



The Future of the Strategic Relationship between the United States of America and the Republic of Iraq:

Key Policies for Growth of the American Business Community's Contributions to Further Essential Economic Development of Iraq

Presented to:
Ministry of Foreign Affairs of the Republic of Iraq
State Department of the United States of America
on the occasion of
the 2020 Strategic Dialogue on the
Relationship between the Two States

June 2020

Foreword by the President of the American Chamber of Commerce in Iraq

On 10 June 2020, the United States of America and the Republic of Iraq will commence a long-awaited Strategic Dialogue to address all aspects of the relationship between the two States. The Dialogue will commence with Ambassador-level exchanges by video conference in Washington, D.C.

During the following several weeks, Iraq and the United States will more deeply exchange views and positions at the highest levels, with the aim of the countries reaching agreement on a formal framework to guide the relationship between them now and into the future.

In preparation for the Strategic Dialogue, the American Chamber of Commerce in Iraq (AmCham-Iraq) has been asked to express our views on economic, commercial, security and political concerns arising out of the U.S.-Iraq strategic relationship that: (i) bear on the interests of American enterprises involved with Iraq; and (ii) AmCham-Iraq believes should be addressed by United States and Iraq during the Strategic Dialogue.

By this paper, AmCham-Iraq does so. As part of informing the views and recommendations that we present in this paper, in late May 2020, AmCham-Iraq surveyed the community of most American enterprises that do business in and with Iraq. We express gratitude to the Members and friends of AmCham-Iraq – who also are friends to Iraq – for entrusting us with your views and suggestions concerning policies in the bilateral relationship that, if fully and adequately addressed, will promote a closer and more mutually-beneficial economic relationship between the two countries.

FOR THE BOARD OF DIRECTORS OF THE AMERICAN CHAMBER OF COMMERCE IN IRAQ

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Executive Summary

Introduction

Almost 12 years ago the United States of America and the Republic of Iraq came together during a time of emerging promise in Iraq to agree on the *Strategic Framework Agreement for a Relationship of Friendship and Cooperation between the United States of America and the Republic of Iraq*.

The United States and Iraq intended the Strategic Framework Agreement to guide further development of the relationship in seven specific aspects:

- Political and diplomatic cooperation
- Defense and security cooperation
- Cultural cooperation.
- Economic and energy cooperation
- Health and environmental cooperation
- Information technology and communications cooperation
- Law enforcement and judicial cooperation

The Strategic Framework Agreement dedicated Iraq and the United States to a process of cooperation, marked by friendship, aimed at ensuring that Iraq developed into a vibrant State – politically, economically and socially – in which democratic principles control, the rule of law prevails, a diversified and advanced economy develops, the safety of the Iraqi people is ensured, and the Iraqi State exercises the political will and capability to secure Iraq – its territory and people – against threats that might emerge.

In the interval between then and now, the relationship between the two States has endured through some of the most historic and difficult challenges, including: the departure of all U.S. Forces from Iraq at the end of 2011; the existential threat to Iraq posed by the ISIS aspiring to topple the government of Iraq and take control of almost the entire country; the return of U.S. Forces to Iraq to assist the Iraqi government and its security forces vanquish ISIS' control over Iraqi territory; the oil price crash of 2014-2017 and the consequent fiscal challenges to Iraq; the protests against corruption, perceived Iraqi governmental ineffectiveness that swept across central and southern Iraq beginning in October 2019 and resulted in the resignation of the Abdul Mahdi government and more than six months of subsequent political deadlock; attacks on American forces in Iraq by Iranian-backed militia groups present in Iraq; retaliatory U.S. air strikes; and, now, the severely daunting challenge of the double-hit of the COVID-19 pandemic and the 2020 oil price crash hitting Iraq.

Despite the weighty present difficulties facing Iraq and its people, Iraq finds itself once again at an inflection point, in which there is an opportunity for the government of Iraq, with the cooperation of the United States, to make a clear choice to build a better future for the country and its people. Redefining and committing to such a future must be a part of the upcoming Strategic Dialogue between the United States and Iraq.

Through it all, the American business community with interests in Iraq has stood shoulder-to-shoulder in support of the mutual aspirations of the governments of Iraq and the United States that Iraq's economy become vibrantly strong, diversified and advanced as a consequence of growth in the rule of law, and cooperation between the two countries in the realms anticipated in the Strategic Framework Agreement.

The American Chamber of Commerce in Iraq (AmCham-Iraq) is one of the most prominent voices for the American business community in Iraq. Accordingly, AmCham-Iraq has been asked to share our perspectives on issues of critical importance to the American business community that the United States and Iraq now should address through the Strategic Dialogue and subsequent implementation measures.

AmCham-Iraq is honored to present our recommendations through this White Paper.

Policy Issues of Concern to the American Business Community in Iraq

1. Renewal of a Long-Term U.S.-Iraq Strategic Relationship Is Critically Important to the National Interests of the United States and Iraq

The national security interests of both countries are served by the continuation and strengthening of this relationship.

Iraq's sovereignty is protected against dominance and encroachment by Iran through continued security cooperation with the United States. Iran's tactical objective of driving the United States out of Iraq and the rest of the Middle East is predicated on Iran's strategic objective of removing the ability of any entity to challenge either (i) Iran's military operations in the region – including through Iran's proxies, such as Iranian-affiliated militias in Iraq; and (ii) Iran's attempts to expand its influence through other means, including predatory economic means and measures inclusive of interfering with or destroying the capability of Iraqi and foreign businesses in Iraq to operate at a profit, or at all. Additionally, the United States and NATO military training missions are essential to expanding the capabilities of the Iraqi Security Forces to counter and suppress ISIS, ultimately without the involvement of the heavily-armed PMF militias that are Iranian-aligned.

For the same reasons, the national security interest of the United States is furthered by such continued security cooperation. An Iraq that falls under the sway of Iran owing in whole or in part to the lessening or withdrawal of U.S. security cooperation with Iraq would be problematic to United States interests in the region.

2. Strategic Security Partnership: Protecting and Furthering Iraq's Sovereignty by Way of Building of Reliable and Effective Iraqi Public Safety and Security Institutions

The Iraqi people *and* American businesses in Iraq have been disadvantaged by the absence of a reliable, fully-functioning public security apparatus that, when called upon, will protect the Iraqi people and American businesses against predations of PMFs as well as criminal elements.

As a sovereign state, Iraq has the obligation to provide adequate protection for Iraqi citizens, foreign nationals and businesses operating in Iraq against such attacks and predations through Ministry of Interior security forces and appropriate Iraqi local police elements – even if the perpetrators are part of a PMF or some other form of protected or privileged group.

For the avoidance of doubt, “adequate protection” includes: (1) preventive law enforcement actions when a credible threat of harm is received and report; (2) swift and effective emergency response when an attack or crime in progress is reported; (3) speedy, full and adequate investigation, arrest, criminal charges and judicial criminal proceedings against the perpetrators, including criminal conviction upon proof, and incarceration; and (4) recompense to the victims.

AmCham-Iraq most strongly suggests that, as part of the Strategic Dialogue, the United States should present to Iraq an “American Business Manifesto of Rights and Privileges” for consideration and agreement by Iraq, which includes this item, as well as the items set forth below.

3. U.S.-Iraq Strategic Economic Cooperation and Friendship: Anti-Corruption Measures

AmCham-Iraq commends His Excellency Prime Minister Al-Khadimi and the Iraqi Parliament for the voiced commitment to act against corruption.

The moment for effective anti-corruption reform in Iraq is long overdue. Effective anti-corruption tools have been at hand – but seldom used by those whose hands have been on the levers of anti-corruption power.

To make progress now will require wholesale anti-corruption reforms from the top to the bottom levels of Prime Minister Al-Khadimi's government, with full international support – not just from the United States, but from all stakeholder governments and international institutions.

International diplomatic initiatives, requested by the Al-Khadimi government and lead by the United States, are needed for this to become a reality. Accordingly, the Al-Khadimi government and the U.S. Government should immediately develop and launch a multi-lateral initiative with other like-minded governments (including those from the European Union), international anti-corruption organizations including the Organization for Economic Cooperation and Development (OECD), the International Monetary Fund (IMF), the World Bank and international business organizations in Iraq to work hand-in-hand to make and apply such

reforms to eliminate the corruption problem affecting the Iraqi people and American and international businesses.

