

**Republic of Iraq**

**Research Report on  
General Insurance Market and Practices  
in Iraq**

**(Executive Summary)**

**December 2012**

**Japan International Cooperation Agency (JICA)**

**InterRisk Research Institute & Consulting, Inc.**

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## **Introduction**

### **Background**

At the International Conference on Reconstruction in Iraq held in Madrid in October 2003 after the Iraq War came to an end, the Japanese government announced it would provide Iraq with US\$5 billion of assistance including yen loans of up to US\$3.5 billion equivalent, the second largest aid package to that of the US. To date, 15 yen- loan-financed projects have been fully implemented, representing JPY364.6 billion (US\$3.28 billion) in aid. In addition, in November 2011 the government issued a statement about the measures necessary for four additional yen loans worth a total of US\$750 million. Thus, the Japanese government is providing Iraq with assistance in excess of the commitment it made in the Madrid conference.

Iraq is currently undergoing the transition from the reconstruction phase to the development phase, where it is important to stimulate the private sector backed by high market potential. The Iraqi government is actively seeking overseas investment in its market, where there is major demand in relation to, for instance, the development of infrastructure. The market does, however, have some drawbacks such as deficiencies in the legal system, and there is a need to build up a solid foundation from now on so that global investors are able to participate in Iraq's development with a sense of security.

Indeed, it is essential during the development phase to broaden and reinforce activities aimed at improving infrastructure, which forms the basis for the country's existence. When private enterprises take part in such activities, they usually take out insurance such as construction/erection all risks cover. Not only in construction/erection but in various business operations, proper insurance coverage is indispensable for any foreign enterprises when they launch their business in Iraq. But, at present, foreign companies likely hesitate to launch business in Iraq because most of them are not sure of Iraqi insurance in terms of legal system, market situation, etc. To collect information and clarify "how to insure properly in Iraq" is necessary in order to promote infrastructure projects by foreign companies in Iraq.

In Iraq, there is a system in place whereby construction/erection insurance coverage is compulsory and companies awarded civil engineering contracts must obtain insurance cover from an insurer in Iraq, after which the insurer has to reinsure the risk with an overseas reinsurance company. Meanwhile, the participation of foreign companies in civil engineering work in Iraq is difficult due to an absolute lack of specific information on insurance and other relevant laws and on insurance companies in Iraq. It is thus essential to ascertain the actual state of the insurance system in Iraq in order to accelerate the development of the country's infrastructure through the involvement of foreign companies.

### **Objectives**

On the basis of the situation described above, this survey was conducted with the following objectives in mind: to shed light on the structure and mechanism of Iraq's insurance system by collecting and analyzing information on the extent to which insurance-related and other relevant laws and the control of insurance business in the country have been improved, and on its insurance market, including insurance companies and the insurance system in general, thereby identifying issues currently surrounding insurance business in Iraq and promoting the participation of foreign companies in the country's infrastructure development projects,

including those being pursued under yen loans.

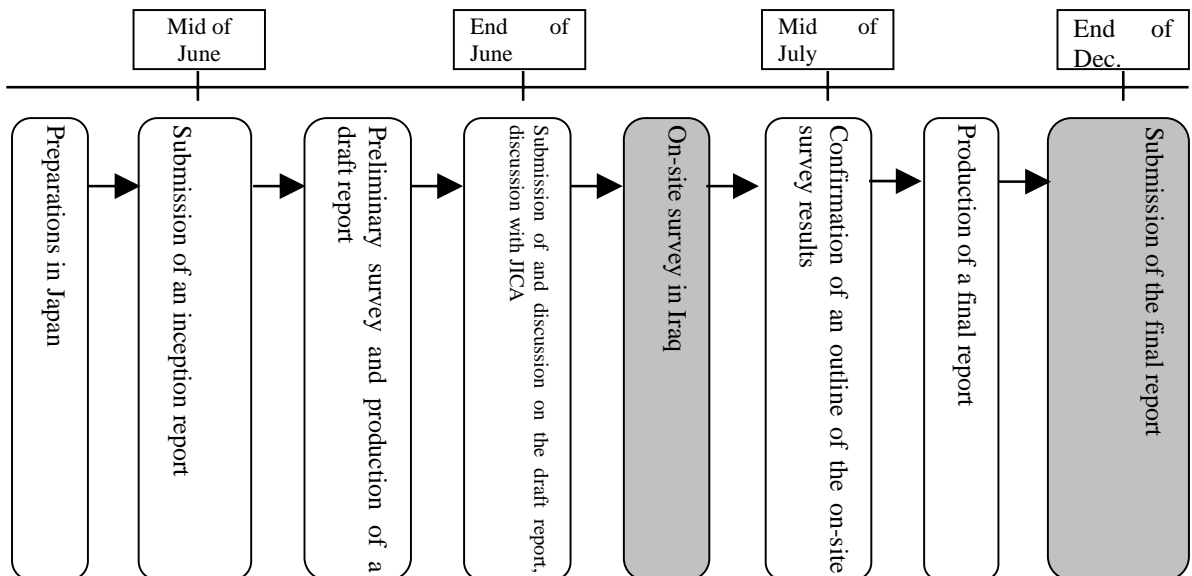
We hope this survey serves as a tool to stimulate interest among prospective participant companies and organizations in Iraq projects, and that this results in a competitive procurement process in tenders for large-scale construction works in Iraq, including yen loan-financed projects.

## Methodology and Subject

### Methodology

During the short visit made to Iraq for this on-site survey, it was necessary to collect and analyze a wide range of information relating to the country's insurance laws and other relevant laws and to its insurance market, including insurance companies. For this reason, as part of the preparations undertaken in Japan prior to the visit, we first studied what were generally accepted as international standard insurance systems, systematically compiled the study results, and effectively identified information to be collected in the on-site survey. It was only after these preparations had been successfully completed that the on-site survey in Iraq was done.

The production process used for this report is as follows:





## Subject of on-site survey in Iraq

Interviews were conducted with the following subject organization/individual during the on-site survey.

