

## SELECTED ASPECTS OF IRAQI COMMERCIAL LAW

by

**Khalid Issa Taha**

and

**Howard L. Stovall**

---

---

In recent years, only a few Western companies have had significant interest in Iraqi commercial law. On rare occasion, for example, Iraqi commercial law has been relevant in the context of claims before the United Nations Compensation Commission in Geneva, or in domestic courts.<sup>1</sup>

However, now that Iraq and the United Nations have begun implementing Security Council Resolution 986, the so-called "oil for food" program, more Western companies are tentatively reconsidering the future Iraqi market. Iraqi commercial law will again become important in post-sanctions Iraq.

This memorandum summarizes (1) some of the more significant (and constant) aspects of Iraqi commercial law, (2) the customary forms for business used by foreign companies for the Iraqi market, and (3) selected Iraqi legal issues.

### 1. IRAQI CODES

The Iraqi legal system is essentially a civil law system, although it combines Islamic law concepts with those of the Continental systems (such as France). Many of the more important commercial law rules are contained in Iraqi legal codes, particularly the Civil Code, the Commercial Code, and the Code of Civil Procedure.<sup>2</sup>

---

Mr. Taha is an Iraqi attorney with offices in Baghdad and England. Mr. Stovall has his own law offices in Chicago, where he maintains his Middle East commercial law practice. This article is based on Mr. Stovall's presentation at a seminar sponsored by the U.S.-Arab Chamber of Commerce and Baker & McKenzie, "Iraq -- New Opportunities & Settling Old Claims", held in New York City on 18 February 1997.

According to the Iraqi constitution, the Revolutionary Command Council is the supreme government authority in Iraq, and may legislate by issuing resolutions. There are other lesser types of legislation, such as Presidential regulations and decrees, as well as ministerial instructions, announcements and directives.

### **1.1 Civil Code**

The Civil Code, Law No. 40 (1951), is probably Iraq's most important law, certainly its most important commercial law. As constitutions, laws, government departments and procedures come and go, the Iraqi Civil Code has remained. Regardless of any political, legal, or commercial changes in post-sanctions Iraq, the Civil Code probably will remain essentially unchanged.<sup>3</sup>

The Iraqi Civil Code contains extensive provisions regarding "obligations", including what in common law systems is referenced as contract and tort law. For example, the Civil Code addresses a wide range of contract law issues: the elements and formation of contract (including offer and acceptance); contractual defects such as duress, mistake and misrepresentation; interpretive rules for contracts; discharge, excuse (force majeure and changed circumstances) and breach; and contractual damages.

The draftsmen of the Iraqi Civil Code sought to blend principles from both the Sharia and civil codes in other countries, particularly the Egyptian civil code.<sup>4</sup> Thus, a significant number of rules, principles and maxims of Islamic jurisprudence were included in the Iraqi Civil Code.<sup>5</sup> Abdel Razzak Al-Sanhouri, the great Egyptian jurist, presided over the drafting of the Iraqi Civil Code, as well as the Egyptian, Syrian and Libyan civil codes. (Al-Sanhouri also helped draft the 1961 Kuwaiti Commercial Code.) Shortly before his death, Al-Sanhouri was asked which code he considered to be his outstanding legislative achievement. "The Iraqi civil code", he replied, because that code, rather than the Egyptian code, was closer to Sharia.<sup>6</sup>

### **1.2 Commercial Code**

The Iraqi Commercial Code, Law No. 30 (1984), like similar commercial codes in other Arab jurisdictions, regulates various commercial matters applicable to businesses, such as commercial registration (authority for which has been delegated to local chambers of commerce), commercial books and trade names.

The Commercial Code contains extensive provisions on banking transactions such as current accounts, money deposits and bank transfers. The Commercial Code also contains rules on letters of credit and bank guarantees. In that connection, virtually all Iraqi government tenders have required bid and performance bonds,<sup>7</sup> in the form of unconditional bank guarantees from Rafidain Bank. The customary practice has been to establish a (back-to-back) bank guarantee or stand-by letter of credit through a correspondent bank in favor of Rafidain, which in turn issued the bank guarantee to the Iraqi customer.