4. Level Playing Field for American Businesses

Level Playing Field Treatment of American Business by the Government of Iraq

The Iraqi government of Prime Minister Adel Abdul Mahdi has taken measures and initiatives that establish a lopsided playing field for American business interests in Iraq, in favor of foreign competitors and to the prejudice of U.S. business interests in Iraq.

AmCham-Iraq recommends and requests that this circumstance should be raised and rectified through bi-lateral understandings and agreement reached during the Strategic Dialogue. The effect of the understandings and agreement should place American enterprises on a level playing field with foreign competitors, as to: (i) Federal Iraq's laws – particularly the annual Budget Law; (ii) project funding and payment programs, including establishment of a mechanism of payment by provision of Iraqi crude oil; and (iii) qualification for and awards of Iraqi public contracts – especially those for major projects in sectors in which American companies are interested and competitive.

Establishment of U.S. Investment and Project Finance Vehicles in the Range of \$20 Billion for Use by U.S. Businesses in Iraq

For the reasons stated above, AmCham-Iraq recommends and requests that the United States commit itself to providing equivalent trade and project finance vehicles in the range of \$20 billion, available to American companies doing business in Iraq, to place American businesses on an equal footing in Iraq to competing companies from foreign States.

In AmCham-Iraq's view, the opportunity for major American energy and infrastructure enterprises to participate in such significant projects is at hand – but will pass if such measures are not taken to level the competitive playing field in Iraq.

As a Key Means of Achieving a Level Playing Field for American Business in Iraq, Re-Establishment, and Operation of U.S. Commercial Service Office in Baghdad to Advocate for U.S. Business Interests in Iraq

AmCham-Iraq strongly recommends that, as part of the United States and Iraq furthering the strategic economic relationship between the two countries: (1) the United States restore a robustly-staffed U.S. Commercial Service office as part of the U.S. mission in Baghdad, and establish and maintain USCS "field" offices outside the security perimeter of the Embassy compound; and (2) the Al-Khadimi government further the involvement of American businesses in Iraq by providing American companies (through U.S. government trade promotion officers as well as directly) with timely and complete information concerning real Iraqi public contract opportunities equal to that information provided to the Baghdad trade promotion offices of other countries (including South Korea and China).

Establishment of Bilateral U.S.-Iraq Visa Agreement for U.S. Business Travelers:

(1) Iraqi 30-Day Visa upon Airport Arrival;

(2) E-Visa Application and Issuance for Iraqi Multi-Entry Visa

American companies and Non-Governmental Organizations (NGOs) doing business in Iraq are impeded from doing business and are thereby placed at a competitive disadvantage by the current unpredictable, inefficient, time consuming and expensive entry visa process for Federal Iraq that prohibits issuance of visas upon arrival -- especially when Iraqi visa policy provides representatives of competing companies from a number of other countries with either no-visa entry or visas upon arrival. As a most recent example, the governments of Iraq and Lebanon entered into a bilateral agreement to provide free visas upon arrival to Lebanese citizens visiting Iraq.

To put American business concerns at least on a par with their competitors in Iraq, the U.S. Government should negotiate and conclude a bilateral visa agreement with the Iraqi Government, on terms equivalent to the Lebanon-Iraq bilateral visa agreement, that at a minimum provides Americans with on-arrival business visas.

In furtherance of Prime Minister Al-Khadimi's initiatives in the areas of anti-corruption, transparency, e-government and advancement of Iraqi governmental efficiency, the bilateral visa agreement should provide a commitment on the part of the Al-Khadimi government to develop and institute a program for electronic applications and approval of multi-entry visas for business travelers from the United States (as well as other countries) (eVisas) equivalent to the eVisa system developed and implemented by the Republic of Turkey for U.S., UK Ireland and Schengen passport holders.

Reform of the Iraqi Administrative State Contemplated by Prime Minister Al-Khadimi's Governance Program Is Essential to Creating a Non-Corrupt, Predictable Business Environment Conducive to Growth of American Private Sector Business and Foreign Direct Investment in Iraq

It has been accurately observed by informed commentators that, despite prior Iraqi governments' commitments to reform the Iraqi administrative state, Iraq's regulatory environment remains opaque at best, marked by unclear, unnecessarily complex and unpublicized rules and regulations at the Ministry level and below as well as by their arbitrary use.

AmCham-Iraq accordingly encourages the two governments to work together to remove arbitrariness, create uniformity and transparency in the administrative rule-making and rules-application process, and to do so by developing and fully implementing e-Government measures to the fullest extent practicable.

5. Economic Partnership with the Aim of Achieving Iraq's Goal of Achieving Self-Sufficiency

Self-Sufficiency in Energy

Mitigating and Eliminating Dependence on Iran for Essential Electricity and Natural Gas to Produce Electricity

Iraq is nearly unique among OPEC countries. Despite having the world's fifth largest oil reserves (estimated at 143 billion barrels, or 12% of all known oil reserves globally), and despite also being OPEC's second largest oil producer (reaching an output of 4.480 million barrels per day (bpd) in April 2020), the cumulative effect of years of war, sanctions, terrorism, and mismanagement has made Iraq a net importer of refined petroleum products and natural gas

For substantially the same reasons, Iraq is deficient in electric power generation.

The solution has been set forth in the Iraq Integrated National Energy Strategy (2012), which is now in the process of being implemented. However, much remains to be done.

In AmCham-Iraq's view, during the Strategic Dialogue the governments of Iraq and the United States should visit the progress that has been made – and the reasons why. The two governments also should make concrete plans for furthering that progress, particularly by expanding the business given by Iraq to American power generation and natural gas retrieval companies, and ask them once again to do what they do best: ethically, honestly and fully deliver what was promised, when promised, and at the agreed price.

To assist the American companies do so, the United States and Iraq should agree on a trade finance package for the projects, including the involvement of the U.S. Export-Import Bank guarantees (as merited) and the Ministry of Finance's ratification of such trade finance arrangements.

Additional Measures Critical to Iraq Reaching Hydrocarbon Production Potential

In 2019 Iraq's oil production plateaued a peak of around 4.4 million barrels per day (bpd) – approximately the same level reached by Iraq in 1979. This is far short of the expectations developed by the Ministry of Oil (MoO) that Iraq and incorporated into Ministry of Oil contracts with international oil companies (IOCs) that Iraq would achieve production of between 10-12 million bpd by now.

In simple terms, the most significant reason for the shortfall is that Iraq has not been able to attract sufficient international investment in the upstream sector because the fiscal terms for Iraqi oil and gas industry contracts are uncompetitive from a global perspective. This non-competitiveness makes Iraq unattractive to IOC's, with the result that necessary investment does not flow into the sector.

In the interests of the economic growth, stability and prosperity that would be achieved by Iraq reaching its production potential in the hydrocarbon sector, Iraq should adopt the Bid Round 5 Revenue Sharing Contract. And, as part of the Strategic Dialogue the United States should encourage Iraq to do so.

Self-Sufficiency in Medicine and Health Care

Even before the arrival of the COVID-19 pandemic, Iraq's healthcare system was in crisis. There is a shortage of drugs and medical staff. Doctors have fled in the thousands. Patients are suffering. Life expectancy and child mortality rates are far below average in the region. Since then, the COVID-19 pandemic has stressed the healthcare system practically past its limits, to a point of near-collapse.

Before the Al-Khadimi government took office, Iraq missed opportunities to expand and rebuild its healthcare system.

Now, Prime Minister Al-Khadimi can take what is, in essence for the Iraqi people, a visionary act that, if carried through to conclusion, will change the lives of millions of Iraqis for the better and also will serve in part to quell growing social unrest; he can do and succeed at what no previous Iraqi prime minister since 1990 has even attempted. His government can rebuild Iraq's healthcare system. And, the United States should join in common cause with Prime Minister Al-Khadimi in this eminently ambitious, historic and absolutely necessary endeavor, to bring to Iraq, from the people of the United States to the people of Iraq, the advanced healthcare resources and technology that only the U.S. private sector can best deliver.

In light of the foregoing, AmCham-Iraq recommends that United States and Iraq address the reform of Iraq's healthcare system as part of the Strategic Dialogue, with the aim of developing a bilaterally-supported investment program to bring American private sector healthcare expertise to Iraq.

Historical Background

The 2009 United States-Iraq Strategic Framework Agreement

The United States of America and the Republic of Iraq are on the eve of convening a month-long Strategic Dialogue to address all aspects of the relationship between the two States.