Table 1: Interviewees during the on-site survey

Organization	Interviewee
Ahlia Insurance Co	Sadoun Mishkel Khamis Al-Rubaiy, Managing Director
Al-Etihad Insurance Co	Muhammad Hadi Hussain, Managing Director Michael Sami Sanoian, General Insurance Manager
Al-Hamra'a insurance Co	Mohamed M Al-Sodani, Deputy General Manager Munther Abbas Al-Aswad, Advocate, Advisor Samir Qattan, Consultant Shihab Al-Anbaki, Technical Department Manager
Al-Iktisad International General Insurance Co	Waleed Jasim Alqaisi, Managing Director Karam Majid Abdul Karim, Deputy Director General
Al-Khair Insurance Co	Mahdi Hashim Mohammed, Managing Director
Almaseer Insurance Co	Arak Al-Bayati, Chairman Sarah Safa Kasim (Ms), Chief Executive Mekki Mustafa, Advisor
Cihan Insurance Co	Tarek Khalil Ibraheem, Director General
Dar Al-Salam Insurance Co	Mirza Majeed Murad Khan, Managing Director
Gulf Insurance Co	Riyadh Salim Agha, Managing Director
Iraq Insurance Co	Sadiq Abdul Rahman Hussain, Director General Nesreen Abdul Azeez (Mrs), Technical Department Manager
Iraq International Insurance Co	Muhammad Jawad Al-Mudhaffar, Consultant Dhia Hashim, Managing Director Muhammad Wajeih Muhsen, Deputy Director General, Accounts Manager Muhsin Mohammad Jawad, Administration Manager
Iraq Reinsurance Co	Riyadh M Hanna, Acting Director General, Senior Manager, IT Sahira Ridha Mustafa (Miss), Senior Manager, Marine Department Sattar Karmad Al-Faisal, Senior Manager, Non-Marine Department
Iraqi Insurance Association	Falah Hassan Ali, Managing Director
Iraqi Insurance Diwan	Faisal Manhal Tayeh Al-Kilabi, Acting President Shirook Adnan Ali (Miss), Technical Officer
Al-Yamama Insurance Co (under formation)	Kamal Al-Zubaidi, Managing Director
Kurdistan International Insurance Co	Abdulkadir Abdul-Razzak Fadil, Managing Director
Munem Al-Khafaji	Munem Al-Khafaji, ex-Managing Director
National Insurance Co	Sadiq Fadhil Al-Khafaji, Director General Bassam Al-Banna, Deputy Director General and Head of Engineering

	Haifa Shamoan Essa (Miss), Senior Manager, Accounts Department Jamal Farid Mahmoud, Manager, Technical Department
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## Structure of Report

This report starts with a “Survey Outline”, which is one of the pre-arranged report items.

The first chapter in the body of the report, “General Remarks on Iraq’s Insurance Market”, then presents an overview of Iraq’s insurance market, providing a general explanation of the market based on viewpoints typically adopted for the analysis of insurance market characteristics.

The second chapter, “Specific Risks in Iraq”, discusses the current status of natural disasters and terrorist activities as risks which are specific to Iraq and may lead to major losses for companies doing business in the country.

The third chapter, “Present Status of Fronting Arrangements”, details the current situation in Iraq surrounding various legal restrictions and other relevant matters which would influence the underwriting capacity of overseas insurers, whose involvement will be mandatory in Iraq from now on when insurance cover is arranged for a local risk. This aspect is one of the important subjects of the current survey.

The fourth chapter, “Response to Insurance Claims”, describes the situation in Iraq concerning the environment and systems whereby insurance payments can be made in an appropriate manner following the occurrence of accidents.

The fifth and last chapter, “Insurance-related Issues and Measures for Companies Entering the Iraq Market”, is a summary and compilation of ideas and thoughts about issues which need to be addressed by foreign companies endeavouring to secure proper insurance arrangements in Iraq, as well as measures to deal with such issues.

## Organization of Survey and Research

InterRisk Research Institute & Consulting, Inc. took charge of summarizing and managing the survey, the drafting of survey items and contents, and the production of a report in Japanese. Meanwhile, United Insurance Brokers, Ltd. (UIB) conducted the on-site survey and produced a report in English.

The framework, including personnel appointed to undertake the survey, was as follows:

### Project Management

InterRisk Research Institute & Consulting , Inc., Kiyoshi Yoshida, Mr  
InterRisk Research Institute & Consulting , Inc., Shinya Matsui, Mr  
InterRisk Research Institute & Consulting , Inc., Kenta Hitomi, Mr

On-site Survey in Iraq

United Insurance Brokers, Ltd., Director, George Kabban, Mr

United Insurance Brokers, Ltd., Director, Misbah Kamal, Mr

# **1. General Remarks on Iraq's Insurance Market**

## **1.1 Current Insurance Regulations**

### **1.1.1 Background**

The history of insurance regulation in Iraq can be traced to the Ottoman Insurance Law of 1905. The first insurance regulatory act was put on the statute book in 1936. Thereafter many acts were passed. In 1964, all insurance companies were nationalized and three specialist General Insurance, Life Insurance and Reinsurance companies were set up as part of the State Insurance Organisation (SIO). The SIO was disbanded in the late 1980s. This market structure continued until 1997 when it was decreed that private insurance companies could be formed. The first such company, Dar Al-Salam Insurance Co, was formed in 2000.

The current legislation, which is still in force, is the Insurance Business Regulation Law 2005 drafted under the guidance of USAID.

### **1.1.2 Effects of Current Legislation**

The 2005 law created an open insurance market and pushed neo-liberalism to its extreme by keeping silent on the requirement of the prospective insured to insure with an Iraqi insurance company registered in Iraq and licensed by the regulator, the Iraqi Insurance Diwan. In effect, non-admitted insurance has become possible.

The law provided for the creation of a supervisory authority, the Iraqi Insurance Diwan, and an association, the Iraqi Insurance Association. It also made provisions for the regulation of insurance agents and intermediaries. Other features of the law will be highlighted under other headings of this paper, as appropriate.

### **1.1.3 Legislative Process**

The Insurance Business Regulation Law 2005 was written by an American insurance commissioner retained by USAID/BearingPoint Inc, borrowing extensively from the Jordanian Insurance Law of 1999. The law was called Order Number 10, part of the numerous orders promulgated, in March 2003, by the US Administrator of Iraq Paul Bremer, May 2003 - June 2004.