### **1.3 Civil Procedure Code**

The Iraqi Civil Procedure Code, Law No. 83 (1969), regulates judicial procedures applicable in civil and commercial cases, including competence and jurisdiction of the courts, rules on service of process, pleadings, court hearings, and injunctions.

In addition, Articles 251-276 of the Civil Procedure Code regulate arbitration of disputes<sup>8</sup> -- although the Civil Procedure Code does not expressly address foreign arbitration or foreign arbitral awards. Foreign court judgements are subject to the Law on Enforcement of Foreign Judgements No. 30 (1928), but that law similarly does not expressly address foreign arbitral awards. Therefore, a foreign arbitral award cannot be enforced in Iraq under Law No. 30 (1928), unless approved by a court decision in the place of arbitration.<sup>9</sup>

During the 1980s, the Iraqi government usually insisted that its contracts with a foreign company provide for arbitration in Iraq.<sup>10</sup> Based on past experience, some observers caution that arbitration proceedings in Iraq, between a government entity and a foreign party, may not always be fair and unbiased.<sup>11</sup>

Although Iraq has acceded to some bilateral and multilateral agreements for the enforcement of foreign judgements and arbitral awards,<sup>12</sup> Iraq has not acceded to the 1958 New York Convention.

## **2. FORMS OF BUSINESS**

### **2.1 Offshore Sales**

Iraqi law does not generally prevent a U.S. or other foreign company from making "offshore sales" directly to customers in Iraq. In the past, therefore, some foreign companies have used this structure for their sales to Iraq, which should significantly

reduce legal and practical uncertainties. For example, the foreign seller may decide not to ship products until it obtains an irrevocable documentary letter of credit, confirmed by a reputable bank in its home jurisdiction.<sup>13</sup> Moreover, an offshore seller's profits generally should not be subject to Iraqi income tax.

Nonetheless, foreign sellers might not always be able to negotiate such favorable terms from Iraqi purchasers. Over the years, the Iraqi government has directly purchased more than 90 percent of all imports into the country. Through its import licensing procedures and hard currency allocation systems, the Iraqi government controls virtually all foreign trade.<sup>14</sup> As the 1980s progressed, Iraq relied heavily on foreign financing and deferred payment terms for major projects and imports. In fact, Iraqi regulations required virtually all Iraqi importers to obtain the best possible deferred payment terms from foreign suppliers.<sup>15</sup>

Before the Gulf War, some foreign companies obtained Iraqi government contracts through international tender, but increasingly the Iraqi government was using direct invitational tenders. In post-sanctions Iraq, therefore, foreign companies may need to register directly with the relevant Iraqi government contracting entity(s).<sup>16</sup> Based on prior experience, foreign companies may be well-served by direct in-country promotion, such as participation in the Baghdad International Fair.

## **2.2 Commercial Agency**

In many Arab countries, the key to success is often to find the right commercial agent to open doors and actively promote the foreign company's products or services.<sup>17</sup> In some cases, Western companies have found Iraqi commercial agents to be similarly helpful, for example, to assist with local formalities, and to obtain and follow-up tender documents.

In general, however, the Iraqi legal and business environment for commercial agents has been quite different from that in other Arab countries. Over the years, for example, Iraqi law prohibited or restricted foreign companies from using commercial agents in connection with Iraqi government contracting. Some Iraqi state entities simply refused to deal with commercial agents.<sup>18</sup>

Despite the above, the Revolutionary Command Council amended the Commercial Agency Law in 1989, removing some of the restrictions on foreign companies using commercial agents in sales to the Iraqi government.<sup>19</sup> This amendment reflected the Iraqi government's efforts to encourage private sector commercial activity following the end of the Iran-Iraq war (and the return of

many men from the front, looking for work after leaving the military). The Iraqi government's attitude toward commercial agents in post-sanctions Iraq may be a gauge of the government's commitment to the Iraqi private sector.

