chamber of Commerce
OCR: Office of Company Registrar
UCC: Union of Chambers of Commerce

REGISTRATION OF A TRADE REPRESENTATION OFFICE OR A BRANCH OF A FOREIGN COMPANY

Foreign entities interested in registration to practice business in Iraq have to complete documents in The Office of Companies Registrar (OCR) according to a form prepared by the Ministry of Trade and submitted to OCR in two copies. OCR will keep one copy and the other will be returned to the applicant with a signed check list.

Application must include the following information related to the foreign entity willing to register in the company registrar:

1. Legal name.
2. Commercial name.
3. Nature of commercial activity.
4. Address of commercial activity in Iraq.
5. Phone number, fax and e-mail address in Iraq.
6. Name, address and phone number of (the official manager in Iraq, legal representative in Iraq and officially authorized representative to OCR. All three have to be resident in Iraq).
7. Amount of authorized or registered capital (identify currency).
8. Financial account for the last financial period (identifying date and currency).
9. Names and addresses of owners holding 10% or more of company shares.
10. Declaration of veracity signed on behalf of the foreign entity.

The following documents are to be submitted with every application related to a foreign entity intending to register in the companies' registrar:

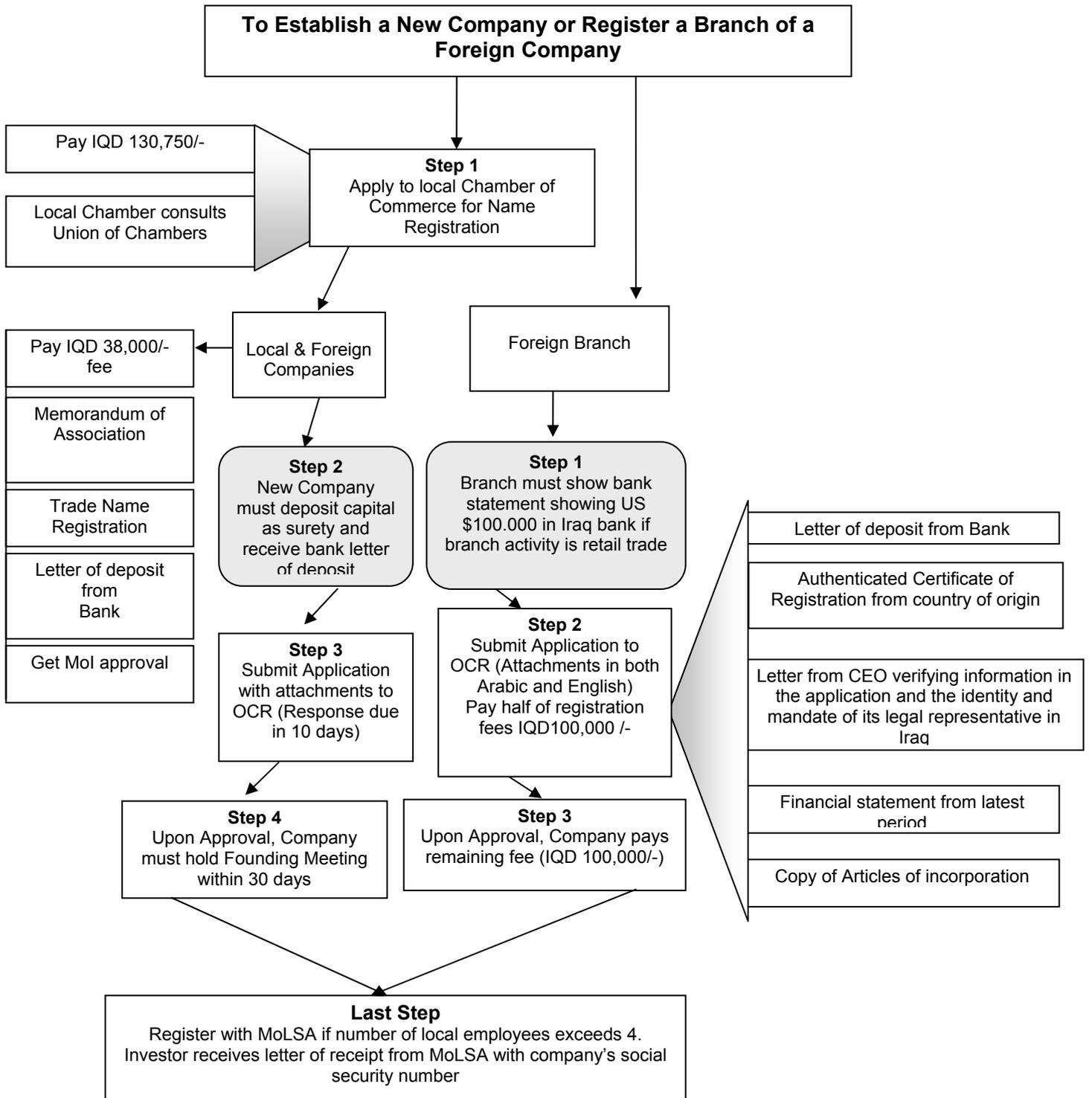
1. Certificate of registration issued and registered by an authorized body in the country of origin.
2. A copy of articles of incorporation or equivalent adopted by an authorized body in the country of origin.
3. An official letter containing information about the company signed by an official of the company or the official manager in Iraq, declaring acceptance to receive reports in Iraq.
4. Company's financial accounts for the last year.
5. Copy of passport (for foreigners) or ID (for Iraqis) for the officially authorized representative to OCR

OCR reviews the application to make sure of completeness. If complete OCR provides the applicant with a check list (after the fees are paid) in which it shows that all required documents have been received. Accepted applications are officially registered in the Company Register.

Time needed

The time needed by OCR to process the investor's application for a registration certificate for a trade representation/branch office by the OCR is estimated at ten days. The whole process is estimated to take approximately 15 days.

Flowchart 1



Investor appeal process in case of rejection of the application.

If the OCR refuses an investor's application to establish a business (or to obtain a company registration certificate or foreign company representative office or branch), the investor may appeal his/her case to the Minister of Trade within 30 days of application rejection. The investor must submit a letter to the Minister detailing the reasons why their application was rejected and also the response and/or actions to correct their status. If the Minister of Trade rejects the appeal, the investor may then appeal to the relevant court of first instance within 30 days of notification.

LABOR

The GOI has drafted a new labor law, which is under review by the Prime Minister's cabinet. Current Iraqi labor law remains weak in promoting a flexible, business-friendly employment environment.

Iraq is a party to both International Labor Organization (ILO) Conventions related to youth employment, including child labor abuse.

The new investment law states that priority in employment and recruitment shall be given to Iraqis, but does not establish any quotas. However, the NIC shall observe, when granting an investment license, that the number of local employees should not be less than 50% of the project total employment²⁷. In addition, foreign investors are expected to help train Iraqi employees as well as to raise their efficiency, skill, and capabilities. Separate from the new law, there are existing labor-related requirements for foreign companies employing Iraqi or foreign workers.

CURRENT EMPLOYMENT ISSUES

The existing Saddam-era law includes regulations that require revisions, including: benefit clauses, working conditions for foreign expatriate workers, and rules governing working hours. The Ministry of Labor and Social Affairs (MOLSA) also sets a minimum monthly wage for unskilled workers. In addition, according to Iraqi law, all employers must provide some level of transport, accommodation, and food allowances for each employee. The law does not fix allowance amounts.

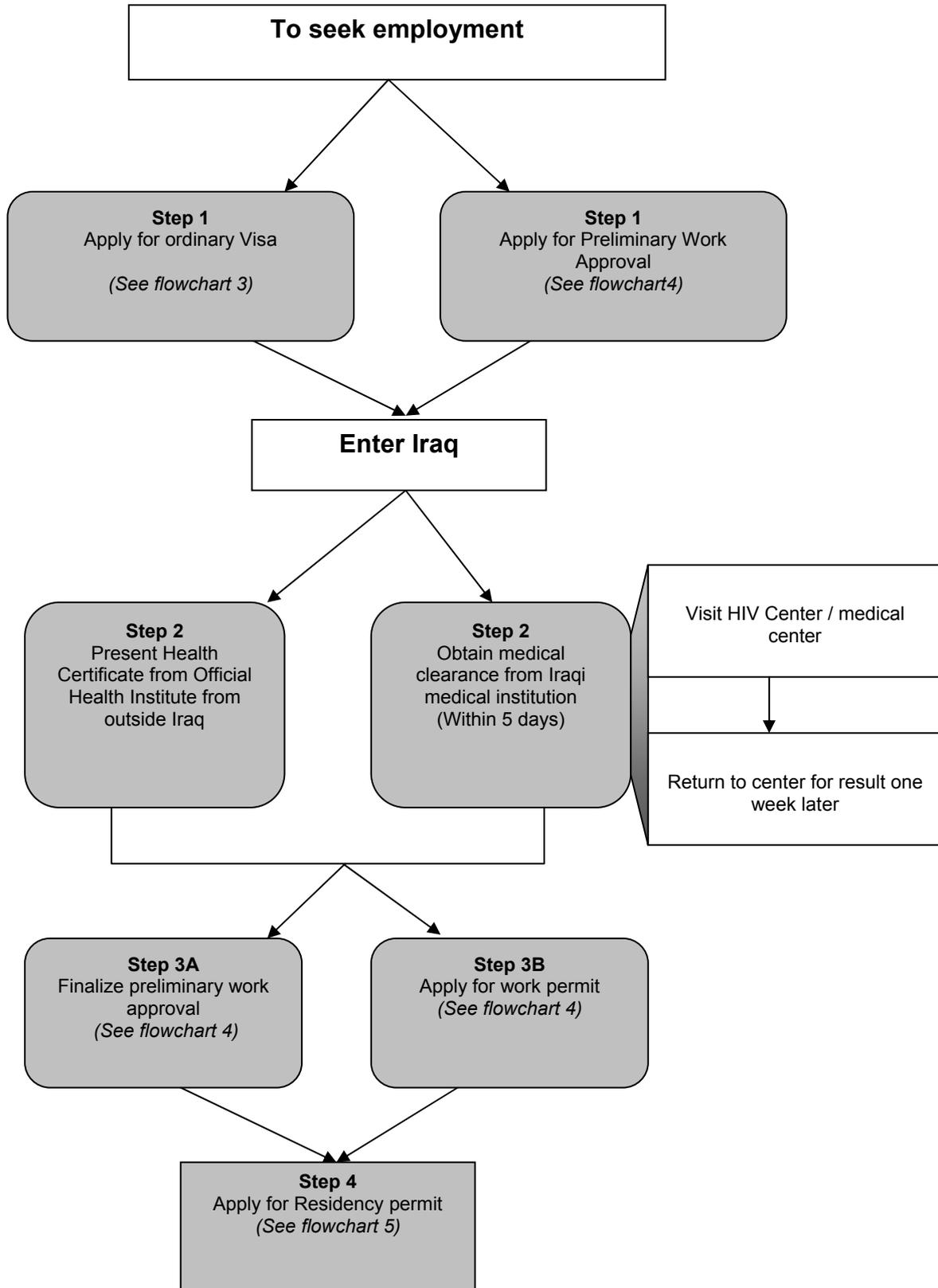
There are also requirements for foreign companies employing Iraqi or foreign workers. The investor must notify relevant investment commission and the Ministry of Labor and Social Affairs (MOLSA) when he employs Iraqi or foreign workers, when the job ends and when there are vacancies, among other requirements. There are also work permit requirements for hiring expatriate employees.