### **1.1.4 Statutory Tariffs**

There are tariffs for various classes of insurance but they are not applied by insurance companies.

Breach of the tariffs is due to the pressure of competition among the insurance companies and the inability of the regulatory bodies to ensure compliance as, to date, there are no penalties against those companies that are in breach. Furthermore, the companies that breach the tariff, especially when writing large risks, tend to bypass declaration of the risk to the reinsurance treaties managed by Iraq Re. Thus, the latter is not aware of such a breach.

### **1.1.5 Fines and Penalties**

The 2005 Law includes a section on penalties for breaching certain provisions of the law. These penalties apply to Iraqi insurance and reinsurance companies or branches of foreign companies licensed to operate in Iraq.<sup>1</sup>

### **1.1.6 Additional Note on the 2005 Law and Market**

It is expected that new privately owned insurance companies will be formed, the role of the Diwan will be enhanced with the firming of the appointment of its acting president. It is also expected that if the liberalization policy is implemented in full, the state-owned companies will be restructured. This expectation is premised on a reported tender by the Iraqi government for consultancy on restructuring state establishments.

### **1.1.7 Capacity of Iraq's Insurance Market**

The underwriting capacity of the market, as determined by the existing 2012 reinsurance treaties, is as follows:

#### **Fire & General Accident**

Fire: USD 7 million any one risk sum insured for private insurance companies and USD 9 million for NIC and IIC.

General Accident: this includes various classes of insurance as follows:

- Group Life: USD 150,000 for NIC and IIC but USD 100,000 for other companies per person. Personal Accident limited to Accidental death.
- Group and Individual Personal Accident: USD 200,000 for NIC and IIC but USD 100,000 for other companies.
- Medical Expenses (following Accident Only): USD 25,000 any one person and in the aggregate per annum per policy.
- Burglary: USD 750,000 for NIC and IIC but USD 500,000 for other companies any one risk.
- Plate Glass: USD 100,000 for NIC and IIC but USD 50,000 for other companies any one risk.
- Cash in Safe: USD 1,000,000 any one risk.

#### **Engineering**

This class includes Contractors' All Risks and Erection All Risks and associated TPL, Machinery Breakdown, Boiler and Pressure Vessel Explosion, Deterioration of Stock in Cold Storage and the like.

Limit: USD 21 million any one risk with an Event Limit of USD 50 million.

#### **Marine Cargo**

Limit: USD 4 million per policy and/or per letter of credit and/or per sending.

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<sup>1</sup> To date, there are no branches of foreign insurance companies operating in Iraq.

## 1.2 Life Insurance

### 1.2.1 Life Insurance Companies

There are no specialist life insurance companies in Iraq. At present, the two state-owned companies, National Insurance Co (NIC) and Iraq Insurance Co (NIC), are active in writing group and individual life insurance policies. Until the late 1980s, Iraq Insurance Co specialized in life insurance business. Its monopoly on this class was ended when NIC was permitted to write life business and IIC itself was permitted to write general insurance business.

Not all the private insurance companies transact life insurance at present. Their life portfolio is small.

Neither IIC nor NIC or the private insurance companies have treaty reinsurance protection for their life insurance portfolio.

### 1.2.2 Life Insurance Premium - General

Life insurance business in Iraq is underdeveloped especially individual life insurance. The majority of policies are for group life. In 2009, the sums insured and premium for individual and group policies were as follows:

Table 2: Life Insurance Premium in Iraq

All figures in Iraqi dinar

Item	New Policies	Existing Policies
Sum Insured	312,061,045,000	883,960,787,000
Premium	5,587,251,000	11,563,759,000

Figures compiled from scattered sources.

## 1.3 Changes in Market Structure and Practices

1.3.1 Prior to the formation of the National Insurance Company in 1950 as a government owned insurer, foreign insurance offices and agencies dominated the market, which was open and competitive. The first Iraqi private insurance company, Rafidain Insurance Co, was established in 1946. It was owned by Iraqi and foreign interests. Other Iraqi private companies were established after the 1958 revolution, notably Iraq Insurance Co and Baghdad Insurance Company. The competitive market came to an end when the insurance sector was nationalized in July 1964 and risk carriers were reduced to three companies:

- National Insurance Co, for direct non-life insurances
- Iraq Insurance Co, for direct life business
- Iraq Reinsurance Co, for reinsurance business

These companies formed part of the State Insurance Organization (SIO), which also acted as a supervisory authority.

The specialization of the two companies was ended in 1988 together with the ending of compulsory cessions to Iraq Re. The SIO was abolished in 1988 as part of restructuring insurance business and the supervisory function was assigned to an insurance commissioner at the Ministry of Finance.

- 1.3.2 In 1997, two laws were put on the statute book: Companies Law No. 21, which opened the ground for the formation of private companies, and Law No. 22, which regulated the activities of public (state-owned) companies.

Based on Law No 21 of 1997 a number of private insurance companies were formed in 2000. Others followed in subsequent years. Thus, barriers to entry of new insurers were removed and competition started again, after more than three decades.

Today there are thirty insurance companies operating in Iraq. They will be introduced with more details in later sections of this report.

- 1.3.3 The 2005 Insurance Regulatory Law consolidated the competitive structure of the market, broadening entry to include operations by foreign insurance companies and insurance entities. This law included provisions for procurement of insurance by public bodies whereby procurement must be by tender and open to all Iraqi registered insurance companies. Thus, the historic traditional route of state establishments insuring with state insurance companies ended. However, the tendency of seeking insurance from state-owned insurance companies is still in place.

- 1.3.4 Competition is intense and it is the subject of complaints in many insurance quarters but so far, no attempt has been made to curb the deleterious effects of rampant competition.

- 1.3.5 The *Iraqi Insurance Diwan* does not carry out onsite supervision. It is expected that this regulatory activity will evolve when the Diwan acquires a sufficient number of qualified staff and the supervisory function becomes sophisticated.

- 1.3.6 The *Iraqi Insurance Association* is slowly becoming active in providing some training, guidance to insurance practice and beginning to compile information on market activity. This development came after appointing a managing director for the Association who is an experienced surveyor.