The Iraqi Commercial Agency Law currently requires that an Iraqi commercial agent (i) be an Iraqi national and reside in Iraq (if a company, it must be registered in Iraq and be wholly Iraqi-owned); (ii) have a place of business in Iraq; and (iii) be registered with one of the Iraqi chambers of commerce. All authorized commercial agents must also be licensed by the Commercial Agency Registrar.

### **2.3 Branch Offices**

A foreign company performing a contract (or subcontract) for the Iraqi government is usually entitled to have a branch office in Iraq.<sup>20</sup> A foreign company need not establish a branch office, if its contract is simply for the supply of products to an Iraqi government purchaser without any related activities in Iraq, such as training, supervision or installation of equipment. If a contract includes even minimal activities in Iraq, however, the government purchaser may request the foreign company to establish a branch.

A foreign company, even if not required to do so, may want to register a branch so as to derive certain benefits under Iraqi law -- for example, branch registration has eased the sometimes difficult procedures for a company's transfer of money into and out of Iraq, and facilitated the entry and exit of workers, as well as obtaining residence and work permits.

In order to establish a branch, a foreign company has been required to submit an application to the Department of Trade Control. The branch is not allowed to practice any activity other than as specified in the relevant contract, unless special approval is granted.

Foreign companies have an alternative to establishing a full commercial branch office. The Iraqi Companies Law was amended in 1989 to allow foreign companies to open representative and liaison offices in Iraq.<sup>21</sup> A foreign company may open such an office without first obtaining an Iraqi government contract, which is required in order to establish a branch office. Representative and liaison offices may not engage in commercial income-generating activities. (In particular, such offices should avoid performing commercial agency or intermediation activities.) The representative or liaison office may conduct market and feasibility

studies, provide product information to potential purchasers and/or consumers, and conduct general liaison between its foreign parent and the Iraqi market.

## **2.4 Joint Ventures**

A joint venture, like Beauty, is sometimes in the eye of the beholder. Over the years, businessmen have used the term "joint venture" to describe a wide range of different commercial arrangements (including buy-sell agreements and employment contracts!). In the Iraqi legal context, however, there are two primary types of joint venture: the unincorporated joint venture and the joint venture company.<sup>22</sup>

### **(a) Unincorporated Joint Venture.**

Under Iraqi law and practice, an "unincorporated joint venture" is recognized as a contractual arrangement whereby two or more parties (they could be corporate entities or individuals) join together, usually to pursue a particular project for an Iraqi state organization. In creating this type of joint venture, the parties have not established a separate and independent legal entity.

The unincorporated joint venture is created contractually, and the joint venture partners generally have broad discretion to agree on appropriate terms and conditions of the venture -- subject to the regulations governing business conduct in Iraq. For example, as a matter of Iraqi law, an unincorporated joint venture is treated as a general partnership in some circumstances. As a result, the joint venture partners would be jointly and severally liable to third parties for debts of the joint venture.

In most instances, an unincorporated joint venture is only suitable for short-range and/or narrow purposes -- for example, where an Iraqi state organization requires more than one company to participate in a project or, because of the size of the project, one contracting company wishes to involve other companies.

### **(b) Joint Venture Company.**

In some circumstances in other Arab countries, U.S. companies decide that a local joint venture company may be the preferable form of business. However, under current Iraqi law, non-Arab foreign nationals and companies are not allowed to invest or participate in Iraqi companies, whether in the public or the private sector.<sup>23</sup> (Arab nationals may participate in Iraqi industrial and trading companies.<sup>24</sup>)

Therefore, in order to utilize a joint venture company in Iraq, foreign (non-Arab) partners must establish the joint venture company in a jurisdiction outside Iraq, and then register a branch of that foreign company in Iraq.