The procedures for these processes are clearly outlined in the following charts,

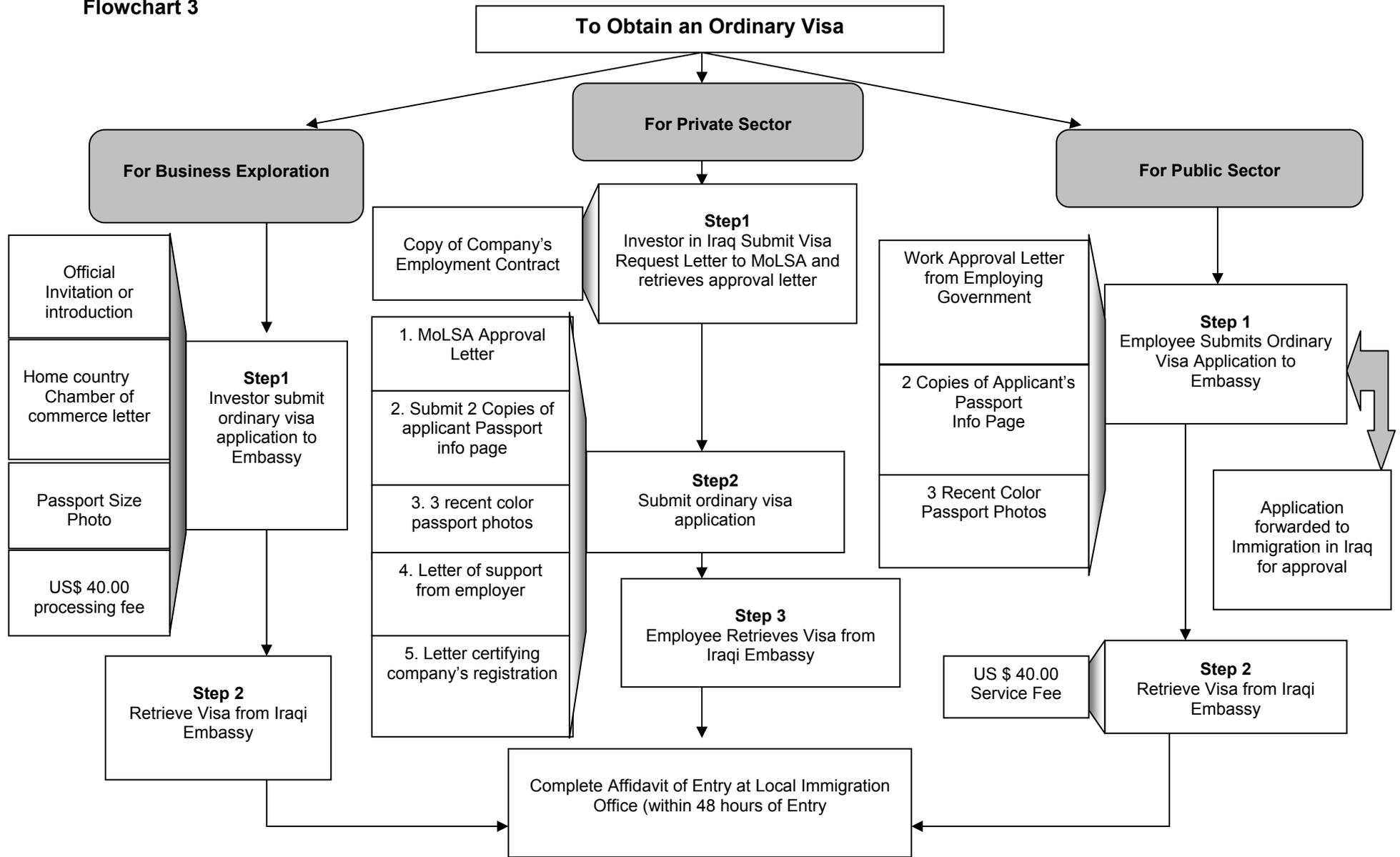
- Expatriate Employment Procedures (Flowchart 2).
- How to Obtain an Ordinary Visa? (Flowchart 3).
- How to Obtain a Work Permit? (Flowchart 4).
- How to Obtain a Residency Permit? (Flowchart 5).