- 1.3.7 *Underwriting and risk rating* is made by the companies themselves. The state-owned companies have separate departments for underwriting various classes of insurance. The underwriting function in the private companies is mainly handled by their managing directors as their staff is small in number and not all staff are proficient in insurance.

For *major risks*, the companies call mainly on international brokers to indicate rates and other insurance terms or negotiate the same with professional reinsurers in the international market.

The *selling of insurance policies* is direct, as brokers have no role in distribution. A few agents are engaged in production. The companies, especially the state owned, have their own in-house producers.

*Surveys* are provided by in-house surveyors, if the company has the resources to do so. The majority do not have the requisite resources. The IOCs use the services of international surveyors to provide reinsurers with site survey reports.

*Loss adjustment* is carried in-house except that international foreign companies will rely on international loss adjusters. The latter are usually nominated by reinsurers and/or recommended by international brokers.

*Direct brokers* are not a feature of the market although the 2005 law provides for their establishment and regulation of their activities. International brokers, placing business on behalf of their international clients with Iraqi insurance companies, earn their income in the form of a fee from the direct client or brokerage from reinsurers with whom the business is placed.

*Bureaucracy* is a feature of insurance operations with most powers and decision-making concentrated in the hands of managing directors. This applies, with some variation, to the state and private insurance companies.

Overall, the practices of the market are inherited from the past and the long years of sanctions and wars that have cut off the market from developments outside Iraq.

- 1.3.8 Iraqi insurance companies do not have a *rating classification*. So far, none of the companies has sought a rating from one of the international rating agencies.
- 1.3.9 It is expected that the market will consolidate by virtue of *mergers* between the smaller insurance companies in order to meet the new *capital requirements* of IQD 5,000,000,000 (= USD 4,300,000 approximately) rising later to IQD 15,000,000,000. It is also expected that Arab and foreign insurance companies will acquire some of the Iraqi companies especially those that cannot meet the new minimum capital requirements.
- 1.3.10 Selection and assessment of applicants for life insurance relies mainly on a Swiss Re underwriting guide and sometimes the Munich Re guide or that of Mercantile & General.

## **1.4 Size and Characteristics of the Iraq Insurance Market**

### **1.4.1 Lack of Consistent Data**

There are no market-wide statistical data. Most of the insurance companies do not publish their annual reports. There is no consistency in the compilation and classification of premiums and other relevant statistics, when these are available.

## **1.5 List of Major Non-Life Insurance Companies in Iraq**

### **1.5.1 List of Iraqi Insurers and Reinsurers**

As at June 2012, there were 30 registered insurance and reinsurance companies licensed by the Iraqi Insurance Diwan (the insurance supervisory authority) listed below in alphabetical order.



Table 3: List of Iraqi Insurers and Reinsurers

No	Name	Selected Remarks
1	Ahlia Insurance Company	Established in 2000. Managed by an experienced ex member of NIC.
2	Al-Ameen Insurance Company	Established in 2000.
3	Al-Batik Insurance Company	
4	Al-Iktisaad Insurance Company	
5	Al-Hamra'a Insurance Company	Established in 2001. Managed by a qualified non-practising doctor of medicine.
6	Al-Khair Insurance Company	Managed by an ex staff member of Iraq Re.
7	Al-Reham Insurance Company	
8	Al-Maseer Insurance Co	
9	Al-Watan Insurance Company	
10	Asia Insurance Company	Newly formed; commenced operations in June 2012
11	Badia Insurance Company	Established in 2011. Recently it recruited a well experienced insurance practitioner as managing director but left because professional standards were not kept by the company.
12	Cihan Insurance Company	Managed by the ex-director general of NIC, pensioned off after 2003.
13	Dar Al-Iraq Insurance Company	
14	Dar Al-Salam Insurance Company	Established in September 2000. It was the first private company to be licensed on the basis of Companies Law No 21 of 1997. Managed by an ex senior staff member of Iraq Insurance Co.
15	Dilnia Insurance Company	Managed by an ex NIC lawyer but left to work for Kar Insurance Co.
16	Gulf Insurance and Reinsurance Company	Despite the title, the company does not transact reinsurance. Managed by an ex staff member of NIC.
17	Iraq International Insurance Company	Managed by the highly experienced ex manager of NIC's Engineering Reinsurance Branch
18	Iraqi Insurance Company	Has a strong life portfolio reflecting its origins as a life company until 1988 when its specialisation was ended.
19	Iraqi Reinsurance Company	The only professional reinsurance company in the market. It was established in 1960.
20	Kar Insurance Company	No officially appointed managing director but practically managed by an experienced ex legal officer of NIC.
21	Kurdistan Insurance Company	Managed by an ex staff member of NIC.

22	Middle East Insurance Co	
23	Moa'lim Insurance Company	Branch of an Iranian company.
24	National Insurance Company	The oldest company in Iraq, established in 1950. It has a small portfolio of reinsurance business.
25	Shatt Al-Arab Insurance Company	Managed by the ex-manager of NIC's technical department.
26	StarKar Insurance Company	The first privately owned insurance company formed in the Kurdistan Region of Iraq. Managed by an ex senior member of IIC.
27	Trust House Insurance Company	The company is linked to a Gulf insurance group.
28	Union International Insurance Company [Al-Etihad]	Managed by an ex senior marine officer of Iraq Re.
29	Ur International Insurance Company	The company is linked to a UAE insurance company. Managed by a highly experienced ex senior member of IIC.
30	Wadi Al-Rafidain Insurance Company	

**Geographical Distribution.** Dilnia Insurance Company, Kar Insurance Company, Kurdistan Insurance Company, StarKar Insurance Company, Trust House Insurance Company, Asia Insurance Company and Ur International were incorporated in the Kurdistan Region of Iraq. Asia and Dilnia operate from Sulaymaniyah; the others operate from Erbil.

The majority of the other companies are headquartered in Baghdad. Some of them have branches in other governorates. NIC has the largest network of branches followed by IIC and Al-Hamra'a.