This Strategic Dialogue comes more than even years after the two States concluded the *Strategic Framework Agreement for a Relationship of Friendship and Cooperation between the United States of America and the Republic of Iraq* that went into effect on 1 January 2009. The United States and Iraq intended the Strategic Framework Agreement to guide further development of the relationship in seven specific aspects:

- Political and diplomatic cooperation
- Defense and security cooperation
- Cultural cooperation
- Economic and energy cooperation
- Health and environmental cooperation
- Information technology and communications cooperation
- Law enforcement and judicial cooperation

The Strategic Framework Agreement dedicated Iraq and the United States to a process of cooperation, marked by friendship, aimed at ensuring that Iraq developed into a vibrant State – politically, economically and socially – in which democratic principles control, the rule of law prevails, a diversified and advanced economy develops, the safety of the Iraqi people is ensured, and the Iraqi State exercises the political will and capability to secure Iraq – its territory and people – against threats that might emerge.

The involvement of American companies doing private-sector business in Iraq has been of critical importance to the effort to develop a diversified and advanced Iraqi economy – particularly so in the energy, communications, health, banking, and finance sectors. This continues to be so today. American private sectors enterprises offer advantages to Iraq that are not gained through foreign competitors: advanced technologies; reliability of performance and products; employment of Iraqis (instead of reliance on expats); world-class best business practices centered on fair and honest dealing.

The 2009 Strategic Framework Agreement inferred as much.

Developments between 2009-2020 Bearing on Revisiting and Renewing the U.S.-Iraqi Framework for Security, Political, Economic and Commercial Cooperation and Friendship

Since 2009 much has transpired that has impeded realization of the agreed goals – particularly the aspirations in the economic and commercial spheres:

- Withdrawal of all U.S. forces from Iraq (completed on 18 December 2011);

- The arising and defeat of the existential threat to Iraq posed by the Islamic State of Iraq and Syria (ISIS);
- The concomitant June 2014 creation and now-continued existence of Iranian-backed-and-influenced heavily-armed militias (the Popular Mobilization Forces) which – although instrumental on a number of occasions in the fight against ISIS – have grown to be stronger than the Iraqi government’s military and security forces, continue to operate on Iraqi soil, and at times have operated outside the control of the Iraqi Government;
- The June 2014 re-introduction of limited numbers of U.S. Forces in June 2014, at the invitation of the Government of Iraq (GoI), to assess and advise Iraqi Security Forces (ISF) and to conduct airstrikes in support of the ISF fight against ISIS – a mission which continues today;
- From 2014 through 2017, the double-combined effect of: (a) the unanticipated cost of Iraq countering ISIS (estimated to annually exceed \$10 billion); and (b) the global oil price collapse (by 70%) from June 2014 through January 2016, subverted the Iraqi national budgets during those years, mainly because oil revenues account for over 90% of total Iraq government revenues).

Consequently, publicly-funded projects throughout Iraq’s economic sectors came to a standstill because the responsible Ministries suspended contractual payments. Most international private-sector companies involved in Iraq – including major American companies – reevaluated the viability of sustaining and increasing business operations in Iraq.

- From 2017-October 2019, the victory over ISIS in Iraq and the return of oil prices to the levels anticipated in the Iraqi national budget law improved the security and economic conditions in Iraq. However, most leading American companies still did not perceive the security, economic, regulatory, legal, and social conditions to be sufficiently favorable (especially as compared to the period preceding June 2014) to merit the investment of the time, personnel and money required for business expansion in Iraq. During this time, reports of widespread Iraqi corruption (without any discernible effective remedies), as well as the difficulties of carrying out business in Iraq, weighed against American companies deciding to attempt to expand existing business lines, as well as against attempting to enter into new lines of business.
- The so-called “October Revolution” – a series of demonstrations and protests across central and southern Iraq that started in October 2019, continued for several months, and are poised to resume now – were responded to on several occasions by security forces of reportedly-undetermined affiliation shooting, wounding and extrajudicial killings of unarmed protesters, all in an attempt to end the protests.

This gave rise to even greater concerns among American businesses involved with Iraq that the public safety situation was extremely poor and, therefore, highly unsuitable reliably doing business.

- The Iranian campaign to oust U.S. military forces and American commercial interests from Iraq. This has resulted in (among other things): ● the Iranian-inspired rocket attacks against American military forces in Iraq, on 3 December 2019, 4 January 2020 and 11 March 2020; ● the 31 December 2020 attack on the U.S. Embassy by Iraqi Shiite militiamen and supporters; ● the 3 January 2020 U.S. drone attack that killed Iranian Quds Force General Qasem Soliemani and *Kata'ib Hezbollah* militia commander Abu Mahdi al-Muhandis; ● the U.S. State Department 3 January 2020 security warning to all Americans to leave Iraq out of concerns for personal safety; and ● reported subsequent identification and intimidation by threats made to Iraqi national local employees of American companies.
- The Iraqi political deadlock arising from the resignation of former prime minister Adel Abdul Mahdi and the months-long impasse during which two candidates nominated to become the Iraqi prime minister failed to gain the constitutionally-required approval of the Iraqi parliament.

Advent of the Al-Khadimi Government

On 7 May 2020, the third candidate to become prime Minister – His Excellency Mustafa Al-Khadimi – broke the deadlock and became the 43rd Prime Minister of Iraq since the country's independence in 1932. In doing so, Prime Minister al-Khadimi presented a program of governmental reform as well as a portfolio of Ministers to carry out the planned reforms.

The Al-Khadimi Government's Reform Policies Provide an Apt Foundation for Iraq and the United States to Revisit and Renew the U.S.-Iraq Frameworks for Security, Political, Economic and Commercial Cooperation and Friendship

Prime Minister Al-Khadimi's reform agenda – which was approved by the Iraqi Parliament on 7 May 2020 and was emphasized again in his 20 May 2020 letter to the Iraqi public – includes the following policies and programs that are of key importance to the American business community in Iraq and also provide an apt foundation for the United States and Iraq revisiting and renewing the frameworks for security, political, economic and commercial cooperation and friendship:¹

¹ AmCham-Iraq notes that Prime Minister Khadimi's reform program also includes the following elements. In AmCham-Iraq's view, the achievement of these goals is critically important to realizing political and social stability within Iraq: Holding early elections in accordance with a new Elections Law that is currently being discussed in the Parliament; Iraq's foreign relations: ● sovereignty (Iraq will not allow any country to violate its sovereignty; Iraq will not permit its territories to be used as an arena to settle international scores); ● cooperation (Iraq seeks to build an integrated system of common and shared interests as the basis for its foreign relations, and seeks to effectively contribute to combatting terrorism, money laundering and organized crime); Delivering justice and independence: The government will propose laws and adopt measures to safeguard the independence of the judiciary and hold accountable law breakers; and Protecting the right to protest.

Protecting the sovereignty and security of Iraq by: ● putting “weapons and firepower in the hands of the State” ● fighting terrorism (ISIS and others); and ● providing a national vision on the future of foreign forces in Iraq.

Developing, reforming and modernizing Iraq’s security institutions and forces;

Fighting corruption and protecting the wealth of Iraq – a fight that must be won for Iraq to begin to realize its economic potential – including the following measures: ● auditing the financial records of companies and commercial entities belonging to political parties, public figures, and others which are suspected of having illegitimate sources for their assets; ● reforming the system of awarding government contracts and changing investment rules; ● enforcing current laws to pursue and return Iraq’s money that have been smuggled abroad; and ● holding corrupt individuals accountable, regardless of their influence.

Addressing economic and fiscal challenges, including: ● establishing the Supreme Council for Construction and Investment to develop and oversee a comprehensive plan for building Iraq’s infrastructure and encouraging investment in all provinces (governates); ● proposing a draft Iraqi National Oil Company law to Parliament; ● directing the Central Bank of Iraq to develop a plan for the modernization of the Iraqi banking sector ● undertaking comprehensive administrative reforms of State institutions to remove unnecessary procedures and implement anti-corruption measures; and ● re-starting the e-government and transparency projects, including the adoption of Information Technology (IT) in State institutions, especially at the Border Crossings Authority and in the customs systems.

POLICY ISSUES OF CONCERN TO THE AMERICAN BUSINESS COMMUNITY IN IRAQ

AmCham-Iraq’s May 2020 comprehensive survey American enterprises with economic interests in Iraq informs us that the following matters arising from the U.S.-Iraq strategic relationship are of most concern.