27. As per Item 1, Article 30, Investment Statue No. 2 of 2009

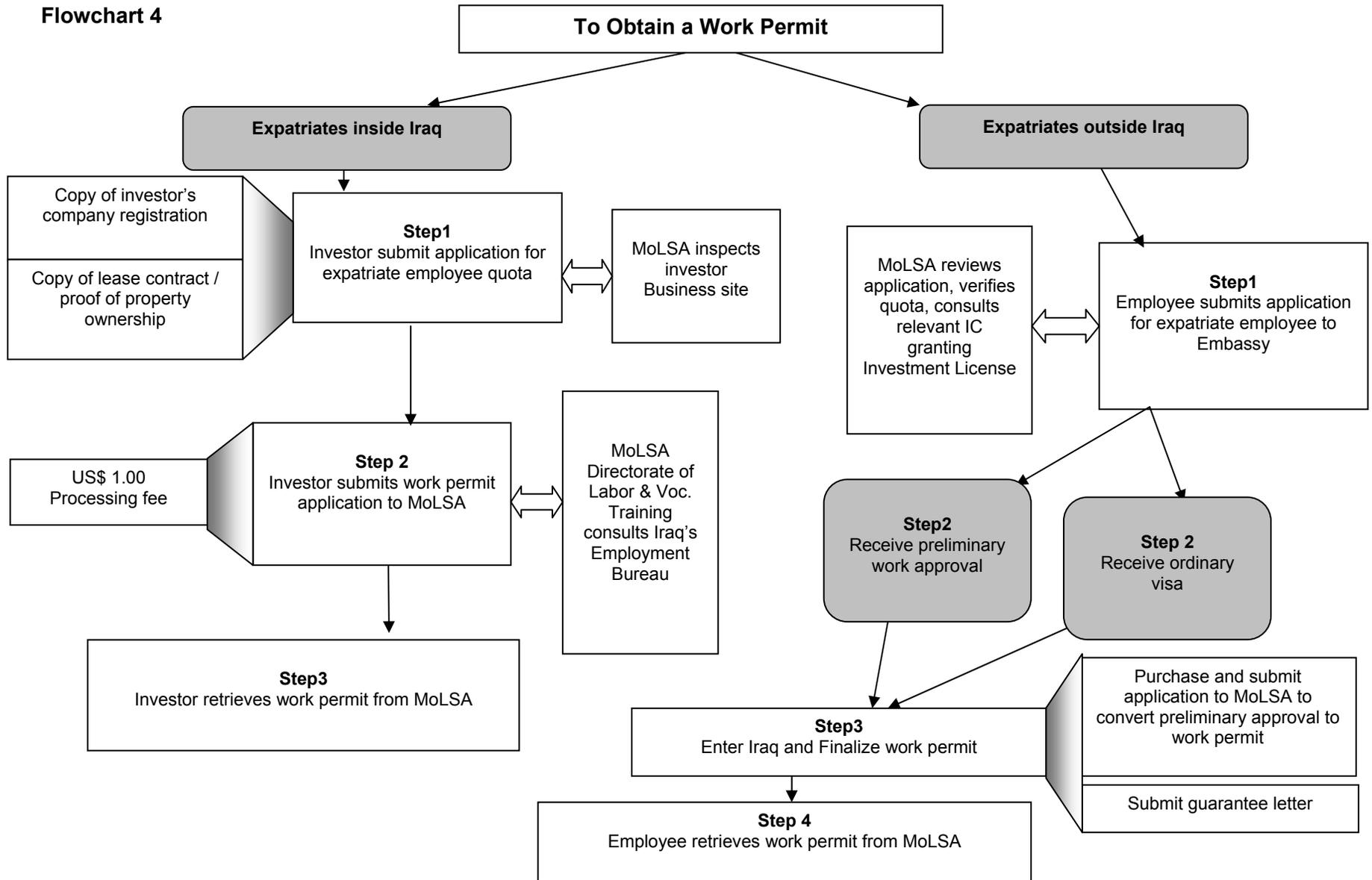
Flowchart 2



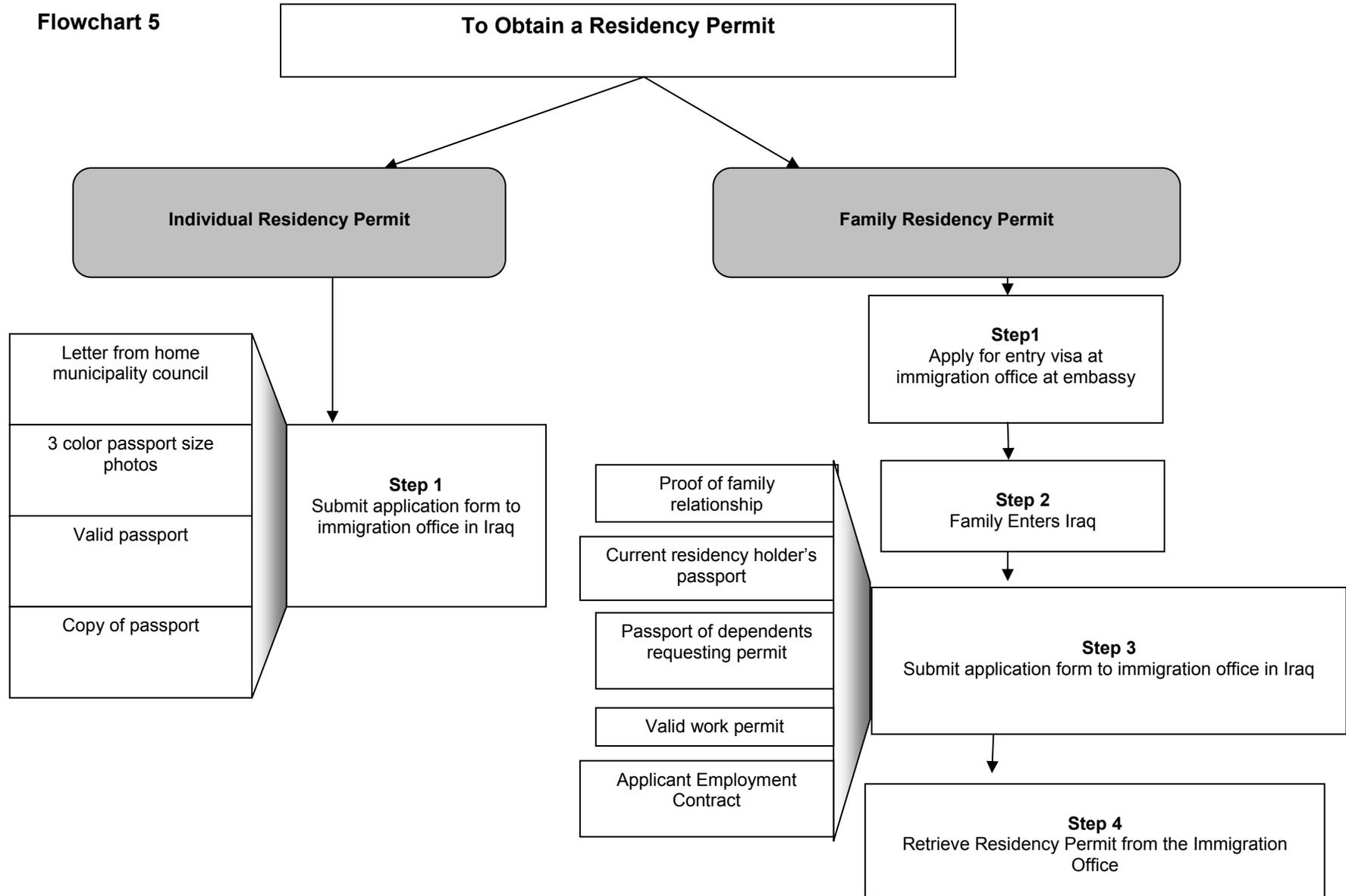
Flowchart 3



Flowchart 4



Flowchart 5



ACQUIRING LAND/SITES FOR INVESTORS

The ownership of Government land depends on many factors. A large proportion of the land is owned by the Ministry of Finance but certain Ministries control certain types of land. In this area, the roles of the Governorates and Municipalities are important and must be considered by the investor.

Several legislations govern land acquisition in Iraq, but the main ones are:

- Law No. 35, 2002, Law of Public Roads
- Law No. 45 of 1980, which regulates procedures of purchase and sale of private lands by judicial decisions
- Law No. 30 of 2000, Organization of Industrial Services and implementing regulation No. 9 of 2000, which governs the lease of state land for industrial services projects
- Law No. 3 of 1998, Commission of the Free Zone Administration and implementing regulation No. 4, 1999
- Law No. 20 of 1998, Industrial Investment for the Private and Mixed²⁸ Sectors, which regulates the lease of state land for Iraqi industrial projects producing consumer and capital goods
- Law No. 32, 1986, Selling and Leasing of State Properties²⁹

IDENTIFYING LAND

Investors have several choices with respect to locating land for industrial and commercial projects in Iraq. Investors with industrial projects may lease land in government industrial estates and free zones. Investors with non-industrial projects may lease land within a free zone, or government land outside the industrial estates via an auction process. Iraqi investors may purchase government land for non-industrial projects via an auction process. Iraqi investors may purchase or lease property for non-industrial projects from the private property market. While foreign investors may lease property for non-industrial projects from the private property market, ownership of private property is still not allowed.

Government Land

1. Leasing Government Land in Industrial Estates

No single agency manages Iraq's industrial estates. Instead, a number of ministries and government agencies play a role in the country's industrial estates.

- **Ministry of Industry and Minerals (MoIM)**, through its General Directorate of Industrial Development (GDID) and General Establishment of Geological Exploration for Mining and Quarrying
- **Ministry of Labor and Social Affairs (MoLSA)**, through its Directorate of Labor and Social Security, which is responsible for industrial services projects
- **Amanat of Baghdad (Mayoralty) and governorate and municipal governments** are responsible for utilities such as water and sewerage and licenses for site development within the country's industrial estates.

28. Mixed enterprises are those in which the state has a 25% or greater stake.

29. In a draft law amending Investment Law No. 13, all projects (investors) governed by this law are exempted from Law No. 32 of 1986 Selling & Leasing of State Property Law.

These ministries and provincial and local authorities may defer to line ministries and the Ministers Council in cases outside their delegated authority. For example, according to the Organization of the Industrial Services Law No. 30 of 2000 “the Minister of MoLSA or whoever he so authorizes” may terminate a project located in an industrial estate managed by a municipality or governorate if land use changes contradict the investor’s business license, or if the project is non-operational.

2. Leasing Land in Government Free Zones

Iraqi legislation treats free trade zones differently than industrial estates. The following legislation governs free trade zones in the country:

- Free Zone Law No. 3 of 1998
- Instruction No. 4 of 1999 on the Administration of Free Zones
- Regulations of investors' activities in free zones

Law No. 3, Article 1 identifies the General Commission of Free Zone Administration under the Ministry of Finance as the competent Free Zones Authority Instructions No. 4, 1999; Article 4(4) permits investment in Free Zones for industrial, commercial, and service projects.

3. Leasing Government Land outside of Industrial Estates and Free Zones

Investors covered by Investment Law No. 13 of 2006 shall enjoy the privilege of renting or leasing lands needed for the project for a period not to exceed (50) fifty years renewable³⁰.

Other investors not covered by the said Investment Law may lease government land outside of Iraq’s industrial estates for residential, commercial, or agricultural purposes. Law No. 32 of 1986, “The Law of Sale and Lease of State Properties,” as amended governs the purchase or lease of this land. Iraqi and foreign investors may lease government land outside industrial estates³¹.

The government leases and sells all state owned land, including that belonging to the Ministry of Finance’s State Real Estate Department, Awqaf,³² or the Ministry of Agriculture, through public auctions. Investors may use public land leased through the auction process for commercial projects. Industrial land is excluded from the auction process; as noted above, Iraqi and foreign investors with industrial projects must lease land in an industrial estate.

Each ministry that owns land has a sale and lease committee that manages the auction process. When a ministry is ready to lease a particular plot it announces the property’s availability via a public announcement in a relevant local newspaper, and sets an auction date. The public announcement provides pertinent information, including a site description, the date and venue for the auction, and rules for participating in the auction, including how to pay the required deposit. The government must advertise the auction in a local newspaper for 15-30 days prior to the auction.

30. Item (Third) Article 11 of the said Investment Law.

31. A draft law amending Investment Law is being discussed at the Council of Representatives (Parliament). It shall enable foreign investors own land for housing projects provided that the housing units are sold to Iraqis on completion of the project. Also, the amendment law excludes implementation of Law No. 32 of 1986 “The Law of Sale and Lease of State Properties” for Iraqi and foreign investors covered by Investment Law No. 13 for 2006.

32. Plural of waqf land, which is government-supervised private land endowed for charitable or religious purposes.

4. Purchasing Government-Owned Land

The government also sells land outside industrial estates through a public auction process. Since Iraqi law forbids foreigners from purchasing government land only Iraqi citizens have access to sale auctions³³. As with lease auctions, industrial zoned property is excluded from the sale auction process since industrial projects may only locate in Iraq's industrial estates. The relevant ministry tasks its assessment committee³⁴ with determining the land value. The assessment committee subsequently sends an assessment report to the relevant minister and he tasks the sale and lease committee with selling the property.

The committee sets an auction date and advertises it in the relevant local newspaper. In the advertisement the committee describes the property, notes its assessed value, and indicates the auction day, time, and venue. The advertisement includes an explanation of participation procedures.

Purchasing or Leasing Land from the Private Property Market

Iraqi investors have the right to buy and/or lease property from the private real estate market for residential, commercial, or agricultural use, while foreign investors may only lease property from the private real estate market. Twenty percent of Iraqi land is in the private property market, the majority of it residential. According to current law, foreigners may lease property in the private market for a period not to exceed 50 years renewable. Iraq does not yet host large international real estate companies; however, there are numerous small real estate agents in the country.

The following Flowcharts represent a Guide to Land/Site Acquisition, Connecting to Services, and acquiring Environmental Compliance Certificate:

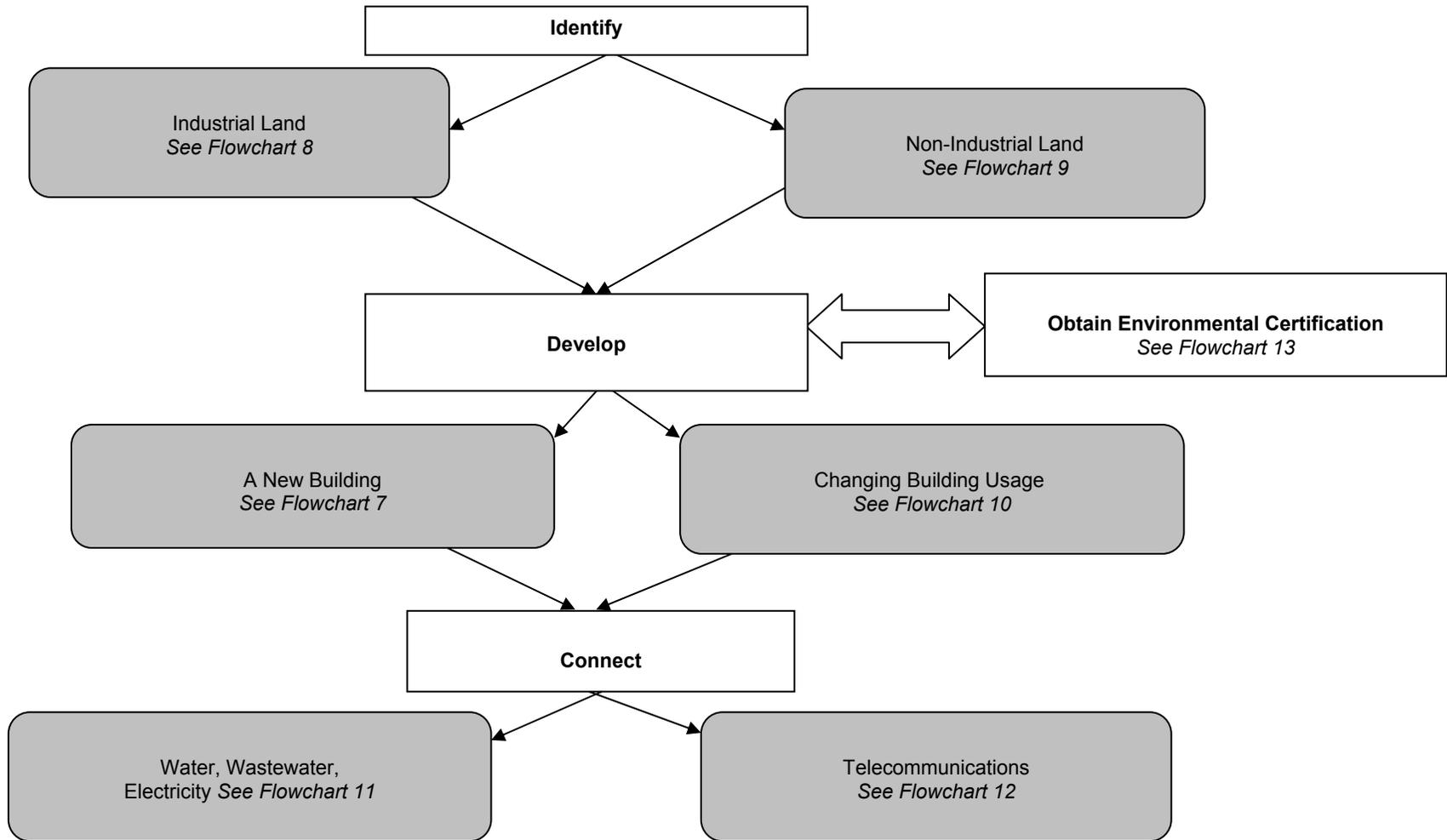
- Land/Site Identification, Utilities and Environmental Certification (Flowchart 6);
- Get a Building Permit (Flowchart 7);
- Procedures for Identifying Government owned Industrial Land (Flowchart 8);
- Procedures for Identifying Land for Non-Industrial Projects (Flowchart 9);
- Site Development - Change Building Use (Flowchart 10);
- Connect Project to Electricity, Water and Sewerage Services (Flowchart 11);
- Procedures of Obtaining Communication Services (Flowchart 12);
- Obtaining Environmental Compliance Certificate (Flowchart 13)

33. See Footnote 27

34. Each ministry that owns land has an assessment committee consisting of the following representatives: Three directors or other high level officials from the relevant ministry, 1 representative from the Ministry of Finance, and 1 real estate agent.