After sanctions are lifted, the Iraqi government could decide to relax the restrictions on foreign investment into the country -- at least for projects which support reconstruction efforts. If Iraq does decide to liberalize its foreign investment rules, it could benefit from reviewing the new investment laws recently drafted in neighboring countries -- including Egypt, Jordan, Syria and Yemen. As experience has shown in those countries, however, most potential foreign investors look not merely for liberalized investment laws, but for liberalized markets. Iraq would find it difficult to quickly liberalize, for example, its exchange control and banking system, public sector, and import/export rules.

### **3. SELECTED LEGAL ISSUES**

#### **3.1 Arab Boycott of Israel**

One of the biggest obstacles to U.S. trade with Iraq in the 1970s-80s was probably Iraq's strict adherence to the Arab League Boycott of Israel. For example, Iraq has routinely required a seven or eight point Boycott certification (i) in government contracts, (ii) during registration of commercial agency agreements,<sup>25</sup> (iii) as a supporting document when foreign companies establish a branch in Iraq, and (iv) within the power of attorney necessary for trademark applications. A company subject to U.S. anti-boycott laws is prohibited from supplying such Boycott certifications, subject to very limited and narrow exceptions.

Over the years, some Boycott requirements have been waived if the Iraqi government considered a U.S. supplier's products to be essential or necessary.<sup>26</sup> While some of the conflicts may be resolved between Iraq's Boycott and U.S. anti-boycott law, other such conflicts have remained intractable.

Iraq is unlikely to make significant changes in its Boycott policy, even after sanctions are lifted, until/unless the Arab League decides to re-examine the Boycott. In an interview with an Arabic newspaper late last year, Arab League spokesman Talaat Hamad emphasized that the Arab Boycott of Israel will continue until all the concerned parties reach a just and comprehensive peace in the Middle East (including Lebanon and Syria).

#### **3.2 Government Contracting**

Most Iraqi business is state-owned and centrally-controlled. As a result, important business decisions are often made through committees.<sup>27</sup> Many Iraqi government departments have followed standard government forms of contract, such as the Ministry of Planning General Conditions for Electrical, Mechanical and Process Works. Although the terms and conditions of these Iraqi government contracts are based on FIDIC, the Iraqi versions have been redrafted to favor the government customer, and reflect certain "administrative law" rules common in other Middle East jurisdictions.<sup>28</sup>

For example, the party contracting with the government customer in an administrative contract cannot necessarily suspend or terminate the performance of its contractual obligations, even if the government customer defaults in executing its own obligations (e.g., paying the contractor). In such circumstances, the contracting party should continue to perform its obligation and claim damages thereafter. The Iraqi standard forms of agreement reflect this approach.<sup>29</sup>

In order to speed up the performance of projects of major importance to the Iraqi government, various "Major Development Projects" laws have been enacted over the years.<sup>30</sup> Under Revolutionary Command Council Resolution 767 of 1987, foreign companies that undertake major development projects in Iraq are exempt from a number of Iraqi legal requirements, including exemption from Iraqi income taxes and customs duties arising as a result of executing those projects. This tax exemption also extends to the income of non-Iraqi employees working for the company engaged in such a development project.

### **3.3 Exchange Control Law**

The Central Bank of Iraq has administered strict exchange controls on the transfers of currency into and out of Iraq. In the past, some contracts negotiated between an Iraqi government entity and a foreign contractor included provision for a percentage of payment to be made in hard currency outside Iraq and a portion of payment in Iraqi dinars. The Iraqi Dinars were then used by the contractor for in-country operating expenses (such as rent, local employee salaries, taxes).

Under Article 65 of the "Law for the Iraqi Central Bank", Law No. 64 (1976), an Iraqi resident is not permitted to maintain a bank account outside Iraq unless the Iraqi resident obtained the approval of the Governor of the Iraqi Central Bank. Similarly, Iraqi exporters generally were required to repatriate their foreign

exchange proceeds within six months of shipment of the exported products.

A few years before the Gulf War, Iraq liberalized its regulations concerning private sector importation and foreign currency transactions, in part to reduce the strain on government foreign currency reserves. For example, Revolutionary Command Council Resolution No. 52 (1988) established a system of "own exchange" importation whereby Iraqis were allowed to import "permissible" products with their own sources of foreign exchange.