**Private and State-Owned Companies.** Iraq Insurance Co, National Insurance Co and Iraq Reinsurance Co are all state-owned. All other companies are privately owned, some of which have Arab and foreign shareholding.

**Foreign Insurance Companies.** At present, there are no foreign insurance companies or branches of such companies registered in Iraq other than Moa'lim Insurance Co.

## 1.5.2 Brief Assessment of Insurance Companies

### 1.5.2.1 General Remark

The private insurance companies produce approximately 20% of the market's total written premium. The largest producer in 2010 was Al-Hamra'a Insurance Company with a premium of IQD 1,548,189,147.

### 1.5.2.2 Number of Employees of Iraqi Insurance Companies

Our research has found some information to help decision-making on the selection of insurance companies with whom Japanese principals, contractors and their insurers can work. It is now found that the number of employees is not crucial in the selection process but it is a factor to be taken into account.

Table 4: Number of Employees of Iraqi Insurance Companies  
As of the end of July, 2012

No	Company Name	Number of Employees
1	Ahlia Insurance Co <sup>2</sup>	19
2	Albadia Insurance Co	4
3	Al-Etihad International Insurance Co	18
4	Al-Hamra'a Insurance Co <sup>3</sup>	34
5	Al-Iktisad International General Insurance Co <sup>4</sup>	56
6	Al-Khair Insurance Co	6
7	Almaseer Insurance Co	11
8	Asia Insurance Co	25
9	Dar Al-Salam Insurance Co	22
10	Dilnea Insurance Co	5
11	Gulf Insurance Co	6
12	Iraq Insurance Co	345
13	Iraq International Insurance Co	8
14	Kar Insurance Co	7
15	Kurdistan International Insurance Co	3
16	National Insurance Co <sup>5</sup>	729
17	StarKar Insurance Co	20
18	Ur International Insurance Co	8

<sup>2</sup> 11 at head office in Baghdad and 8 at the Basrah Branch.

<sup>3</sup> The Financial Statements of the company for the year ending 31.12.2011 state the number of employees to be 22. The additional 12 employees could be new recruits or producers.

<sup>4</sup> The company is linked to a bank and some of the employees are stationed in the bank's branches to administer letters of credit and where possible direct clients to the company.

<sup>5</sup> The NIC figure is for the year 2010. In 2009, the number of employees was higher at 745. NIC suffers from over staffing.

### 1.5.3 Capital of Insurance Companies

The capital of the companies should be judged against the legal minimum requirements that are as below, based on the Diwan Directive Number 14 of 2009.

Table 5: Capital of Insurance Companies

All figures are in Iraqi dinar

Category of Insurance Business	Minimum Capital
General insurance	1,500,000,000
Life insurance	2,000,000,000
General and Life insurance	2,000,000,000
Reinsurance only	3,000,000,000

Source: Iraqi Insurance Diwan

Discussions are underway to set the minimum capital at ID 15,000,000,000. The regulatory intention is to create financially strong companies and mandating a capital increase is the instrument chosen by the Diwan. If this minimum capital is legislated, it might lead to merger of smaller companies.

Directive No 15 of 2011 provides for a minimum capital of IQD 5,000,000,000. After the date of implementation of this directive the minimum capital will be IQD 15,000,000,000. The directive will become effective when it is published in the *Iraqi Official Gazette*.

Table 6: Capital of each Iraqi company

All figures are in Iraqi dinar unless otherwise indicated

No	Name	Capital
1	Ahlia Insurance Company	1,508,000,000
2	Al-Ameen Insurance Company	1,250,000,000
3	Al-Batik Insurance Company	2,000,000,000
4	Al-Eqtisad International General Insurance Company	5,000,000,000
5	Al-Hamra'a Insurance Company <sup>6</sup>	2,000,000,000
6	Al-Khair Insurance Company	1,000,000,000
7	Al-Maseer Insurance Company	1,500,000,000
8	Al-Reham Insurance Company	500,000,000
9	Al-Watan Insurance Co	1,500,000,000
10	Asia Insurance Company	30,000,000,000
11	Badia Insurance Company	2,000,000,000
12	Cihan Insurance Company	1,500,000,000
13	Dar Al-Iraq Insurance Company	1,000,000,000
14	Dar Al-Salam Insurance Company	2,400,000,000
15	Dilnia Insurance Company	1,000,000,000
16	Gulf Insurance and Reinsurance Company	1,000,000,000
17	Iraq International Insurance Company	1,650,000,000
18	Iraqi Insurance Company	3,200,000,000
19	Iraqi Reinsurance Company <sup>7</sup>	3,000,000,000
20	Kar Insurance Company <sup>8</sup>	40,000,000,000

<sup>6</sup> The company is in the process to increasing its capital to IQD 3,000,000,000 (three billion).

<sup>7</sup> Plans are underway to increase the paid up capital to ID 14,000,000,000 to be financed from reserves.

<sup>8</sup> Kar Insurance Co has not applied for license from the Iraqi Insurance Diwan. Thus, it has no authorization to transact

21	Kurdistan Insurance Company	1,000,000,000
22	Middle East Insurance Co	1,000,000,000
23	Moa'lim Insurance Company <sup>9</sup>	Not available
24	National Insurance Company	15,000,000,000
25	Shatt Al-Arab Insurance Company	3,000,000,000
26	StarKar Insurance Company	500,000,000
27	Trust House Insurance Company	1,012,000,000
28	Union International Insurance Company [El-Etihad]	2,000,000,000
29	Ur International Insurance Company	2,250,000,000
30	Wadi Al-Rafidain Insurance Company	5,000,000,000

Source: Iraqi Insurance Diwan, direct communication with insurance companies.

#### 1.5.4 Development of Written Premium in Iraq 2006-2010

The table below is in respect of Fire, General Accident and Engineering for which the Iraqi insurance market has treaty reinsurance.