Chapter 1 – Renewal of a Long-Term U.S.-Iraq Strategic Relationship Is Critically Important to the National Interests of the United States and Iraq

Actions since 2019 by the United States – including the sudden announcement of the withdrawal of U.S. military forces from Northern Syria in October 2019 and present planning for the withdrawal of all U.S. forces from Afghanistan – have had the effect of calling into question whether the United States can be counted on to continue involvement with Iraq. Similarly, the January 2020 non-binding vote of the Iraqi Parliament to require U.S. forces to leave Iraq presents the issue of whether the Government of Iraq will revoke permission for U.S. Forces to continue the mission of training and assisting Iraqi Security Forces to be more capable and effective in the defense of Iraq’s sovereignty and the necessary continued counter-terrorism operations against ISIS.

The national security interests of both countries are served by the continuation and strengthening of this relationship.

Iraq's sovereignty is protected against dominance and encroachment by Iran through continued security cooperation with the United States. Iran's tactical objective of driving the United States out of Iraq and the rest of the Middle East is predicated on Iran's strategic objective of removing the ability of any entity to challenge either (i) Iran's military operations in the region – including through Iran's proxies, such as Iranian-affiliated militias in Iraq; and (ii) Iran's attempts to expand its influence through other means, including predatory economic means and measures inclusive of interfering with or destroying the capability of Iraqi and foreign businesses in Iraq to operate at a profit, or at all. Additionally, the United States and NATO military training missions are essential to expanding the capabilities of the Iraqi Security Forces to counter and suppress ISIS, ultimately without the involvement of the heavily-armed PMF militias that are Iranian-aligned.

For the same reasons, the national security interest of the United States is furthered by such continued security cooperation. An Iraq that falls under the sway of Iran owing in whole or in part to the lessening or withdrawal of U.S. security cooperation with Iraq would be problematic to United States interests in the region.

It is well understood and agreed among military commentators that the United States cannot fight ISIS without Iraq. There also is agreement between the United States and Iraq that the need to fight ISIS in Iraq and Syria continues. Although as of March 2019, ISIS lost the last pocket of territory it controlled in Syria (and in 2017 had lost the last territory it controlled in Iraq), ISIS continues to pose a threat in Iraq (and Syria) through armed insurgency operations. The potential for ISIS to exploit the COVID-19 crisis to achieve a resurgence not only in Iraq, but elsewhere around the world is real.

Anti-ISIS operations by the ISF are most effective when coupled with U.S.-Iraqi security cooperation along this axis.

AmCham-Iraq notes that President Trump has not made any pronouncements about the United States withdrawing forces from Iraq, and that in January 2020 Secretary of State Mike Pompeo announced a recommitment to U.S. forces staying in Iraq, with the Strategic Dialogue on U.S. troop presence being purely confined to the future structure of such forces.

In summary, AmCham-Iraq nevertheless believes that the national security interests of both the United States and Iraq will be best served by: (i) the United States formally affirming a renewed security commitments to Iraq; and (ii) Iraq formally offering the United States a renewed agreement for the United States and NATO military missions in Iraq to continue.

Chapter 2 -- Strategic Security Partnership: Protecting and Furthering Iraq's Sovereignty by Way of Building of Reliable and Effective Iraqi Public Safety and Security Institutions

The Iraqi people *and* American businesses in Iraq have been disadvantaged by the absence of a reliable, fully-functioning public security apparatus that, when called upon, will protect the Iraqi people and American businesses against predations of PMFs as well as criminal elements.

As a sovereign state, Iraq has the obligation to provide adequate protection for Iraqi citizens, foreign nationals and businesses operating in Iraq against such attacks and predations through Ministry of Interior security forces and appropriate Iraqi local police elements – even if the perpetrators are part of a PMF or some other form of protected or privileged group.

For the avoidance of doubt, “adequate protection” includes: (1) preventive law enforcement actions when a credible threat of harm is received and report; (2) swift and effective emergency response when an attack or crime in progress is reported; (3) speedy, full and adequate investigation, arrest, criminal charges and judicial criminal proceedings against the perpetrators, including criminal conviction upon proof, and incarceration; and (4) recompense to the victims.

AmCham-Iraq most strongly suggests that, as part of the Strategic Dialogue, the United States should present to Iraq an “American Business Manifesto of Rights and Privileges” for consideration and agreement by Iraq, which includes this item, as well as the items set forth below.

In support of this recommendation, AmCham-Iraq provides the following information.

Very shortly after 3 January 2020, AmCham-Iraq received credible reports of American businesses and their local Iraqi employees being surveilled and targeted by Iranian-controlled PMF elements with threats of “leave-or-else” to the American businesses and threats of “disassociated-yourself-or-else” threats to local Iraqi employees. In both instances, the “else” was gravely serious: threats of property damage by business offices and locations being ransacked, set on fire, or bombed, and threats of serious bodily injury, or worse.

According to reports, Americans seen at Baghdad International Airport (BIAP) were actively surveilled by PMF elements who were present at BIAP.

Such illegal conduct – intended to shut down American businesses operating in Iraq – was directed solely against American businesses, and *not* against any other international businesses operating in Iraq, whether European, Russian, South Korean, or Chinese.

In mid-May 2020, dozens of protesters stormed the Baghdad office of Saudi satellite broadcaster Middle East Broadcast Center (MBC), resulting in severe damage to the media outlet's studios and offices, but no injuries. According to public reports, Iraqi security authorities failed to protect the media outlet from assailants.

Chapter 3 – U.S.-Iraq Strategic Economic Cooperation and Friendship

As previously noted, AmCham-Iraq most strongly suggests that, as part of the Strategic Dialogue, the United States should present an “American Business Manifesto of Rights and Privileges” to Iraq, consideration, and agreement, which includes the following items.

Anti-Corruption Measures

AmCham-Iraq commends His Excellency Prime Minister Al-Khadimi and the Iraqi Parliament for the voiced commitment to act against corruption.

The moment for effective anti-corruption reform in Iraq is long overdue. Effective anti-corruption tools have been at hand – but seldom used by those whose hands have been on the levers of anti-corruption power.

To make progress now will require wholesale anti-corruption reforms from the top to the bottom levels of Prime Minister Al-Khadimi’s government, with full international support – not just from the United States, but from all stakeholder governments and international institutions.

International diplomatic initiatives, requested by the Al-Khadimi government and lead by the United States, are needed for this to become a reality. Accordingly, the Al-Khadimi government and the U.S. Government should immediately develop and launch a multi-lateral initiative with other like-minded governments (including those from the European Union), international anti-corruption organizations including the Organization for Economic Cooperation and Development (OECD), the International Monetary Fund (IMF), the World Bank and international business organizations in Iraq to work hand-in-hand to make and apply such reforms to eliminate the corruption problem affecting the Iraqi people and American and international businesses.

In support of this recommendation, AmCham-Iraq notes the following.

Iraq ranks 162 out of 198 countries in the world on the most recent Transparency International 2019 Corruption Perceptions Index, with an unacceptably-low anti-corruption confidence score of only 20 out of 100 – a score that has persisted without any improvement for more than 10 years.

Corruption in the public and private sectors in Iraq carries very high risks for American companies and other international businesses investing and operating in Iraq. Corruption in Iraqi public procurement competitions and the administration of Iraqi public contracts is especially problematic.¹

Iraqi public procurement remains predominantly non-transparent and riddled with corrupt practices. There are widespread and credible reports of bribery, kickbacks, and awards to companies connected to political leaders (ICS 2016). Investors reportedly also feel pressured to team with well-connected locals to avoid systematic bureaucratic hurdles when doing business.² Contracts are often awarded to companies run by or connected to senior Iraqi politicians, who

then receive large cash down-payments before the project begins.³ Subsequent complaints about the slow process or even absence of work are ignored or pushed aside by politicians who hold stakes in these companies. Inconsistent regulations, corruption, and bureaucratic bottlenecks represent major obstacles for companies bidding on public procurement contracts or investing in large infrastructure projects.⁴ Companies may suffer long payment delays on some government contracts.⁵

Corruption undermines the opportunity for businesses to fully and fairly compete for award of almost all contracts (whether small, large or mega-large), unjustly enriching companies and officials engaging in criminal bribery, and criminally depleting the Iraqi public treasury through inflated contract prices that produce the proceeds for corrupt payments to public officials. Corruption in Iraqi contract administration – particularly as to contract payments – is endemic. Claims of “problems” with contract performance are concocted and willful misinterpretation of contract terms are interposed as guises for withholding contract payments until such time as the “problems” are solved by businesses acceding to bribes demanded by the public officials who created the “problems”.