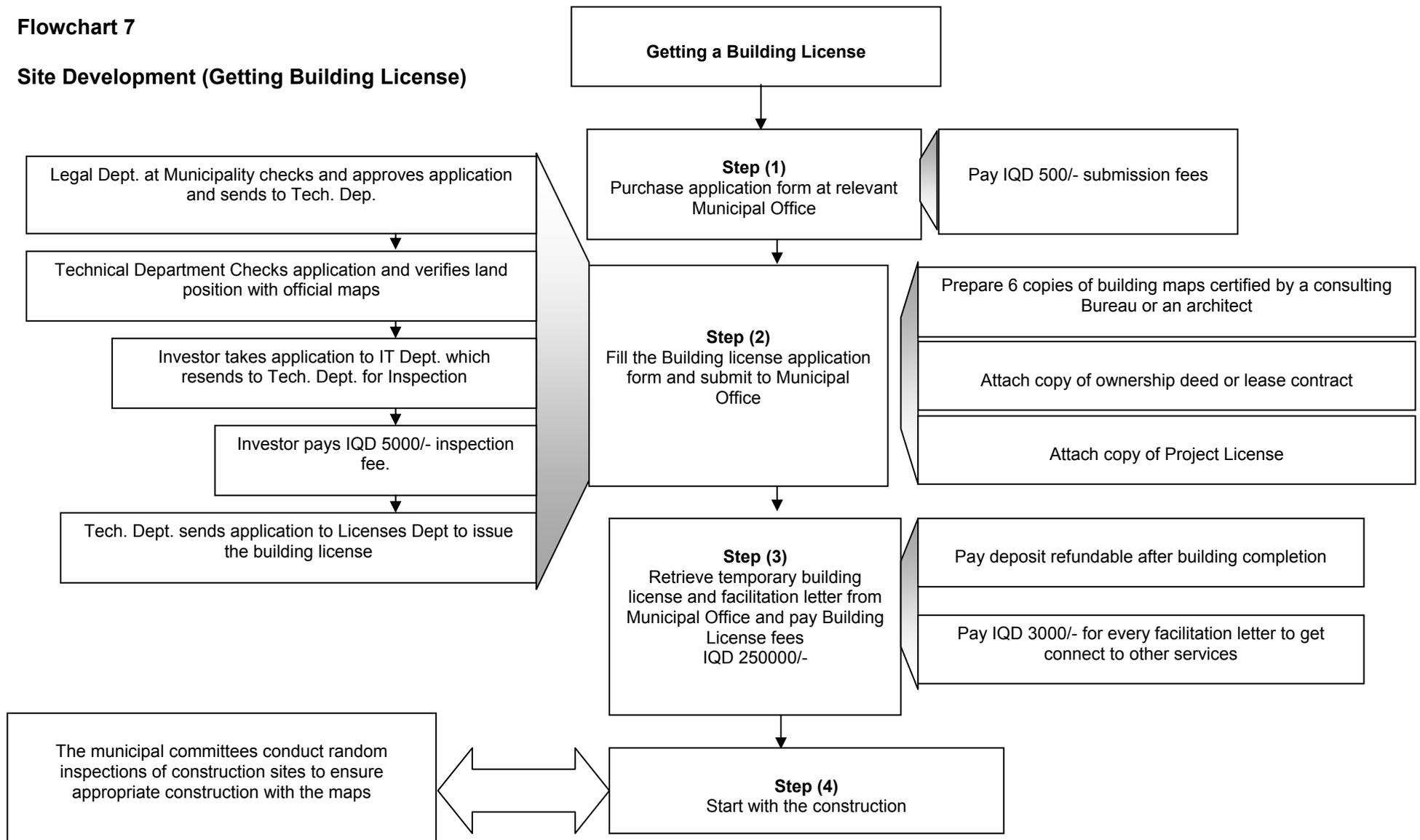
Flowchart 6

Procedures for Land Identification, Site Development, Connecting Utilities

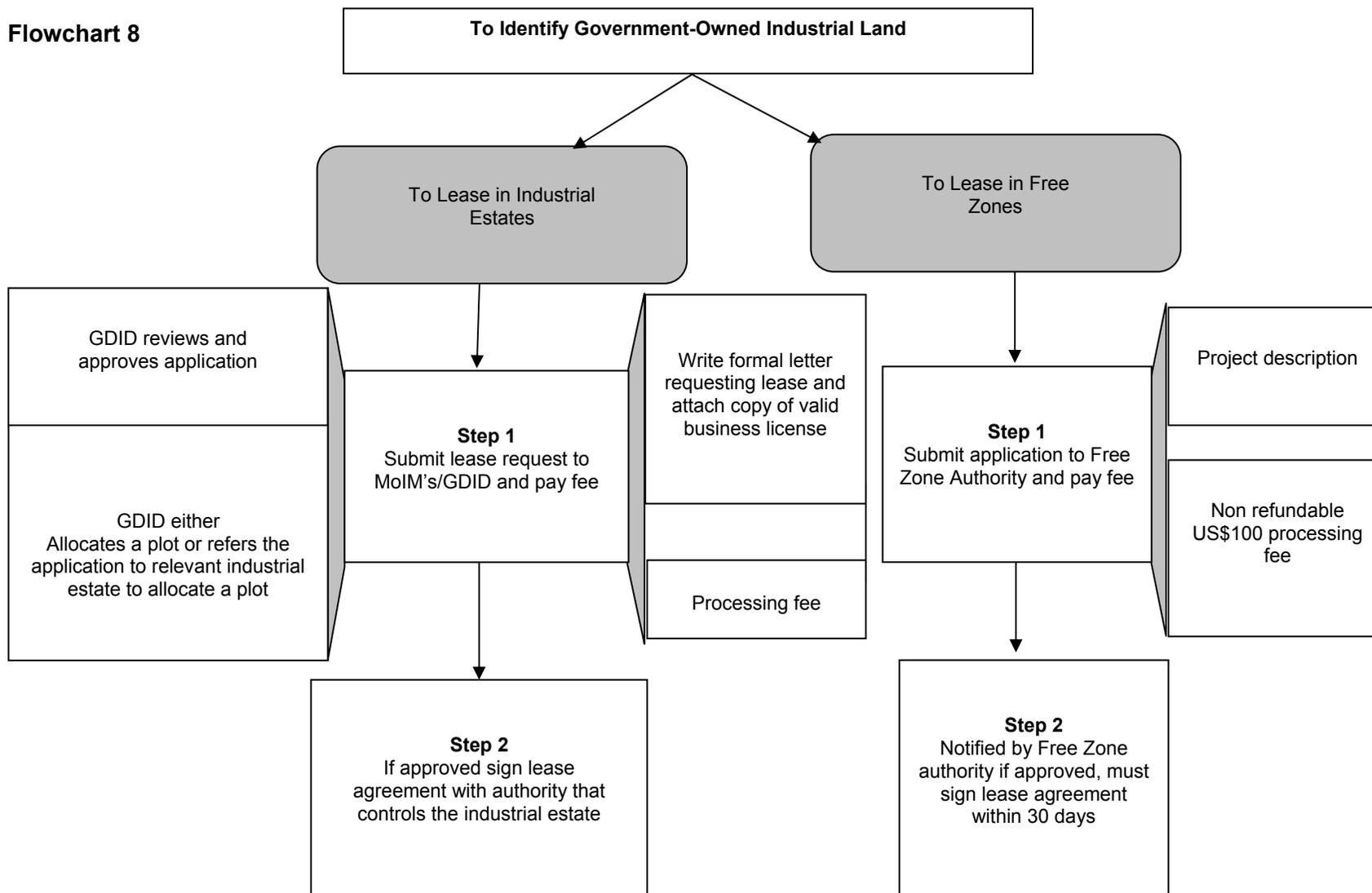


Flowchart 7

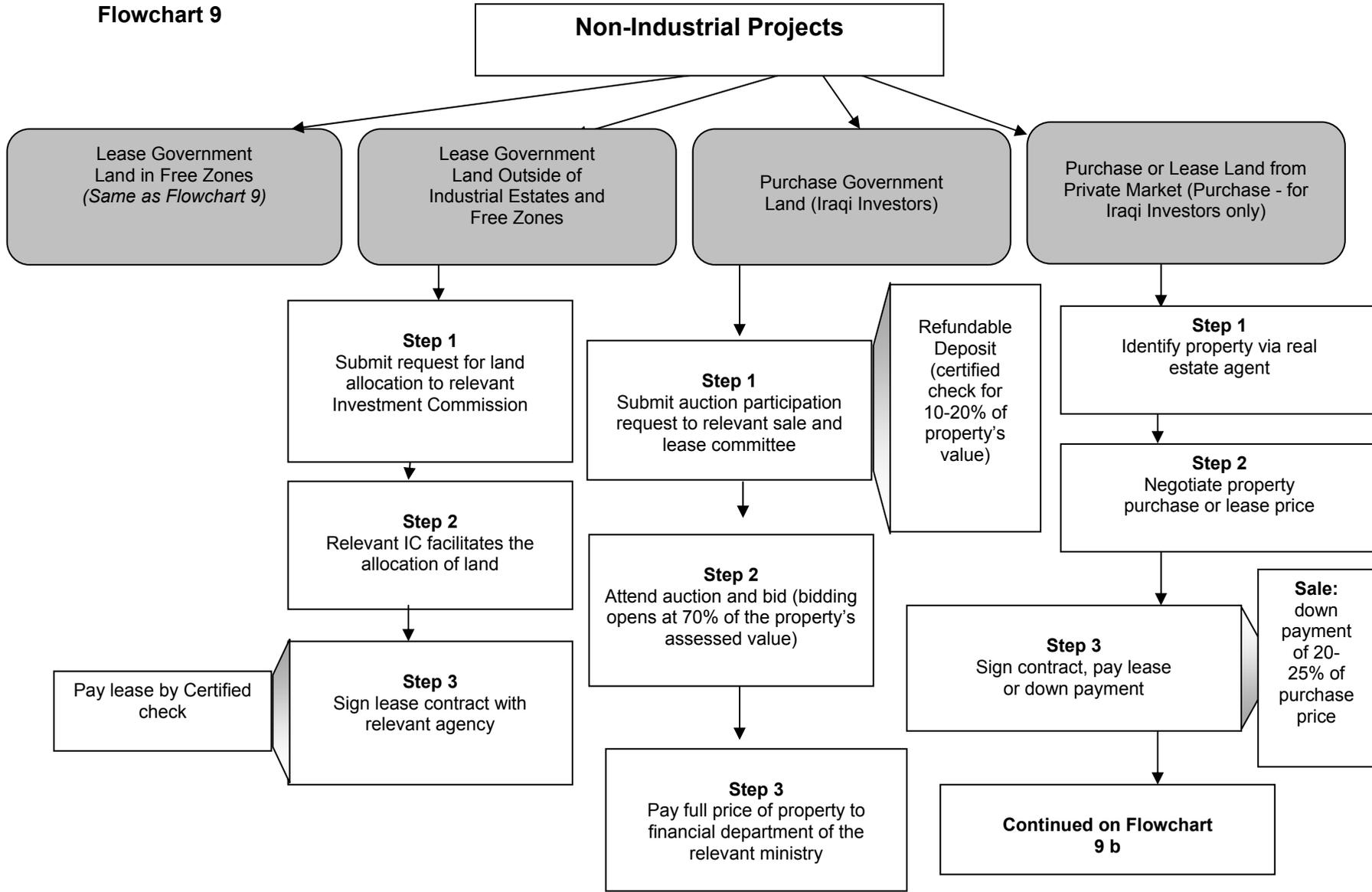
Site Development (Getting Building License)