Table 7: Development of Written Premium in Iraq 2006-2010

All figures are in Iraqi dinar

Branch	Year	Premium	Paid Claim
<b>Fire</b>	2006	1,472,524,635	395,241,006
	2007	1,671,107,214	264,199,877
	2008	2,326,690,209	734,299,953
	2009	2,446,301,935	2,716,894,738
	2010	3,411,101,462	656,219,307
<b>General Accident</b>	2006	398,398,884	102,635,370
	2007	434,578,392	63,776,832
	2008	1,157,685,841	53,052,577
	2009	624,997,666	38,056,479
	2010	487,927,845	56,524,087
<b>Engineering</b>	2006	2,891,693,053	188,748,885
	2007	3,939,201,364	87,506,795
	2008	7,074,457,968	68,560,500
	2009	5,900,909,569	266,313,778
	2010	4,083,044,872	32,371,000

Source: Iraqi Reinsurance Co.

#### 1.5.5 Size of Premium Volume

##### 1.5.5.1 General Presentation

The information required is not readily available in respect of premium volume as there are no published statistics for individual companies or for the entire market yet. The following, however, can be presented.

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insurance business outside the Kurdistan Region of Iraq.  
<sup>9</sup> This is a branch of an Iranian company.

Table 8: Size of Premium Volume

All Figures in Iraqi dinar unless otherwise specified

Name	2008	2009	2010
Ahlia Insurance Company	779,082,320	498,720,717	379,776,448
Al-Hamra'a Insurance Company	9,074,763,632	1,066,136,516	1,548,189,147
Al-Khair Insurance Company	353,166	300,000	N/A
Figures in USD			
Dar Al-Salam Insurance Company	577,953,566	546,390,021	526,234,884
Gulf Insurance and Reinsurance Company	74,738,288	183,188,264	310,073,607
Iraqi Insurance Company	9,739,579,000	11,092,391,000	18,891,893,000
Figures include life insurance premium		0	0
Iraqi Reinsurance Company	8,647,000,000	12,977,000,000	10,083,000,000
		0	0
National Insurance Company	42,859,018,000	48,281,770,000	60,581,538,000
	0	0	0
Shatt Al-Arab Insurance Company	44,254,269	52,119,932	308,556,620

Source: insurance companies.

### 1.5.6 Who Supervises Non-Life Insurance Companies?

The supervisory function is discharged by the Iraqi Insurance Diwan (Diwan) formed on 1<sup>st</sup> June 2005 in accordance with the Insurance Business Law of 2005, known as Order Number 10.

## 1.6 Direct and Reinsurance Broking

### 1.6.1 The Regulatory Framework

The activities of direct and reinsurance brokers are regulated by the Diwan. Its authority in this regard is derived from the Insurance Business Regulation Law of 2005. The relevant articles are 12 and 76

### 1.6.2 The Practice

The market has no traditions of direct insurance broking. Production of business was either by in-house or external producers.

### 1.6.3 Direct Distribution

At present the distribution of insurance business continues to be on a direct basis by the insurance companies themselves. The two state-owned companies have their own salaried producers. Most of the private companies have no matching producers; their managing directors and other senior staff engage in production.

#### **1.6.4 Treaty and Facultative Broking Services**

The insurance companies do not have their own treaty reinsurance brokers other than two of the insurance companies operating in the Kurdistan Region. All the other insurance companies have a consortium of three London-based international reinsurance brokers handling the common treaty programme of the market through Iraq Reinsurance Company.

### **1.7 Compulsory Insurances and Supplementary Information on Compulsory Insurance**

#### **1.7.1 Motor Third Party Bodily Injury**

The Law on Compulsory Insurance Against Motor Accidents (Law Number 82 of 1980) and its amendments regulates the cover for third party bodily injury. The law is based on the presumptive liability of motorists, i.e. replacing the contractual relationship between the insured and insurer with a legal relationship so that all vehicles in Iraq would be automatically covered.

In 1988, cash payment for the compulsory premium was replaced by a levy on the petrol purchased by motorists. Part of the revenue from petrol sale is then transferred by the Oil Products Distribution Company, part of the Ministry of Oil, to a motor fund out of which claims are financed.

Comprehensive Motor Insurance, excluding third party bodily injury, is available from the private and state insurance companies but at present, these companies do not have reinsurance treaty protection for this class of insurance.

#### **Compulsory Motor Insurance in Kurdistan-Iraq**

Law Number 82 of 1980 has not been effective in the Kurdistan Region of Iraq since 1991 when the government at the time froze the work of all state-owned establishments and withdrew their staff.

The cabinet of the Kurdish Regional Government (KRG) issued its own Regulation of Compulsory Motor Insurance Law Number 9 of 2011. The third party liability cover is to be provided competitively by insurers licensed by the KRG's competent departments. The cover is in respect of bodily injury only.

#### **1.7.2 Contractors' All Risks Insurance including Third Party Liability**

Contractors' All Risks (CAR) is compulsory for all state contracts. This is based on the directive issued in 1971 by the Planning Board of the Ministry of Planning (since 2003 the name changed to Ministry of Planning and International Co-operation). The directive provided for the following:

Some contractors do not follow the directive strictly, as they insure the construction works outside Iraq on a non-admitted basis. When the principal asks for a policy document they obtain a receipt from one of the privately-owned Iraqi insurance companies that they have paid the premium. In these cases, the premium is not shown on the receipt and the policy arranged with an Iraqi insurance company is for limited coverage.

The state-owned and some of the better organised privately-owned insurance companies

have criticised this practice as it is detrimental to the interests of Iraq's insurance market – abusing regulations, undermining underwriting standards, siphoning off premium outside Iraq.

### **1.7.3 Contractual Insurances**

These insurances are not required by law but by contract. For example, the contracts associated with the oil licensing rounds require that the International Oil Companies (IOCs) and their contractors and sub-contractors take out a number of insurance covers that are common in the international energy industry.

### **1.7.4 Other Classes of Insurance**

At present, there are no compulsory insurances for other classes. Employee related insurance covers like Personal Accident, Employer's Liability and Medical Insurance including Repatriation are taken out by international contractors operating in Iraq.

Other forms of insurance like Kidnap and Ransom, Sabotage and Terrorism are also arranged by international contractors with risk carriers outside Iraq but the practice is not uniform.

### **1.7.5 Marine Cargo Insurance**

Procurement of cover from Iraqi insurance companies is left to the discretion of the insured except that state organisations tend to insure with the state-owned companies. The volume of marine premium is still small because contracts are not arranged on C&F basis.