Iraqi government anti-corruption measures implemented with hopeful fanfare by the newly-sovereign Iraqi government in 2004 (and thereafter) have proven to be mainly aspirational. The Iraqi Accountability Act criminalizes corrupt acts such as passive and active bribery, abuse of office and extortion.⁶ However, each Iraqi government since 2004 has failed to implement anti-corruption laws effectively. Corrupt public officials thus act brazenly, and with impunity. Reports of corruption made by aggrieved businesses to Ministers, the Office of the Prime Ministers, the Iraqi Integrity Commission and the U.S. Embassy rarely result in a satisfactory fix of the particular instance of corruption, and routinely invite retaliation by corrupt officials who, for the most part, are left in place with their corrupt powers uncurtailed.

This widespread Iraqi corruption also damages the development of the Iraqi economy – particularly the development of private sector business – at a macro level. Corruption discourages the most highly-qualified and well-capitalized American and international companies to avoid Iraq, thus losing out on essential business expertise and technical knowledge needed for the development of private sector business in Iraq.

The Prime Minister and the Council of Ministers have the power to create and operate effective anti-corruption reform measures applicable to all Iraqi Ministries, State-Owned Enterprises (“SoEs”) and independent commissions and institutions (*i.e.*, the National Communications and Media Commission, Federal Board of Supreme Audit). No legislation is needed. To be effective, the reform measures must include reorganization of the Iraqi anti-corruption institutions to create a watch dog entity in the Office of the Prime Minister cloaked with real power to:

- immediately intervene with effective remedial administrative measures, including
- immediately freezing contract competitions and contract administration actions reportedly infected by corruption,
- immediately suspending and replacing reportedly corrupt officials,
- protecting companies that are aggrieved by reported corruption,
- fully investigating the reported corrupt activities,
- holding accountable through administrative actions (such as blacklisting from competing for public contracts and criminally prosecuting public officials, private individuals and companies when investigation substantiates reports of corruption.

As noted above, for successful anti-corruption reform to come about, multi-lateral international impetus is essential. The United States should take the lead in bringing about this multi-lateral anti-corruption effort, which has the best prospect of success.

In developing and implementing effective Iraqi government-wide anti-corruption reforms, the multi-lateral effort (including the Prime Minister and the Council of Ministers) should be guided by recently successful anti-corruption government-wide reforms in other countries – including, for example, the Czech Government Anti-Corruption Action Plan for 2016⁷. The Czech Plan is instructive as to the type of comprehensive systemic anti-corruption reform measures (which go beyond the urgent immediate remedial measures addressed in this paper) that should be considered and evaluated for implementation in Iraq.

In sum, the Al-Khadimi government and the United States, acting jointly, should immediately take those actions necessary to develop and launch the multi-lateral anti-corruption initiative for Iraq, including gaining the commitment of: (1) the Prime Minister and the Council of Ministers to serious and effective anti-corruption reform; (2) the commitment of other governments, international organizations, and credible international business associations in Iraq to become part of the international Iraq anti-corruption initiative.

Chapter 4 – Level Playing Field for American Businesses

Level Playing Field Treatment of American Business by the Government of Iraq

The Iraqi government of Prime Minister Adel Abdul Mahdi has taken measures and initiatives that establish a lopsided playing field for American business interests in Iraq, in favor of foreign competitors and to the prejudice of U.S. business interests in Iraq.

AmCham-Iraq recommends and requests that this circumstance should be raised and rectified through bi-lateral understandings and agreement reached during the Strategic Dialogue. The effect of the understandings and agreement should place American enterprises on a level playing field with foreign competitors, as to: (i) Federal Iraq's laws – particularly the annual Budget Law; (ii) project funding and payment programs, including establishment of a mechanism of payment by provision of Iraqi crude oil; and (iii) qualification for and awards of Iraqi public contracts – especially those for major projects in sectors in which American companies are interested and competitive.

In support of this recommendation and request, AmCham-Iraq notes the following.

In early April 2019, a large Chinese government delegation visited Baghdad to meet with President Barham Salah and Prime Minister Adil Abdul Mahdi to discuss Chinese reconstruction investments in Iraq and Belt and Road Initiative (BRI) cooperation.²

² Ashraq Al-Awsat, "Iraq: Prime Minister to Head to China to Sign MoUs", (14 September 2019), available at <https://aawsat.com/english/home/article/1902141/iraq-prime-minister-head-china-sign-mous>

In mid-September 2019 Iraqi Prime Minister Adil Abdul Mahdi visited Beijing, chairing a large high-ranking delegation composed of senior officials including ministers and governors to secure Chinese investment in Iraq for roads, transportation, services, education, and health, among others.

“We seek, in our visit, to form a framework relations for strategic partnership in order to rise and rebuild Iraq's infrastructure, economy and society, and to achieve tangible progress in getting rid of unemployment, poverty and illiteracy,” Iraqi Prime Minister Abdul Mahdi said in Beijing.³

During then-Prime Minister Abdul Mahdi’s visit to Beijing, Iraq signed a broad framework agreement with China that provided for (among other things) a 20-year, \$20 billion oil-for-infrastructure arrangement by which Iraq committed to export 100,000 barrels per day (bpd) of crude oil to China, in return for trade finance done by China’s Export and Credit Insurance Corporation. According to the Iraqi Ministry of Finance, these oil exports commenced in October 2020, through Chinese State-owned companies Zhenhua Oil and Sinochem. Under Iraqi fiscal law, the legal authority for this arrangement is given by the Iraqi Parliament by provisions written into the Federal Budget Law.

Iraq became a “Belt and Road Initiative” (BRI) partner with China, with the consequence that, with Prime Ministerial approval, the Government of Iraq has established a “BRI Committee” to further China’s commercial aspirations in Iraq.⁴

- China State-owned companies PowerChina and Norinco International have become the chosen partner of the Iraqi Ministry of Oil and the Government of Iraq, through contracts with Chinese State-owned enterprises PowerChina and Norinco International to build a 300,000 bbl/day Fao oil refinery that, when completed, will provide Iraq with refined oil products – including gasoline.⁵
- As of September 2019, a Chinese State-owned company, Hilong Oil Service & Engineering Company, was chosen by the Iraqi Drilling Company (a State-owned company of the Ministry of Oil) as the joint venture partner to exploit numerous oilfields throughout Iraq, including the Majnoon field (one of the world’s largest).⁶

³Xinhua, “Iraqi PM hails China visit as ‘quantum leap’ in China-Iraq ties”, (19 September 2019), available at http://www.xinhuanet.com/english/2019-09/19/c_138405582.htm ;see also, Foreign Brief, “Iraq looks to China for investment as economy struggles to keep pace” (19 September 2019) available at <https://foreignbrief.com/daily-news/iraq-looks-to-china-for-investment-as-economy-struggles-to-keep-pace/targetText=China%20displaced%20India%20in%202018,China's%20second-largest%20oil%20supplier>.

⁴ Iraq Energy, “Chinese Downstream Ventures in Iraq: a Game Changer?”, (2 May 2019), available at <https://iraqenergy.org/2019/05/02/chinese-downstream-ventures-in-iraq-a-game-changer/>

⁵Reuters, “Iraq signs contract with PowerChina, Norinco to build Fao oil refinery”, (29 April 2018), available at <https://www.reuters.com/article/iraq-oil-refining-china/iraq-signs-contract-with-powerchina-norinco-to-build-fao-oil-refinery-idUSL8N1S60M3> .

⁶ Foreign Brief, “Iraq looks to China for investment as economy struggles to keep pace” (19 September 2019) available at <https://foreignbrief.com/daily-news/iraq-looks-to-china-for-investment-as-economy-struggles-to-keep-pace/targetText=China%20displaced%20India%20in%202018,China's%20second-largest%20oil%20supplier>.

- In late March 2020, China gained a further hold on the Majnoon field through the award of a \$203.5 million engineering contract for oil field development to the Chinese State-owned company China Petroleum Engineering & Construction Co. It is thought that this is another step in China’s strategy of gaining control of major oil fields in Iraq on the basis of rolling contracts for specific work undertaken by Chinese State-owned companies that are not at the top of a U.S. watch list.⁷

For Iraq, China’s plans are particularly far-reaching, beginning with the oil sector and working outwards from that central point, including by being given the opportunity to build factories and infrastructure – most particularly railways in Iraq overseen by management and staff from Chinese State-owned companies, with the same operational structure and assembly lines as in China.