### **3.4 Income Taxation**

Under the Iraqi Income Tax Law, Law No. 113 (1982), foreign companies generally are liable to income tax on net income arising in Iraq. (As discussed above, Iraqi laws to facilitate "major development projects" may grant tax exemptions to some foreign contractors.) Income tax rates range from 10 to 60 percent of net taxable income, although there are complicated rules for determining net taxable income. These calculations are further complicated by strict rules on a foreign company's deductions for operating expenses incurred outside Iraq.

Iraqi Instruction Nos. 2 and 4 (1982) contain special income tax rules for contractors (and subcontractors). In brief, these Instructions establish a procedure for withholding some payments from contractors until the Iraqi tax authorities issue a tax clearance certificate.

The Income Tax Law contains various penalties (including fines or imprisonment) for failure to submit a tax declaration, filing a false return, concealing information, and tax evasion involving fraud. Company directors are personally responsible for the tax due from their company and for making returns and submitting accounts.<sup>31</sup>

Iraq has not established anything that resembles a comprehensive set of multi-lateral treaties for the prevention of double taxation. Therefore, interpretations and changes to Iraqi tax rules would not necessarily need to be based on OECD and similar principles that normally provide significant comfort to Western tax practitioners.

\* \* \* \*

This memorandum is based on materials currently available in our Chicago law offices, including correspondence with legal counsel in Iraq prior to the Gulf War. The purpose of this memorandum is to summarize selected aspects of Iraqi commercial law, but it is not intended to provide legal advice on any specific issue of local law.

Sooner or later, the economic sanctions against Iraq will be lifted. At that time, Iraq will offer opportunities to U.S. and other Western businessmen who accept the commercial challenges, understand the country's particular circumstances and values, and carefully plan for the legal issues which may arise in the post-sanctions Iraqi market.

HLS/ah  
25 February 1997

**E N D N O T E S**

1. But see Huth, "U.N. Compensation Commission: A New Approach to Settlement of International Commercial Disputes", Middle East Executive Reports (January 1996), at p. 9: the need to resort to the applicable law of each contract is avoided in large part due to Iraq's acceptance of liability under international law, declared in Security Council Resolution 687.

2. For a comprehensive summary of the Iraqi legal system, see Al-Mukhtar, "Iraq", in Yearbook of Islamic and Middle East Law (1995), at p. 156.

3. One might recall that the Iranian civil code remain essentially unchanged, despite the other significant constitutional and legislative changes which took place in Iran following the 1979 Islamic revolution.

4. Article 1 of the Iraqi Civil Code states that in the absence of a relevant Civil Code provision: the courts shall first look to customary law, then Islamic law, and finally to equitable principles. Article 1(3) states that the courts are guided in all of this by court decisions and jurisprudence in Iraq, then "in other countries whose laws are comparable to the laws of Iraq".

5. Paragraph 10 of the explanatory background (al-asbaab al-mujiba) to the Iraqi Civil Code states:

The provisions of this Code have been taken from: the Egyptian code which, on the whole, contains the best choice from rules established in the most advanced Western legal systems; from existing Iraqi rules, foremost of which is the Majalla [Ottoman-era code of Islamic principles] and the land law; and from the Islamic Sharia. [In the latter,] the vast majority of provisions were derived from the various schools of Islamic jurisprudence, without being restricted to any specific school.

The legislator exerted all efforts to reconcile the provisions drawn from the two primary sources, Islamic Sharia and Western legislation -- fusing them together into a whole which almost conceals the two different sources. Thus, in the abuse of right theory and in other general theories, the legislator successfully brought together Islamic and Western jurisprudence, harmonizing differing points of view, thereby facilitating the inclusion of many principles of the Majalla and the writings of Moslem jurists, as well as Western legislation. Islamic jurisprudence has thus retained its position, and the past, present and future remain

interconnected.