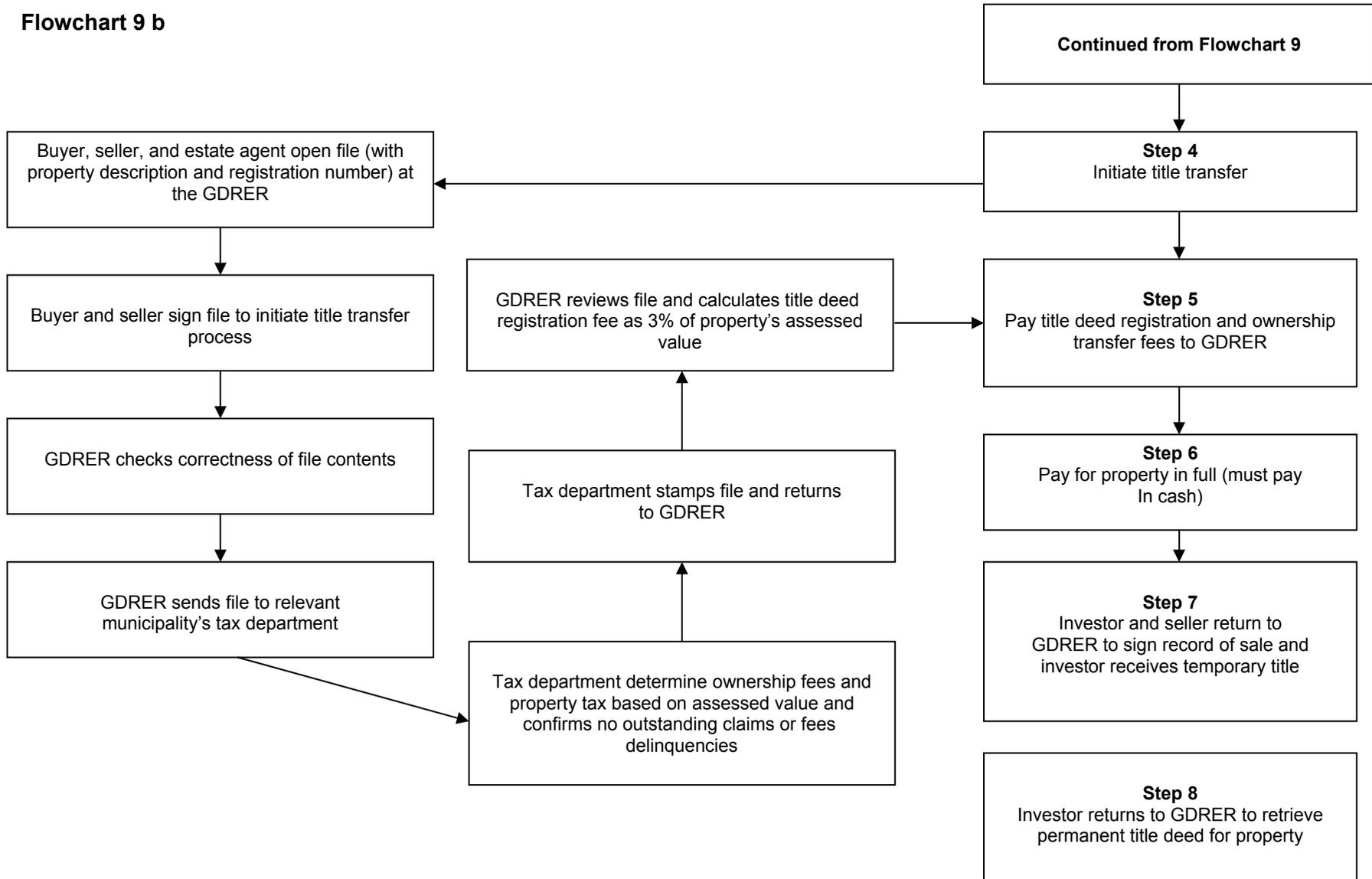
Flowchart 8



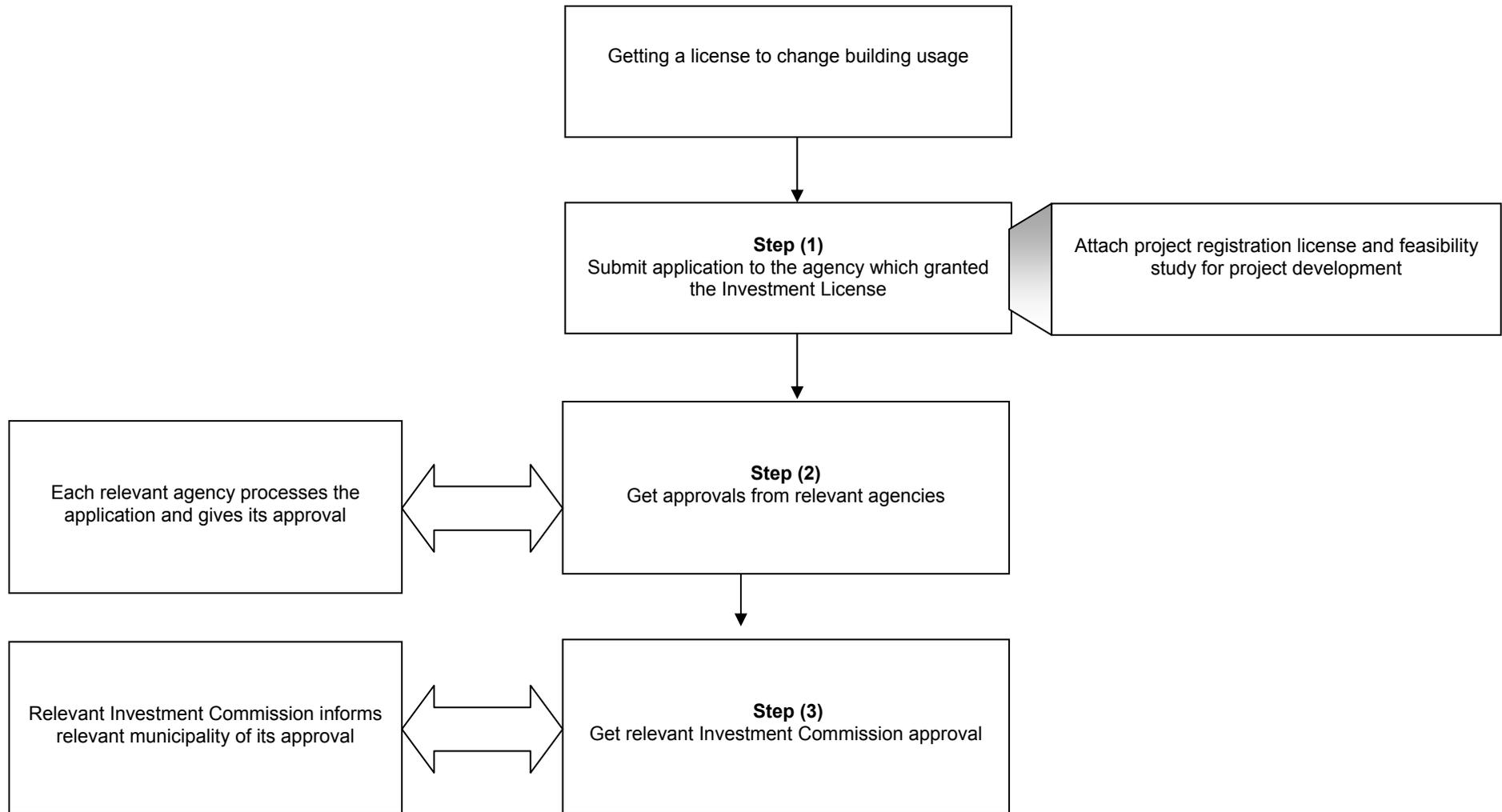
Flowchart 9



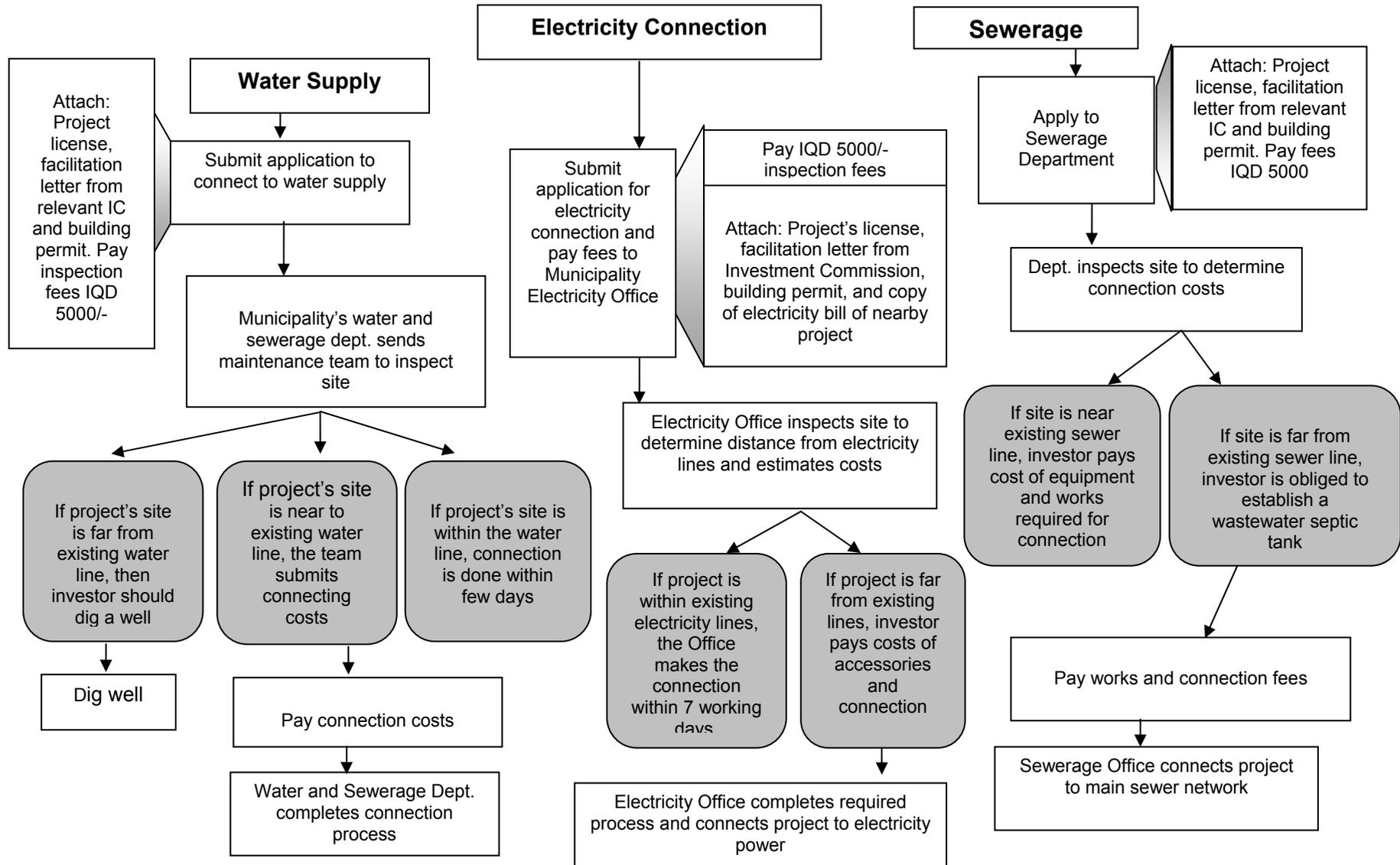
Flowchart 9 b



Flowchart 10: Site Development (Change Building Usage)



Flowchart 11: Procedures to Connect to Services



COMMUNICATIONS

Investors have access to land line and mobile telecommunications service in Iraq.

OBTAINING LANDLINE SERVICES

The Ministry of Communication's General Establishment for Communication (GEC) provides landline service in Iraq. Individuals must complete the procedural steps shown in Flowchart 12 (below) to apply for and obtain landline telecommunication service in Iraq.

Connection time varies depending on installation needs and line availability. Anecdotal evidence suggests some applicants have been waiting years for land line service.

OBTAINING MOBILE PHONE SERVICES

The Iraqi government granted in August 2007 new 15 year licenses to three mobile phone networks. The licenses were put up for auction in the Jordanian capital, Amman, and were granted for USD 3.75 billion to three companies, Al-Kuwait's Mobile Telecommunications Company (MTC-Atheer), Asiacell, and Iraq's Korek Telecom. These licenses replaced short-term contracts which were awarded in 2003.

Beginning, 6 January, 2008, two Iraqi mobile telecommunications networks - MTC Atheer and Iraqna - changed their names to Zain (www.iq.zain.com) as both operators adopt the new corporate master brand of the Zain Group (formerly MTC), the leading mobile telecommunications operator in 22 countries serving 42.5 million customers across the Middle East and Africa.

The mobile service providers have sales agents scattered throughout the country. The agent will typically ask to see the applicant's identification card - passport, residence card, or identity card. The applicant signs a service contract agreement and pays for a subscription. Subscription charges (SIM Card prices) range from USD5.00 to USD10.00 depending on the provider and the profile of subscription.

- Zain prepaid lines cost USD 6.00 (Postpaid line SIM card is free),
- Korek line costs USD 10.00,
- Asiacell prepaid line cost USD 5.00. (Postpaid line SIM card is free).

Local providers, Zain, Asiacell, and Korek, charge the following costs:

Zain

Prepaid charging rates:

- Local Calls: 10 cents for the 1st minute (4 cents after 1st minute)
- Local SMS: 5 cents
- International SMS: 12 cents
- MMS (Local Only): 20 cents

Postpaid charging rates:

- From Zain to Zain:
 - Peak (8am - 10pm): 6 cents
 - Off-Peak (10pm – 8am): 4 cents
- From Zain to Other Network & WLL: 8 cents

- From Zain to Fixed Line: 8 cents
- From Zain to VMS: 6 cents
- Local SMS: 4 cents
- International SMS: 12 cents
- MMS (Local Only): 20 cents

Korek (Only provides prepaid service)

- Call to Korek:
 - (7:30am – 1am): 6 cents
 - (1:10am – 7:29am): 3 cents
- Call to Asiacell: 9 cents
- Call to rest of Iraq: 10 cents
- Local SMS: 2 cents
- SMS to Asiacell: 3 cents
- International SMS: 15 cents

Asiacell

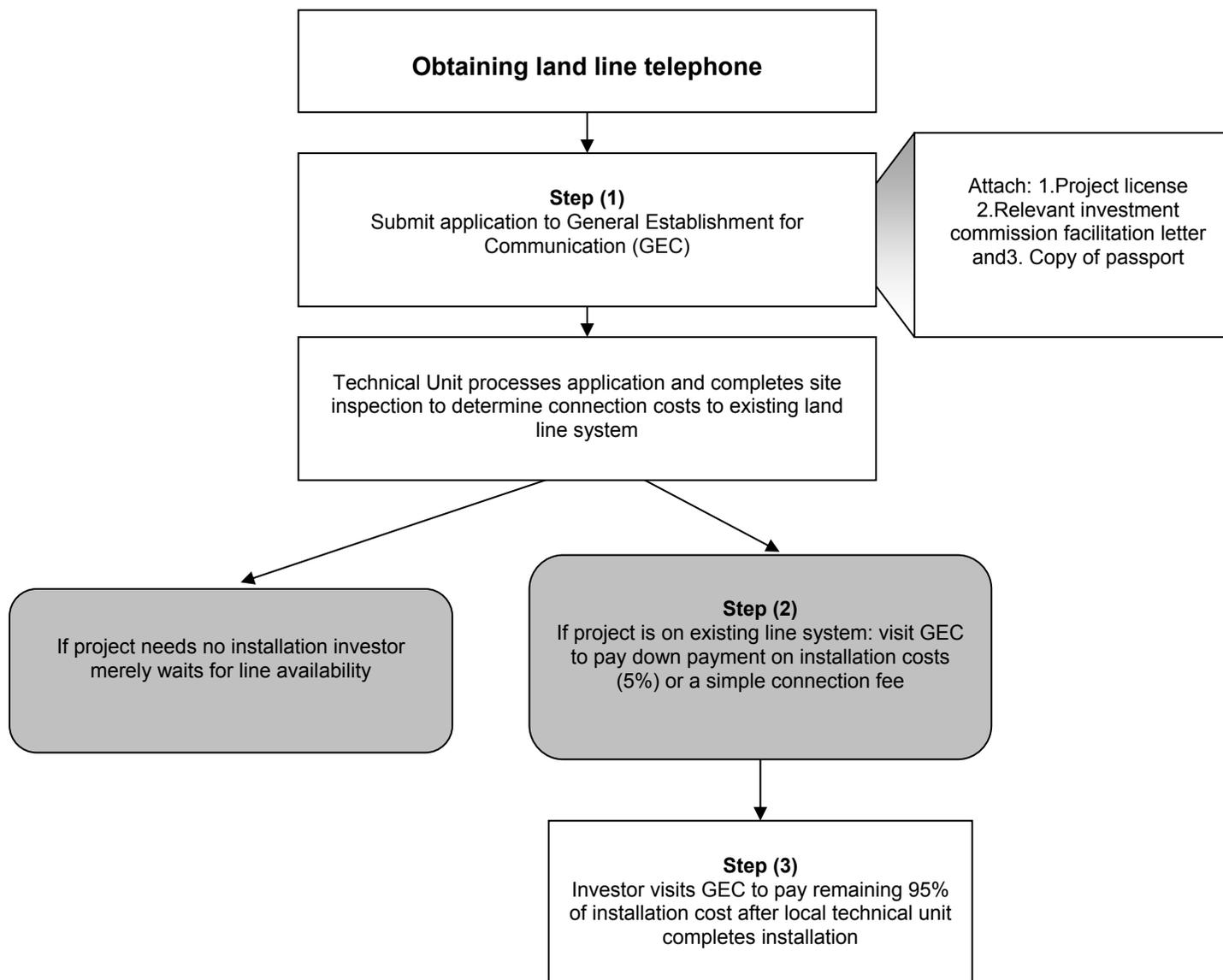
Prepaid charging rates:

- Call to Asiacell: 8 cents (09:00am - 09:59pm)
- Call to Asiacell: 4 cents (10:00pm -11:59pm)
- Calls to Asiacell: 2 cents (12:00am - 08:59am)
- Local Call to other operators: 9 cents
- SMS to Asiacell: 2 Cents
- Local SMS to other operators: 4 Cents
- International SMS cost: 11 Cents
- MMS to Asiacell: 10 cents.