## **1.8 Admitted versus Non-Admitted Insurance**

1.8.1 Although the 2005 Law stipulates that only registered insurance companies can transact business in Iraq, it is silent on the subject of admitted and non-admitted insurance. This silence has provided a "license" to the insured, especially foreign corporations, large and small, to insure their Iraqi risks abroad with their captive insurance companies and/or with open market insurers and reinsurers.

The bypassing of registered Iraqi insurance companies was very strong immediately after 2003 but it is still practised, as non-admitted insurance is not prohibited and there are no penalties or fines for insuring outside the regulatory framework. The only restriction is contractual as is the case with the oil contracts that mandate arranging insurance cover with an Iraqi insurance company.

If a class of insurance is not available in Iraq's insurance market, the insured can seek cover from the international insurance market.

1.8.2 Despite the absence of prohibition against non-admitted insurance the general trend is to insure with insurance companies registered with the Diwan. One reason is that state contracts now stipulate insuring with an Iraqi registered insurance company.

1.8.3 Any suggested insurance programme shall be dependent on the nature of the contract. If



the contract(s) stipulate arranging insurance policies with an Iraqi registered insurance company, then this can be done with either a public or private sector insurer. Depending on the details and complexity of the project, major international reinsurance brokers can recommend a panel of insurers.

## **1.9 Summary and Trends of Outward Reinsurance**

1.9.1 There are no legal restrictions on Iraqi insurance companies regarding buying facultative or treaty reinsurance outside Iraq. As the financial resources of the majority of the insurance companies are meagre, the companies rely heavily on reinsurance protection through the common treaty programme managed by Iraq Re or through facultative arrangements from international (including the treaty leader), regional insurance and reinsurance companies. Major international reinsurance brokers can assist in directing facultative risks to the Japanese insurance market.

1.9.2 Insurance companies are free to join the Iraq Re managed treaties or buy treaty protection from the international market. So far, only two privately owned companies, located in Erbil and Sulaymaniyah in the Kurdistan Region of Iraq, have arranged their treaties with international reinsurers bypassing Iraq Re completely.

1.9.4 The IOCs have a disproportionate influence on the policies of the direct insurance companies. The IOCs exercise that influence through pre-qualifying Iraqi insurers to tender for their projects and operations and stipulating that local reinsurance capacity is either not used, the preferred choice, or the smallest portions of the risks are reinsured. IOCs achieve their desired ends through fronting arrangements where the Iraqi insurer is reduced to an office issuing the policy document and the services associated with that and its role ends with that.

### **1.9.5 Insurance Pools**

Because of the exclusions in the common treaties of the market, Iraqi insurers have set up the following pools:

- Cash in Transit Pool
- Cash in Safe Pool
- Warehouse Pool<sup>10</sup>

## **1.10 Obligatory Reinsurance Cessions**

Under the provisions of the 2005 Law (article 27), insurance companies are permitted to “reinsure inside or outside Iraq.”

Iraq Re’s role today is to handle the common treaty reinsurance programme of Iraqi insurance companies. These companies, public and private, do not have their own separate treaty protections (other than two companies in the Kurdistan Region). Within

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<sup>10</sup> Coverage is limited to Property Damage only. The current capacity of the pool is IQD 1,885,000,000 (Fire) and IQD 1,475,000,000 (Burglary).

the existing Iraq Re bouquet of treaties, the two state-owned companies enjoy certain benefits: higher underwriting limits.

## **1.11 ODA Projects**

### **1.11.1 Previous Experience on ODA Projects**

ODA projects after 2003 were insured on a non-admitted basis because the relative contracts did not contain insurance clauses. Indeed, some contracts authorised the donor/contractor to insure outside Iraq. The UN projects in Iraq were also silent on insurance; hence, contractors working on such projects either did not buy insurance or arranged for insurance outside Iraq. None of these projects has given rise to dispute, between the donor and recipient, over the arrangement of insurance protection.

The majority of Iraqi insurers are not aware of ODA and projects associated with it. Some insurers have not heard of ODA. The Iraqi insurers do not know how different the ODA projects are from other projects and different forms of aid although Japan pledged USD 5 billion, including USD 1.5 billion as grant aid, at the October 2003 Iraq Reconstruction Donors Meeting in Madrid.

Therefore, the issue of insuring ODA projects have not crossed the mind of Iraqi insurers. Some of them are aware of US DBA (Defence Base Act) insurance requirements but none of these were insured by them. They all ended being insured outside Iraq.

### **1.11.2 Availability of Information on ODA Projects Insurances in Iraq**

There are no published data on ODA project insurances arranged by foreign contractors with Iraqi insurance companies.

No foreign contractor, from any country, or their donor principals, implementing an ODA project in Iraq, were questioned by either the Diwan or other competent Iraqi departments for not insuring the project's risks with an Iraqi insurance company.

No attempt has been made by any insurance entity in Iraq to compile information on ODA projects or their insurances.

## **1.12 Insurance and Reinsurance Premium Tax**

### **1.12.1 Stamp Duty**

Based on the Stamp Duty Law Number 16 of 1974, all written insurance premiums attract the following stamp duty:

#### **Life Insurance**

0.5% of the premium.<sup>11</sup> This category includes life, personal accident and related insurances. The duty applies to the Policy and its Endorsements.

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<sup>11</sup> Although this percentage appears in the law, it is wrong. Some international reinsurance broker checked it with the legal counsel of a privately owned insurance company and he confirmed that it must be a printing error.

### **Transport Insurance**

2.1% of the premium. This category includes transport by sea, inland water, land and air, marine and aviation hull. The duty applies to the Policy and its Endorsements.

### **All other Classes of Insurance**

3.1% applied to the Policy and its Endorsements. This is a broad category that includes non-marine and liability insurances.

## **1.12.2 Insurance & Reinsurance Premium Tax**

### **Direct Insurance Premium**

The same Stamp Duty Law Number 16 of 1974 mandates that a duty of 0.1%, applied to the total written premiums, shall be collected from the insurance company.

Insurance companies have to pay the duty in two instalments. The first instalment on 1<sup>st</sup> July of each year and the second instalment on the following 1<sup>st</sup> January.