In late January 2020, the Iraqi Minister of Transport in the Abdul Mahdi government, Engineer Abdullah Laibi Bahd, presided over the fourth meeting of the Diwani Order Committee 70 of the Year 2018 (Special), announcing that the Ministry of Transport was keen to advance the China BRI interest in having Chinese companies selected for “forefront” infrastructure projects of railways, ports and roads, particularly at that time as to the Grand Faw project. The meeting resulted in a number of decisions, apparently made under the authority of Council of Ministers’ Decision No. 10 of 14 January 2020. The role of the Ministry of Transport is to accelerate and facilitate the procedures for Iraq’s involvement in BRI and, thus, dedication of Iraqi transport infrastructure projects solely to BRI, and, thus, only to Chinese State-owned companies on a sole-source basis.⁸

Once the Iraq Ministry of Transport commits the projects to BRI and obtains Council of Ministers’ approval on such basis, such infrastructure projects will not be available to any other companies, including interested American companies.

Establishment of U.S. Investment and Project Finance Vehicles in the Range of \$20 Billion for Use by U.S. Businesses in Iraq

For the reasons stated above, AmCham-Iraq recommends and requests that the United States commit itself to providing equivalent trade and project finance vehicles in the range of \$20 billion, available to American companies doing business in Iraq, to place American businesses on an equal footing in Iraq to competing companies from foreign States.

In AmCham-Iraq’s view, the opportunity for major American energy and infrastructure enterprises to participate in such significant projects is at hand – but will pass if such measures are not taken to level the competitive playing field in Iraq.

⁷ “China Prepares to Close the Oil Deal of a Lifetime,” *Oil Price* (4 April 2020), available at <https://oilprice.com/Energy/Crude-Oil/China-Prepares-To-Close-Oil-Deal-Of-A-Lifetime-In-Iraq.html> .

⁸ “Meeting on Iraq’s joining the Belt & Road Initiative,” *Belt and Road News* (1 February 2020, available at: <https://www.beltandroad.news/2020/02/01/meeting-on-iraq-s-joining-the-belt-road-initiative/> .

As a Key Means of Achieving a Level Playing Field for American Business in Iraq, Re-Establishment, and Operation of U.S. Commercial Service Office in Baghdad to Advocate for U.S. Business Interests in Iraq

For at least the last two years, U.S. policy in Iraq has focused on two aspects of the relationship: (1) the presence and roles of U.S. military forces in Iraq; and (2) application of the U.S. Iranian “maximum pressure” strategy to Iraq’s dealings with Iran, particularly by way of the extent to which the U.S. applies U.S.-Iran secondary sanctions to the Iraqi government’s imports of electricity from Iran.

In the meantime, U.S. government advocacy for American business interests in Iraq – and the success of that advocacy – has lagged.

This lag becomes apparent when present-day commercial advocacy on behalf of American companies is compared to the more effective advocacy efforts of:

- The United States Commercial Service (USCS) in Baghdad, from 2006 through mid-2014 (before U.S. Commerce Department withdrew the experienced USCS officers and staff from Baghdad and de-funded the office during the ISIS crisis, and post-ISIS, did not re-establish the office); and
- The Baghdad trade promotion offices of the governments of South Korea and China, which respectively have obtained notable results under difficult circumstances for South Korean and Chinese companies.

Given the limited resources and dedicated USCS staffing, the U.S. Embassy in Baghdad Economics Section has provided substantial advocacy for the certain U.S. business interests in Iraq – particularly in the energy sector, as to: ● the 2017 Baker Hughes (BHGE) flare gas recovery contract awarded by South Oil Company to build a 200 million standard cubic foot per day (MMSCFD) NGL plant to be completed by 2021; ● the 2019 multi-billion dollar Ministry of Electricity contract opportunity for General Electric Company (GE) to rebuild part of Iraq’s electricity system; and ● future opportunities in the areas of oil field development, flare gas and electricity.

But these commendable efforts cannot match the successes that have been notched by the counterpart Korean and Chinese governments’ trade promotion offices in Baghdad, which are: (1) located outside of secure embassy compounds, which allows the competing counterpart trade promotion officers to easily meet with Iraqi government officials and business people; (2) staffed on a long-term, stable basis with personnel and, who through a series of frequent meetings at Iraqi governmental offices, appropriately develop fruitful professional relationships with senior decision-making officials, including at the Office of the Prime Minister, the Council of Ministers, relevant Ministries, Iraqi State-owned companies.

Accordingly, AmCham-Iraq strongly recommends that, as part of the United States and Iraq furthering the strategic economic relationship between the two countries: (1) the United States restore a robustly-staffed U.S. Commercial Service office as part of the U.S. mission in Baghdad,

and establish and maintain USCS “field” offices outside the security perimeter of the Embassy compound; and (2) the Al-Khadimi government further the involvement of American businesses in Iraq by providing American companies (through U.S. government trade promotion officers as well as directly) with timely and complete information concerning real Iraqi public contract opportunities equal to that information provided to the Baghdad trade promotion offices of other countries (including South Korea and China).

Establishment of Bilateral U.S.-Iraq Visa Agreement for U.S. Business Travelers:

- (1) Iraqi 30-Day Visa upon Airport Arrival;**
- (2) E-Visa Application and Issuance for Iraqi Multi-Entry Visas**

American companies and Non-Governmental Organizations (NGOs) doing business in Iraq are impeded from doing business and are thereby placed at a competitive disadvantage by the current unpredictable, inefficient, time consuming and expensive entry visa process for Federal Iraq that prohibits issuance of visas upon arrival -- especially when Iraqi visa policy provides representatives of competing companies from a number of other countries with either no-visa entry or visas upon arrival.⁹ As a most recent example, the governments of Iraq and Lebanon entered into a bilateral agreement to provide free visas upon arrival to Lebanese citizens visiting Iraq.¹⁰

To put American business concerns at least on a par with their competitors in Iraq, the U.S. Government should negotiate and conclude a bilateral visa agreement with the Iraqi Government, on terms equivalent to the Lebanon-Iraq bilateral visa agreement, that at a minimum provides Americans with on-arrival business visas.

In furtherance of Prime Minister Al-Khadimi’s initiatives in the areas of anti-corruption, transparency, e-government and advancement of Iraqi governmental efficiency, the bilateral visa agreement should provide a commitment on the part of the Al-Khadimi government to develop and institute a program for electronic applications and approval of multi-entry visas for business travelers from the United States (as well as other countries) (eVisas) equivalent to the eVisa system developed and implemented by the Republic of Turkey for U.S., UK Ireland and Schengen passport holders.

The bi-lateral visa agreement also should provide that, upon the Al-Khadimi government entering in such bi-lateral visa agreement, appropriate agencies of the United States government will provide the appropriate entities of the Iraqi government (*i.e.*, the Ministry of Foreign Affairs

⁹ “Visa policy of Iraq,” Wikipedia, published at https://en.wikipedia.org/wiki/Visa_policy_of_Iraq . Visa on arrival available at Baghdad airport for citizens of Lebanon and Turkey; visa on arrival available at Najaf airport for citizens of Bahrain, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Turkey, United Arab Emirates. Visitors to the Kurdistan Region arriving through the Erbil International Airport or Sulaimaniyah International Airport may enter visa-free for up to 30 days if holders of one of the following passports: United States, European Union, Australia, Brazil, Canada, Iceland, Iran (15 days), Japan, Kuwait, New Zealand, Norway, Qatar, South Korea, Switzerland, Turkey (15 days), United Arab Emirates.

¹⁰ “Lebanese passport holders can now obtain free entry visas on arrival in Iraq”, *Daily Star*, October 24, 2018, published at <http://www.dailystar.com.lb/News/Lebanon-News/2018/Oct-24/467370-lebanese-passport-holders-can-now-obtain-free-entry-visas-on-arrival-in-iraq.ashx> .

and the Ministry of Interior) with technical assistance to promptly develop appropriate processes and programs to implement visa-on-arrival and eVisa application and issuance.

In support of this recommendation, AmCham-Iraq notes the following.