Postpaid charging rates:

- Call to Asiacell: 6 cents (9:00 AM - 9:59 PM)
- Call to Asiacell : 1 cent (10:00 PM - 8:59 AM)
- Local Calls to other operators: 8 cents
- SMS to Asiacell: 2 cents
- Local SMS to other operators: 4 cents
- International SMS: 11 cents

Flowchart 12: Procedures for Acquiring Communications



HOW TO OBTAIN AN ENVIRONMENTAL COMPLIANCE CERTIFICATE

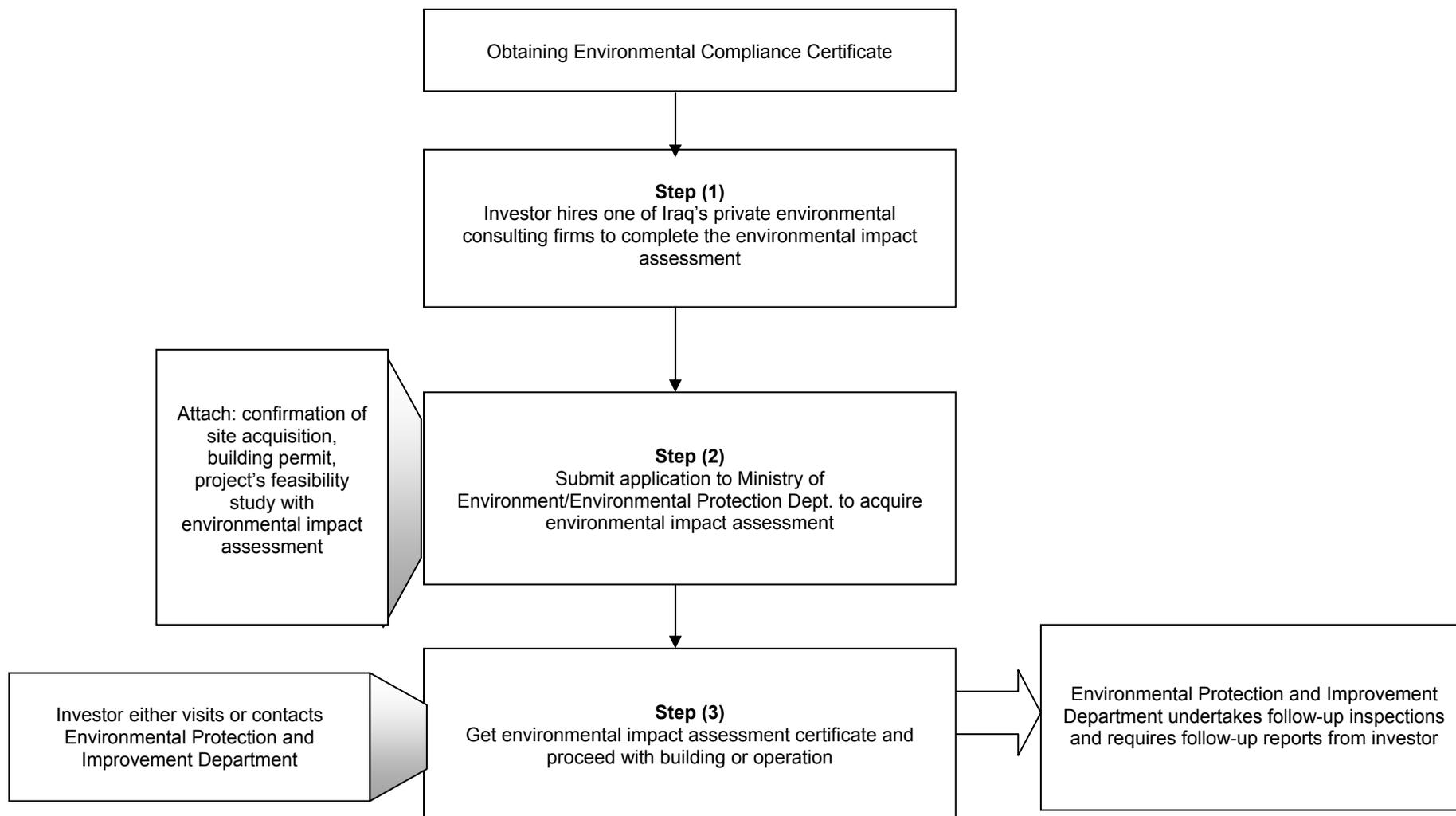
Every project feasibility study must include an analysis of the project's potential environmental impact. The investor hires one of Iraq's private environmental consulting firms to complete the environmental impact assessment component of the project feasibility study.

The application is then submitted to the Ministry of the Environment. The Department for Protecting and Improving the Environment within the Ministry of Environment does not charge a fee to review the investor's environmental compliance application. The department reviews the investor's application and typically within 2-3 weeks either approves or rejects environmental compliance certification. In some cases the department requires a site inspection or laboratory tests, which can delay the review process.

After receiving the approved Environmental Compliance Certificate, the investor can proceed with the construction and/or start business activities. The Ministry will inspect and monitor compliance report from the Investor.

The law indicates that investors who violate the country's environmental compliance regulations face fines of not less than IQD 50,000 and not more than IQD 500,000 per month. If the investor repeats the violation the government may imprison him for between 3-6 months and fine him IQD 100,000-500,000. Violators may also be liable to pay compensation and remediation expenses.

Flowchart 13: Obtaining Environmental Compliance Certificate



OPERATING

The most important procedures that investors must complete on an ongoing basis once operating in Iraq are tax payment, social security, import/export procedures, and complying with currency controls. There are significant issues in all three of these areas but by far the most important are those relating to import and export procedures.

Functionally, taxation and customs areas are regulated by the Ministry of Finance through two independent agencies: The General Taxation Commission (GTC) and The General Commission of Iraqi Customs (GCIC). Both these agencies have regional and governorate branches throughout Iraq. Currency matters are generally dealt with by the Central Bank of Iraq (CBI). (See [flowchart on last page – Procedures for Operation](#)).

TAXATION

This section deals with taxation for projects not governed by Investment Law No. 13. Investment projects governed by the said law are exempt from payment of taxes for 10 years.

There are four types of taxes in Iraq: corporation tax; personal income tax; real estate tax; and leased land tax. All taxes due are a legally binding obligation on the taxpayer. The tax assessment and payment process is usually initiated by the tax liable individual reporting his income during the proceeding year on pre-printed returns to the taxation department in the area where his work or business activity is located.

Registration to Pay Taxes

The procedures for registering an individual, natural person or company for all taxes has been retained as set out in the Income Tax Law No. 113 of 1982 and they are:

1. The person should fill and present a basic tax return prepared and adopted by the General Tax Commission of the Ministry of Finance³⁵. The form consists of information related to the taxpayer: type of work, estimated income, and marital status.
2. A file for the taxpayer is opened at the General Taxation Commission (GTC).
3. A tentative computation of tax and allowances is calculated.
4. The tax is assessed on the person or company in accordance with income tax law.
5. An electronic record is opened by the Tax Department after payment of tax.

Companies are issued a taxpayer ID number upon being licensed by the Office of Companies Registration. Companies receive a separate tax ID number for each tax. Tax registration normally must occur within one month of starting operations. Taxes are due three months after the close of the fiscal year.

Corporation Income Tax

The tax rate applied on the net income earned by all corporations after April 1, 2004 is a flat rate of 15%. As provided for in Income Tax Law 113 of 1982, the rate is levied on the

35. There are three different forms for payment depending on the type of taxpayer: monthly direct income tax deduction (employee), direct annual income tax (personal), and corporation tax.

income of all private sector companies, including the income of foreign companies operating in Iraq (except those exempt according to the new Investment Law).

Personal Income Tax

Under CPA Order 49 of February 20, 2004, corporate and personal income taxes have been capped at significantly reduced rates of no more than 15%. Employees are entitled to basic personal income exemptions which were significantly increased in 2004, and rate bands range from 3% to a maximum of 15%. Administrative requirements with regard to collection, appeals and penalties for late payment or nonpayment of income taxes are as established in 1982 and remain in force.

Real Estate Tax

Real Estate had been taxed for many years in accordance with Income Tax No. 113 of 1982 and the Law of Real Estate Tax No. 162 of 1959. This practice has been amended as follows by CPA Order 49: “rent and income generated from real estate will be taxed at the rate of 10% of the annual revenue, excluding profits on the sale of property, subject to Resolution 120 of 27/6/2002.”

All revenue (other than sales revenue) from real estate shall be combined for tax calculation purposes. A memo setting forth the calculation and the prescribed form should be submitted with the payment. This tax is considered to be a secured public debt and is guaranteed by the same real estate that is the object of the tax.

Leased Land Tax

The Leased Land Tax applies to “arasat”, or public, lands leased by taxpayers. This is an annual tax of 2% of the land value determined annually by a Valuation Committee of the Real Estate Department of the Ministry of Finance. Leased Land Tax is only payable for 15 years, after which no further payments of this tax are due. Lands of less than 800 square meters and agricultural lands are exempted from this tax. Lessees complete and submit a form at the Ministry of Finance indicating details of their land including its size and location. The Valuation Committee then values the land and reports to the Ministry, which informs the taxpayer of the amount of tax and the date due. Taxes may be paid by cash or certified check.

Worker’s Pensions and Social Security

Before commencing operations all companies must register with the Ministry of Labor and pay a deposit toward social security withholdings based on the number of employees and estimated payroll for three months. The investor then obtains a receipt from the Ministry indicating that payments have been made. The receipt includes the company’s social security number. Social security payments are then made on a quarterly basis. Social security amounts to 17% of employee salaries. The employer’s contribution is 12% and the employee’s is 5%. Payments are made by employers through certified checks to the Worker’s Pension and Social Security Organization. The initial step of registering with the Ministry of Labor and obtaining the letter takes about one week. There are fees associated with this procedure.