See Amin, Legal System of Iraq (1989), at pp. 101-02. (I have made a few changes to Mr. Amin's English translation, based on the original Arabic text.) See also Jwaideh, "The New Civil Code of Iraq", 22 George Washington Law Review (October 1953), at p. 176.

6. See, e.g., Habachy, "Similarities And Common Principles Of Western And Middle Eastern Systems Of Law", Middle East Executive Reports (July 1979), p. 15. Al-Sanhouri's pride of authorship in the Iraqi Civil Code might also be evidenced in his comparative law treatise, Sources of Right in Islamic Jurisprudence. In that book, Al-Sanhouri frequently refers to relevant provisions of the Iraqi Civil Code (rather than, say, the Egyptian civil code) as a "modern" reflection of Islamic law principles.

7. The bid bond is usually a fixed percentage -- 1 to 2 percent -- of the contract amount. Once the contract is awarded, the bid bond is converted to a performance bond equal to 2 to 8 percent of the value of the contract. The guarantee might be reduced as the work progresses.

8. See, e.g., Al-Tabakchali, "Settlement of Disputes through Arbitration - Iraq", in the International Bar Association's Arab Comparative & Commercial Law (1987), at p. 279.

9. See Majid, "Enforcement of Foreign Judicial and Arbitral Awards in Iraq", Middle East Executive Reports (September 1995), at p. 8.

10. The Iraqi government's standard form contracts provide for Iraqi governing law and give exclusive jurisdiction to the Iraqi courts to hear all disputes arising from the government contract. See, e.g., Article 17.0 of the standard form General Conditions of Contract for Electrical, Mechanical and Process Works (1980):

The Contract shall be and shall be deemed to be an Iraqi Contract and shall be governed by and construed according to the Laws in force in Iraq and Iraqi courts shall have exclusive jurisdiction to hear and determine all actions and proceedings arising out of the Contract and the Contractor hereby submits himself to the jurisdiction of the Iraqi Courts for any such actions and proceedings.

However, Article 45 of that same standard form contract provides for disputes between the Employer, Engineer and the Contractor to be resolved first by arbitration in Iraq.

11. Such a conclusion has support in at least a few commentaries in legal journals, before the Gulf War. See, e.g., Jalili, "International Arbitration in Iraq", 198? Journal of International

Arbitration 109, at P. 116:

[T]he mere referral of a dispute to arbitration by a contractor is usually deemed to be a hostile act by the government employer. A contractor, especially a foreign contractor, may not be able to find an Iraqi lawyer willing to act for him as counsel or even to serve as an arbitrator.

An earlier article had some similar observations:

Arbitration doesn't work here -- that's the consensus among Western commercial attaches. The Iraqi side invariably takes great umbrage to attempts to invoke arbitration. ... In one case the Iraqi side took two years to name an arbiter. When it finally did, and only after considerable diplomatic pressure, the Iraqi expert representing the Western firm resigned without explanation. The wholesale failure of arbitration is causing mounting concern among Iraq's trading partners, as do the provisions in Iraqi law which accord no legal significance to the results of private arbitration.

"Let The Seller Beware", Middle East Executive Reports (March 1982), at p. 12.

12. For example, Iraq joined the Arbitration Protocol signed in Geneva on 24 September 1923. Iraq has also ratified the Arab League Treaty for Execution of Judgements of other Arab States (1952), and the Riyadh Convention for Judicial Cooperation (1983). (Under the Riyadh Convention, member states are obliged to enforce arbitral awards issued in another member state, without re-examining the substance of the case.)

13. Incidentally, in March 1990, Iraq acceded to the United Nations Convention on Contracts for the International Sale of Goods.

14. For a brief listing of some requirements of Iraq's import program in 1985, see comments of Dr. Farouk Obeidi in U.S.-Arab Chamber of Commerce, Proceedings of the Conference on THE U.S. AND IRAQ: MARKING A NEW PHASE IN POLITICAL AND TRADE RELATIONS, held in New York City (7 March 1985) (hereinafter "Proceedings"), at pp. 56-57.