As a Senate Foreign Relations Committee staff report recognized more than six years ago: “Any country that professes to encourage business must start by making its processes transparent, predictable, and easy to follow. That is far from the case in Iraq. One simple step toward opening Iraq for business would be to standardize its visa processes. . . . [T]he procedure for getting a visa for Iraq has become increasingly laborious.”¹¹

The Senate staff report accurately compares the visa requirements of 15 foreign countries for American companies seeking to visit for preliminary activities necessary to determine whether to expand their business activities. ***Iraq ranks last for Americans, scoring 45 out of a possible 100.*** (Countries who scored 100 required no visa for Americans traveling for basic business.)¹²

The Iraqi single-entry visa process is not amenable to American companies effectively doing business in Iraq. As the Senate report notes (circa 2012): “[M]any private companies who work for the U.S. mission have a difficult time managing leave or rotation cycles for their employees because they must reapply for visas each time they enter or leave the country.”¹³

Iraq’s own policies are far more prohibitive than not only those of the countries of all aforementioned regions, but, in particular, also to the policies of the Kurdistan Region (which has prospered as a consequence) as well as many of Iraq’s neighbors in Gulf Cooperation Council (GCC) countries.¹⁴

In contrast, while the United Arab Emirates' (UAE) regulations are somewhat unpredictable and complex, the UAE government maintains reasonable entrance and exit policies. Bahrain and Kuwait continue to leverage their economic potential by managing regulations that are among the most welcoming to potential American investors.¹⁵

The adverse impact of this circumstance on American businesses has become untenable since 2012 because: (1) the American business presence has significantly grown in numbers – including the need to have more U.S. contractors and more American NGOs respectively supporting the essential American military presence and post-ISIS stabilization efforts in Iraq, with the result that most employees must receive difficult-to-timely-obtain Iraqi visas for each coming-and-going; and (2) the interest of American companies in coming to Iraq to do business is once again increasing, occasioning the need for multiple visits to Iraq for fact-finding missions, conducting site visits, and attending meetings, which are being impeded by the current Iraqi visa process.

¹¹ “Iraq Report: Political Fragmentation and Corruption Stymie Economic Growth and Political Progress”, Minority Staff Trip Report to the Senate Foreign Relations Committee, April 30, 2012, at pp. 8-12, published at <https://www.gpo.gov/fdsys/pkg/CPRT-112SPRT74162/html/CPRT-112SPRT74162.htm> .

¹² *Id.* at Table 1.1, Comparing Visa Processes for American Businessmen Abroad.

¹³ *Id.* at pp. 8-12.

¹⁴ *Id.*

¹⁵ *Id.*

Reform of the Iraqi Administrative State Contemplated by Prime Minister Al-Khadimi's Governance Program Is Essential to Creating a Non-Corrupt, Predictable Business Environment Conducive to Growth of American Private Sector Business and Foreign Direct Investment in Iraq

It has been accurately observed by informed commentators that, despite prior Iraqi governments' commitments to reform the Iraqi administrative state, Iraq's regulatory environment remains opaque at best, marked by unclear, unnecessarily complex and unpublicized rules and regulations at the Ministry level and below as well as by their arbitrary use.

Only certain regulations (*i.e.*, those imposing duties on citizens or private businesses) are required to be published in the official *Iraqi Gazette* (the Iraqi Federal government's equivalent to the U.S. government's Federal Register). There is no corresponding requirement for the publication of internal Ministry regulations, thus allowing Ministry officials at relatively low levels to create internal requirements or procedures, with little or no oversight and no public announcement. As a result, on frequent occasions Iraqi and foreign businesses are suddenly deemed to be out of compliance and needing to comport themselves to the "new requirements" or face serious consequences, including penalties.

Additionally, regulations exist at both the national and the provincial (governate) level. National regulations are the most relevant to American businesses. But governate regulations still apply. Lack of regulatory coordination is lacking frequently between Federal government ministries and authorities, and the counterpart organizations and authorities at the governate level. Such lack of coordination brings about conflicting regulations and the opportunity for difficulties to be imposed on American and other foreign businesses.

AmCham-Iraq has been informed that these conditions prevail across most Ministries, but particularly have been problematic for American businesses in Iraq in the following realms:

- The Ministry of Foreign Affairs and the Ministry of Interior, during 2017-2019, pertaining to frequently-shifting-but-not-preannounced eligibility requirements for issuance of Iraq multi-entry visas by Iraqi Consulates;
- Ministry of Interior Residency Office, during 2017-present, pertaining to: (a) the state of current requirements for exit stamps (also known as a no-fee residence stamp or exit visa), which changed from what was published, without being announced to foreign travelers, and without the new, more restrictive requirements being published on any English-language website); and (2) requirements for residency permits. The Ministry of Interior official website, <https://moi.gov.iq/>, does not publish these regulations, and no accurate summary of the current regulations is available on the website.
- Ministry of Finance, General Commission for Taxes (GCT), as to issuance of tax clearance certificates.

A contractor or subcontractor under an Iraqi public contract must register each contract in Iraq with the Iraq Ministry of Finance General Commission on Taxes (GCT).

Payments on contracts are subject to the tax retention/withholding mechanism at rates that typically range from 1.8% - 10%, in accordance with the GCT's published annual indicators.

Prior to receiving the final installment payment on a public contract or subcontract under an Iraqi public contract, a contractor or subcontractor must: (1) obtain tax clearance certificate from the GCT, by which the GCT attests that the contractor/subcontractor has paid all Iraqi taxes due on the contract/subcontract; and (2) present the tax clearance certificate to the paying party as a condition precedent to the contractor/subcontractor receiving the final installment under a taxable contract.

AmCham-Iraq has received reports of American companies experiencing administrative difficulties in timely receiving the tax clearance certificate owing to unannounced GCT workload backlogs and (especially during the COVID-19 pandemic in Iraq) the GCT office being limited or the responsible GCT office not being open at all.

In the view of AmCham-Iraq, this area of tax administration in Iraq is a prime candidate for inclusion in the Al-Khadimi government's proposed e-Government program. Successfully doing so would fix enduring, recurring problems that are of substantial concern to the American business community in Iraq.

AmCham-Iraq accordingly encourages the two governments to work together to create an electronic system of registering contracts, applying for, and receiving GCT tax compliance certificates, as one of the starting points for Ministry of Finance e-Government.

Finally, AmCham-Iraq accordingly encourages the two governments to work together to remove arbitrariness, create uniformity and transparency in the administrative rule-making and rules-application process, and to do so by developing and fully implementing e-Government measures to the fullest extent practicable.

Chapter 5 – Economic Partnership with the Aim of Achieving Iraq's Goal of Achieving Self-Sufficiency

Self-Sufficiency in Energy

Mitigating and Eliminating Dependence on Iran for Essential Electricity and Natural Gas to Produce Electricity

Iraq is nearly unique among OPEC countries. Despite having the world's fifth largest oil reserves (estimated at 143 billion barrels, or 12% of all known oil reserves globally), and despite also being OPEC's second largest oil producer (reaching an output of 4.480 million barrels per

day (bpd) in April 2020), the cumulative effect of years of war, sanctions, terrorism, and mismanagement has made Iraq a net importer of refined petroleum products and natural gas

For substantially the same reasons, Iraq is deficient in electric power generation.

To compensate for these shortfalls, Iraq imports up to 1,200 million standard cubic feet of natural gas per day (scf/d) from Iran and receives around 1,200 megawatts (MW) of electricity from Iran during the hot summer months, when Iraqi demand for power peaks. In total, Iranian-sourced gas and electricity constitute about 4,000 MW, or 20 percent, of Iraq's 19,500-MW peak summer production capacity. Despite continuing efforts to add electric power generation capacity, the electricity sector still suffers from a supply-to-peak-demand deficit of 6,000 MW in the summer, according to analysis from the Iraq Energy Institute (IEI). And, while almost 60 percent of the Iraq's power plants are gas powered by design, only 30 percent of that capacity operates on gas volumes fulfilled domestically.

Iraq's problem is not due to a lack of strategic planning – but, rather, is entirely attributable to Iraq's poor execution of well-laid plans. In 2012, the Iraq Integrated National Energy Strategy (developed in cooperation with the World Bank) called for the simultaneous development of natural gas infrastructure by the Ministry of Oil and the addition of gas-fired power capacity by the Ministry of Electricity. The plan's target was for all gas production to be captured, processed, and made available for transport to end users by 2015. Instead, because of a combination of non-incentivizing contracts awarded to international investors, delayed project financing, and bureaucracy at the Ministry of Oil, more than half of Iraq's raw gas being produced was flared. Iraq's raw gas production is estimated at 2,875 million scf/d, of which 1,594 million scf/d is being flared. This makes Iraq the second largest gas flaring country in the world, after Russia, and represents an estimated economic loss of \$3.5 billion annually to Iraq and its people, according to Iraq Energy Institute. Only 40 percent of associated gas (around 1,165 million scf/d) – gas that is produced as a byproduct of crude oil production – is being utilized by Iraq.