IMPORT/EXPORT PROCEDURES

Introduction and Overview

The principal Customs law in Iraq is derived from the Iraqi Customs Law 23 of 1984 combined with CPA Orders 16 (Temporary Control of the Iraqi Borders), and 26 (Creation of the Department of Border Enforcement). Under CPA Order No. 26 the responsibility to monitor and control the movement of persons and goods in and out of Iraq rests with the Ministry of Interior's Department of Border Enforcement.

Import Regulations and Procedures

In accordance with Orders No. 38 and 54, as amended by Order No. 70 the government of Iraq collects a 5% reconstruction levy on the total taxable invoiced value of all goods imported into Iraq from all countries, effective April 15, 2004. Exceptions to the levy are food, medicines, clothing, books, humanitarian goods, Coalition forces, reconstruction contractors, NGOs, international organizations, diplomats and Coalition governments, and goods imported under the Oil-for-Food contracts.

All persons crossing the Iraqi borders must undergo a process consisting of a visit to the Passport office and an inspection at the Customs inspection point. Imports are subject to review of the Bill of Lading and inspection of goods.

Import Registration Requirements

Legal Persons

- At the time of registration, the importing company must describe its activities with the term "General Trade": Law of Commerce No. 30 (1984).
- The company must register with Customs: Law of Customs No. 23 (1984).
- The company must register with the Chamber of Commerce: Law of Commerce No. 30 (1984).

Natural Persons

All registration requirements, regulations and documents are the same as for legal persons, except that the natural person is not required to register with Customs according to the Law of Customs No. 23(1984) and the Law of Commerce No. 30 (1984).

Harmonized System (HS)

The current Iraqi tariff system classifies goods down to the four (4)-digit level based on the Customs Cooperation Council Nomenclature (CCCN). Iraq has drafted a new tariff schedule based on the World Customs Organization Harmonized Commodity Coding System ("WCO HS"). This is an important trade facilitation move because the WCO HS is used in 98% of all internationally traded goods. The HS-compliant system consists of 8 digits and will likely enter into force in 2010 as part of the new tariff schedule

Tariff Structure

As mentioned in the previous page, Iraq, currently imposes a 5% "Reconstruction Levy" on all imported goods except food items, medicines, books, clothing and items pertaining to humanitarian assistance. Also exempted are the coalition forces, NGOs, foreign governments and companies undertaking reconstruction work and international

organizations and agencies providing assistance. All other customs tariffs, duties, import taxes and surcharges remain suspended; the only exception is the vehicle entry inspection fee of \$30 per truck.

The reconstruction levy system is temporary and will likely be replaced by the imposition of regular customs duties in 2010. The proposed new tariff schedule has rates of less than 20% for most agricultural products and less than 10% for most non-agricultural products.

Import Restrictions (Prohibitions, Quotas, Licensing Systems)

The following products/items are restricted and may be imported only if the Ministry of Trade issues a license: non-military explosives and industrial material that may be used for explosives, such as fertilizer, and fowl or poultry from countries known or suspected to have had outbreaks of bird flu, and items listed under non-proliferation treaties.

Prohibited import items include certain magazines, videotapes and CDs, arms, ammunitions, explosives, non-medical narcotics, and nuclear, chemical and biological materials, except for radioisotopes for legitimate industrial, agricultural or medical purposes.³⁶ Import licensing procedures are handled by the Ministry of Trade.

Customs Valuation

The reconstruction levy is assessed *ad valorem* in accordance with Article VII of the General Agreement on Tariffs and Trade 1994 (GATT), which is adopted in CPA Order 54.

Customs Formalities

The following customs documents are required for imports under the Law of Customs No.23 (1984):

- Customs Declaration Form
- Commercial Invoice approved by the Chamber of Commerce, and Certified by the concerned authorities
- Bill of Lading
- Certificate of Origin
- Standards, Veterinary, Health, Food Safety and Phytosanitary Certificates (as relevant)

Pre-Shipment Inspection

Iraq does not require pre-shipment inspections.

Rules of Origin

Under the Law of Customs No.23 (1984), the Director General of Customs may require a separate certificate of origin. The practice is to require such a certificate, certified by the Chamber of Commerce or similar body in the country of origin.

36. See Annex A to CPA Order 54 (www.investpromo.gov.iq/Investor Tools/Iraqi Laws).

Export Regulations and Procedures

The law applicable to exports are contained in Iraq's Customs Law Number 23 (1984) and CPA Order 54.

Exports must be by license issued by the Ministry of Trade, Department of Planning, Import-Export Section. Obtaining a license requires an exporter's ID, and proof of depositing a surety equivalent to the amount of the exported item with Central Bank of Iraq. Export ID must be renewed annually. Export licenses are required for each shipment. Acquiring or renewing an exporter's ID requires the following:

1. Any person who seeks to engage in export trading must be registered with the local Chamber of Commerce and holder of an ID thereof.
2. Completion of a pre-printed application form that contains exporter's details and activities, which is attached with the Chamber of Commerce ID and submitted to the Export Department of the Ministry of Trade
3. The request is referred by the Ministry of Trade to the Finance section for the payment of fees (about US\$50) by the exporter.
4. Issuance of Exporters ID: within 2-3 days.

Export Registration Requirements:

Registration requirements for exporters are the same as for importers.

Tariff

There are no export tariffs other than a \$35 per ton levy on scrap metal.

Restrictions (Prohibitions, Quotas and Licensing Requirements)

In summary, non-military explosives and industrial material that may be used for explosives, such as fertilizer and Items listed under non-proliferation treaties may not be exported unless a license has been issued by the Ministry of Trade. A license is also required for animals, excluding pets, certain manufactured goods and date palm seedlings and food items, bar soap and detergents in excess of personal use.³⁷

Transit Trade

As all customs duties are presently suspended, no duties are applicable to goods in transit. Furthermore, according to CPA Order 54, the Reconstruction Levy does not apply to goods in transit.

Technical Regulations and Standards

Product standards in Iraq are controlled by the Central Organization for Standardization and Quality Control (COSQC), an independent government agency. The COSQC reviews domestic goods for health, safety and quality factors. The COSQC maintains relations with international standards organizations and provides technical assistance to the offices responsible for patent and other intellectual property rights matters. Iraq currently has approximately 3000 product standards.

Iraq is a member of the International Organization for Standardization (ISO).

37. See previous footnote

Sanitary and Phytosanitary Standards

Phytosanitary Certificates are issued for plant products by the Ministry of Agriculture. Animal Health certificates are issued for live animals by the Ministry of Agriculture. Food Sanitation certificates are issued for processed food products by the Ministry of Health.

Trade Related Intellectual Property Regime

Iraq is pursuing a policy of strong intellectual property protection, which it recognizes will be the engine for economic development. Iraq's intellectual property laws are being updated with the goal of bringing the country's legal regime into compliance with the requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement):

- Trademarks and Indications Law No. 21, 1957 has been amended by CPA Order 80.
- Patent and Industrial Specimens Act No. 65, 1970 has been amended by CPA Order 81.
- The Copyright Law No. 3, 1971 has been amended by CPA Order 83.

Iraq is also a member of several international intellectual property conventions, and of regional or bilateral arrangements which include:

- Paris Convention for the Protection of Industrial Property (1967 Act) ratified by Law No. 212 of 1975.
- World Intellectual Property Organizations (WIPO) Convention; ratified by Law No. 212 of 1975. Iraq became a member of the WIPO in January 1976.
- Arab Agreement for the Protection of Copyrights; ratified by Law No. 41 of 1985.
- Arab Intellectual Property Rights Treaty (Law No. 41 of 1985)

Trade in Services

Iraq's transition from a centrally planned to a market economy is expected to usher in a new era for the development and expansion of the services sector. The government is determined to increase the share of services in the GDP by attracting foreign investment as well as generating local resources.

There has been substantial expansion in the areas of retail services and construction since 2003. Recent policy changes in Iraq have opened up important services sectors such as financial services, insurance and telecommunications. Privatization of state owned enterprises (SOEs) is expected to further bring about fresh opportunities. In addition, Iraq's new investment laws and regulations both encourage and facilitate foreign investment, which in turn should lead to attracting capital to the services sector.

The MoT is primarily responsible for overseeing international trade in services; however various departments and agencies are involved in regulatory affairs relating to trade in services.

CURRENCY CONTROLS

The Central Bank of Iraq (CBI) is responsible for conducting monetary policy in Iraq. The CBI was re-organized by CPA Order No. 56 as a legal public entity that has financial and administrative independence.

The central authority in the area of currency controls is the Central Bank of Iraq (CBI) through CBI Law No. 56 of 2004 and the Banking Law No. 94 of 2004.

The currency of Iraq is the Dinar (IQD or ID). The exchange system is free, with no restrictions on the purchase or sale of foreign currencies. The IQD is fully convertible.

The Central Bank of Iraq (CBI) intervenes to maintain stability in the foreign exchange market. There are no taxes or subsidies on purchases or sales of foreign exchange.

The Government of Iraq's monetary policy has focused on maintaining price stability and a stable exchange rate. The Central Bank of Iraq conducts daily foreign exchange auctions to limit the impact on base money growth of the sale of the government's oil export earnings. The Central Bank has been successful in controlling inflation through appreciation of the Dinar against the US dollar.

According to the Central Bank's Foreign Exchange Directives:

- Banks are authorized to open accounts in foreign currencies for Iraqi, Arab, and foreign companies working in Iraq and to register income remittances in foreign currencies for their accounts with the right to withdraw from the said accounts according to the bank's rules in this respect.
- The owners of these accounts have the right to settle their obligations to persons or accounts inside Iraq with no conditions regardless of where the individual or account resides.
- All persons residing in Iraq have the right to receive their remittances from outside in cash through banks or deposits in bank accounts in accordance with the law.
- The banks are authorized to transfer amounts outside Iraq in foreign currency.
- Directive No. 837 of November 3, 2003 relates to credits in foreign currency and provides that banks may open or accept credit to import and export goods permitted for import and export in accordance with the regulations.
- CBI Law No. 56 of 2004 includes no restrictions on foreign exchange or restrictions on exchange remittance³⁸. Bank customers can obtain foreign currency from Iraqi banks that purchase it at auction organized by the Central Bank of Iraq.

38. As a reporting requirement, customers have to supply the bank with documents demonstrating the reason for the transfer.

Flowchart 14: Procedures for Operation