15. See "Selling in Iraq", U.S. Embassy (Baghdad) Airgram, dated 15 April 1987, at p. 5.

16. See, e.g., "Registration of Foreign Firms Clarified", Middle East Executive Reports (October 1979), at p. 6.

17. See comments of Marshall W. Wiley in Proceedings, supra note 14, at pp. 38-39. See also comments of Odeh Aburdene in id., at p. 28:

Now all sorts of people might tell you, "I can get you in Iraq"; "I have contacts." That will never get you anywhere. You cannot have an agent in Iraq like you do in Saudi Arabia ... like you do in Abu Dhabi. You have to go directly to the state.

18. "The American Contractor: Getting A Foot In the Door", Middle East Executive Reports (September 1978), at pp.9-10.

19. See Stovall, "New legislation lifts controls on agents", Middle East Economic Digest (23 June 1989), pp. 8-9.

20. See, e.g., Law No. 68 (1989) and Regulation No. 5 (1989), English translations of which were published, respectively, in the October 1989 and November/December 1989 issues of Middle East Executive Reports. Ministry of Trade Bulletin 608 (25 November 1989) also sets out some conditions for opening branches, including that the contract period must be at least 90 days. See Taha, "Branches And Liaison Offices In Iraq: Recent Developments", Middle East Executive Reports (January 1990), at p. 8.

21. See Taha, "Law No. 68 Amending Iraqi Companies Law", Middle East Executive Reports (November 1989), at p. 8.

22. Articles 676-682 of the Iraqi Civil Code contain rules specifically relevant to joint ventures.

23. There have reportedly been no direct U.S. participation in Iraqi limited liability companies since 1967. See American Contractor, supra note 18, at p. 9.

24. Under the Industrial Investment for Mixed and Private Sectors Law No. 115 of 1982, Arab capital essentially enjoyed equality with Iraqi capital. In 1990, the Iraqi Planning Ministry was reportedly drafting new regulations to further encourage investment, including additional guarantees for repatriating capital costs and profits, and further incentives for prospective investors. Middle East Economic Digest (22 June 1990). However, these proposed regulations were reportedly also limited to Arab investors residing in an Arab country.

25. See, e.g., "Boycott Affidavit Required as Part of Agent's Registration", Middle East Executive Reports (September 1978), at p. 13. This boycott certification can be a trap for the unwary (or careless), as illustrated by a U.S. administrative law judge's decision to impose a fine and one-year export denial on a U.S.

company, Serfilco Ltd., and its president. See "Serfilco Ltd. and its owner fined \$208,000 and hit with a 1-year export denial order", Boycott Law Bulletin (11 December 1995), at p. 1.

26. See, e.g., "Boycotting Countries' Practices Summarized in Public Document", Middle East Executive Reports 16 (June 1980), at pp. 17-18.

27. See comments of Robert J. Hemler, in Proceedings, supra note 14, at p. 32.

28. Articles 864-90 of the Iraqi Civil Code also generally apply to "works" (muqaawala) contracts, including construction and engineering contracts with the Iraqi government. These Civil Code provisions include rules on the obligations of the contractor, defects in material and workmanship, delays, variations, and liability (including so-called decennial liability) of the architect and contractor for design and work. See Al-Mukhtar, "An Introduction to Construction Contracts in Iraq", 3 The International Construction Law Review 35 (October 1985), at p. 38.

29. See Majid, "Contractors' Remedies in Case of Delay in Payment in Iraq", 5 The International Construction Law Review 112 (1988), at p. 116: "The Committee which drafted these [Iraqi standard form contract] conditions considered the right of the Contractor to terminate the contract or suspend the work, but deliberately declined to incorporate such provisions."

30. See, e.g., Law No. 157 of 1973, an English translation of which was published in Middle East Executive Reports (April 1979), pp. 22-23. That law was superseded by Law No. 60 of 1985, which in turn was superseded by RCC Resolution 787 (1987).

31. For additional background on the Iraqi income tax system, see International Bureau of Fiscal Documentation, "Republic of Iraq" (1990), chapter in Taxes and Investment in the Middle East.