The continued waste of flared gas and the under capacity of Iraq's power generation sector is perilous to the well-being of Iraq's national economy and civil society, as well as detrimental to Iraq's national security. On 3 June 2020, Iran and Iraq signed a two-year agreement for the export of an as-yet unreported amount of Iranian electricity to Iraq. Also, on 3 June 2020, Iraq paid Iran \$400 million – reportedly the balance owed on Iraq's previous electricity imports from Iran. This all is occurring at a time when the oil price crash has decimated Iraq's 2020 national budget revenues and called into question the ability of the Iraqi government to pay half the salaries of Iraq's 3 million public-sector employees.

The solution set forth by the Iraq Integrated National Energy Strategy is finally in the process of being implemented – but that is only a start. Much more remains to be done.

In AmCham-Iraq's view, during the Strategic Dialogue the governments of Iraq and the United States should visit the progress that has been made – and the reasons why. The two governments also should make concrete plans for furthering that progress, particularly by expanding the business given by Iraq to American power generation and natural gas retrieval companies, and

ask them once again to do what they do best: ethically, honestly and fully deliver what was promised, when promised, and at the agreed price.

To assist the American companies do so, the United States and Iraq should agree on a trade finance package for the projects, including the involvement of the U.S. Export-Import Bank guarantees (as merited) and the Ministry of Finance’s ratification of such trade finance arrangements.

Additional Measures Critical to Iraq Reaching Hydrocarbon Production Potentials

In 2019 Iraq’s oil production plateaued a peak of around 4.4 million barrels per day (bpd) – approximately the same level reached by Iraq in 1979. This is far short of the expectations developed by the Ministry of Oil (MoO) that Iraq and incorporated into Ministry of Oil contracts with international oil companies (IOCs) that Iraq would achieve production of between 10-12 million bpd by now.¹⁶

Production Targets in MoO- IOC Oil Field Development Contracts		
Project	Original Targets millions bpd)	Revised Targets (millions bpd)
Rumaila	2,850	2,100
West Qurna 1	2,325	1,600
West Qurna 2	1,800	1,200
Majnoon	1,800	1,000 (*)
Zubair	1,200	850
Halfaya	535	400
Missan Oil Fields	450	450
Gharraf	230	230
Badra	170	170
Total	11,360	8,000
(*) A revised Majnoon PPT has not been announced. Source: <i>Wood Mackenzie</i>		

In sum, Iraq has not achieved the anticipated investment or production levels. Nearly all anticipated upon signing of the field development contracts. Nearly all such contracts have been renegotiated with new production targets, and production is still only around half of the revised target.

In simple terms, the most significant reason for the shortfall is that Iraq has not been unable to attract sufficient international investment in the upstream sector because the fiscal terms for Iraqi oil and gas industry contracts are uncompetitive from a global perspective.

Iraq has the highest government “take” –that is, the revenue attributable to the government versus the IOC contractor – among the fiscal regimes worldwide. Iraq’s government take comes in at nearly 98% versus a mean of less than 70% among the fiscal regimes of 20 countries

¹⁶ *Wood Mackenzie*

worldwide.¹⁷ Other countries with considerably less potential, but better terms, have realized greater investment and production increases.¹⁸

This non-competitiveness makes Iraq unattractive to IOC's, with the result that necessary investment does not flow into the sector.

The fix is simple, but fundamental. For the upcoming bid rounds, the Al-Khadimi government should adopt a more balanced and equitable fiscal regime to attract more investment to the hydrocarbon sector. In particular, the Al-Khadimi government should adopt the Bid Round 5 Revenue Sharing Contract.

In the interests of the economic growth, stability and prosperity that would be achieved by Iraq reaching its production potential in the hydrocarbon sector, as part of the Strategic Dialogue the United States should encourage Iraq to adopt the Bid Round 5 Revenue Sharing Contract.

Self-Sufficiency in Medicine and Health Care

Even before the arrival of the COVID-19 pandemic, Iraq's healthcare system was in crisis. There is a shortage of drugs and medical staff to administer them. Doctors are fleeing in the thousands. Patients are suffering. Life expectancy and child mortality rates are far below average in the region. Since then, the COVID-19 pandemic has stressed the healthcare system practically past its limits. In sum, the Iraqi healthcare system is in a state of collapse.

Before the Al-Khadimi government took office, Iraq missed opportunities to expand and rebuild its healthcare system.

Now, Prime Minister Al-Khadimi can take what is, in essence for the Iraqi people, a visionary act that, if carried through to conclusion, will change the lives of millions of Iraqis for the better and also will serve in part to quell growing social unrest; he can do and succeed at what no previous Iraqi prime minister since 1990 has even attempted. He can rebuild Iraq's healthcare system. And, the United States should join in common cause with Prime Minister Al-Khadimi in this eminently ambitious, historic and absolutely necessary endeavor, to bring to Iraq, from the people of the United States to the people of Iraq, the advanced healthcare resources and technology that only the U.S. private sector can best deliver.

To turn this dream-like ambition into reality, however, the Al-Khadimi government will have to deal with and reverse the governmental policies and practices that have brought the Iraq healthcare system to its current state of gravest distress:

- In 2019, a year of relative calm, the Iraqi government allocated just 2.5% of the \$106.5 billion national budget to the Health Ministry – just a pittance of government health spending elsewhere in the Middle East. By comparison, Iraqi security forces (the Ministries of Defense and Interior) received 18% of the national budget, the Oil Ministry 13.5%, The World Health Organization (WHO) reports that the Iraqi government annually spent only \$161 per capita on healthcare,

¹⁷ WoodMac (2016 data).

¹⁸ *Id.*

compared to \$304 per capita in Jordan and \$649 in Lebanon (countries that are much poorer than Iraq).

- According to former Health Minister Alaa Alwan, insurmountable corruption and threats from people opposed to his reform efforts have also served to impede efforts to address the pending collapse of Iraq's healthcare system.
- Poor healthcare is one of the main grievances among the protesters who filled the squares and public spaces across Iraq last Fall, with a lack of access to cancer treatment a flashpoint. Stories of tormented parents who cannot get cancer drugs for their children have aired on news programs across Iraq.
- Hospitals are very short of space. With only 1.2 hospital beds per 1,000 people, Iraq lags the region. Emergency rooms have been repurposed to accommodate more patients.
- Even before COVID-19, Basra and other Iraqi cities were critically short of medical equipment. Basra had only three CT scanners and one MRI unit per million residents – compared to the average rate of 34 CT scanners and 24 MRI units for developed countries.
- Ancient and outmoded Iraqi government rules dating back to the 1970s bar doctors – even ones in private practice – from purchasing equipment or medicine from the private sector, and instead have to wait to receive medicine from the Health Ministry, which often does not have enough medicine to send around.
- More than 85% of the drugs on the Iraqi government's essential medicine list were either in short supply or completely unavailable, according to former Health Minister Alwan.
- International companies reportedly have been dissuaded from doing business directly with the Health Ministry because of corruption and instability, according to former Health Minister Alwan.
- The State Company for Marketing Drugs and Medical Appliances, KIMADIA, is outdated and underfunded, and oftentimes fails to meet demand, according to a former head of KIMADIA.
- Iraq cannot count on its local industry to produce medicine.
- In 2018, Iraq had 2.1 nurses and midwives per thousand people, considerably less than 3.2 per thousand in Jordan and 3.7 per thousand in Lebanon.
- Approximately 20,000 doctors – a third of Iraq's 52,000 registered physicians – have fled Iraq since the 1990s
- By 2018, Iraq had only 0.83 doctors per thousand people, which compares very unfavorably with Jordan's ration of 2.3 doctors per thousand. There are not enough doctors and hospitals to deal with the number of patients, according to reported statements of Iraq Medical Association President Abdul Ameer Hussein.

- In 2019, the Ministry of Health first permitted businesspersons without medical backgrounds to own hospitals, resulting in the private sector adding 2,000 hospital beds to Iraq’s capacity in the first six months of 2019, an increase of 4%. The National Investment Commission (NIC) provided several incentives to attract foreign investment, including a 10-year tax break, the ability to hire foreign workers, customs and duties exemptions, the right to repatriate capital and profits, easier visa and residency processes, and land lease allowances. But these measures have not been enough to begin to answer the challenge. “There is no foreign investment in the health sector,” said a Ministry of Health official.

In light of the foregoing, AmCham-Iraq recommends that United States and Iraq address the reform of Iraq’s healthcare system as part of the Strategic Dialogue with the aim of developing a bilaterally-supported investment program to bring American private sector healthcare expertise to Iraq.