### **Reinsurance Premium**

There is no duty on reinsurance premiums.

## **1.12.3 Stamp Duty in the Kurdistan Region of Iraq**

Stamp Duty Law Number 3 of 1993, issued by the Kurdistan Regional Government, regulates the application of stamp duty. It follows the 1974 law except that a duty of 0.2%, applied to the total written premiums, shall be collected from the insurance company.

## **1.13 Summary and Characteristic of Commercial Lines**

### **1.13.1 EAR & CAR**

Historically, Iraq's insurance market applied the standard Munich Re EAR and CAR Forms. This is still the case today except that foreign contractors and IOCs require from the Iraqi insurance companies, fronting for construction and engineering and other risks, to use IOC's own wordings. These are usually the wordings of their own captive insurance companies or those commonly used in international markets.

The use of such wordings, by virtue of their broad scope, restricts the retention of Iraqi insurers. They are also unable to declare the risks associated with the broad policy wordings under the Engineering Treaty because the treaty has many exclusions and restrictions. Therefore, Iraqi insurance companies are unable to take advantage of the higher treaty commissions. Facultative commissions tend always to be lower than treaty commissions.

### **1.13.2 Marine Cargo and Inland Transportation**

Marine Cargo, including Inland Transportation, is arranged based on the standard Institute Clauses A, B and C.

Broader forms of cover are written by way of fronting arrangements. International reinsurers require details of the cargo, its route, whether in convey and security provided.

### **1.13.3 Fire**

Historically, Iraq's insurance market followed the policy forms and clauses of the now defunct Fire Offices Committee (Overseas) of the United Kingdom. Nowadays, the market uses the standard Arabic Fire Insurance Policy developed by an *ad hoc* committee of the General Arab Insurance Federation, used in various Arab insurance markets.

The fire policy can be extended to include additional perils like storm, flood, neighbour's liability, etc.

### **1.13.4 Legal Liability**

Compensation for bodily injury varies between USD 23,000- USD 39,000 (for non-professional victims) but this is changing with rising salaries and awareness of entitlement to compensation enhanced since 2003. Claims are mostly settled by composition out of court. In many cases, lawyers acting on behalf of the insured or the lawyers of the victim's family negotiate with the insurers or their lawyers to arrive at an amicable settlement. An appropriate level of compensation is arrived at by way of compromise. One of the highest recorded TPL settlements was approximately USD 80,000.

Legally, and according to Iraqi civil law, compensation for death of a third party resulting from an accident insured under a CAR policy is regulated by the terms and conditions of the insurance contract. Among other elements, the compensation takes into account the TPL limit of indemnity insured under the policy, the social and personal status of the victim, occupation (earning capacity), number of people supported by him/her, age, etc. The same rules and criteria are applied in TPL compensation cases of bodily injury including death for motor vehicle victims.

Since the early 1980s, following the introduction of presumptive liability for motor third party bodily injury, clever lawyers, familiar with the compensation culture of other countries as much as the laws of Iraq and traditional compensation practices of Iraq, can inflate the heads and size of claims. They do this as they get a percentage cut of the indemnity.

### **1.13.5 Employer's Liability (EL)**

EL cover is available in Iraq but local demand for the cover is small. The limits of insurance are also small. Iraq Re's General Accident Treaty excludes this form of liability.

Reinsurance in the international market would not be readily available for stand-alone EL without wrapping it with a General Third Party Liability policy and creating a CGL policy.

### **1.13.6 GTPL/CGL**

This form of liability is excluded from Iraq Re's General Accident Treaty. Therefore,

### **1.13.6 GTPL/CGL**

This form of liability is excluded from Iraq Re's General Accident Treaty. Therefore, Iraqi insurance companies cannot write this form of cover. Indeed, the GTPL/CGL concept is not known in Iraq.

### **1.13.7 Auto**

Third Party Bodily Injury is automatically covered by a levy on petrol. Third Party Property Damage and Own Damage (Collision, Overturning, and Terrorism) are covered by Iraqi insurers at an additional premium. The 'standard' comprehensive cover is limited to Fire, Theft and Collision.

### **1.13.8 Workmen's Compensation Act (WCA)**

The 1971 law stipulates a contribution of 2% (part of 12% contribution covering pension, health and work accidents) by employers with a workforce not exceeding 100 workers. Workers contribute 5% of their wages.

For other categories of employers (those with more than 100 workers), employers contribute 3% (part of 22%)

This legal regime has not been strictly applied and foreign employers (contractors) have opted not to be part of the social security system. The alternative has been arranging Group Personal Accident insurance for their employees. Iraqi employers also used this insurance on a stand-alone basis or in conjunction with Employer's Liability insurance.

WCA insurance does not exist in Iraq. It is excluded from the General Accident Treaty arranged by Iraq Re on behalf of insurance companies.

The recommended substitute cover is Group Personal Accident. The maximum limit for Personal Accident available in Iraq, with treaty reinsurance protection, is USD 100,000 per person; a higher limit of USD 200,000 is available from NIC and IIC. Higher limits can be arranged on a facultative basis.

### **1.13.9 Medical Insurance**

The medical insurance plans available in Iraq are not similar to the ones available in advanced insurance markets.

### **1.13.10 War and Terrorism**

Coverage is not available in Iraq. For more comment on terrorism, please refer to section 2.2 of this report.

This cover is available in the international market. International contractors and others operating in Iraq seek terrorism cover, which is available for Iraq in the London and other international insurance markets. Wider cover under Political Violence is also available from these markets.

## **1.14 Policy Language**

Article 82 of the 2005 Insurance Business Law provides a blanket permit to have the policy in any language. The full text of this article provides that

## **1.15 Policy Currency**

Article 80 of the 2005 Law permits the formation of the insurance contract in Iraqi dinar or any other convertible currency. Equally, the insurance company can be paid in Iraqi dinar or one or multiple of foreign currencies.

Based on this legal provision insurance policies can be issued in US dollar, euro or Japanese yen. Consequently, the premium can be paid by the insured in Iraqi dinar or any other convertible foreign currency.

## **1.16 Exchange Control**

1.16.1 There is no control on Iraqi insurance companies receiving premium from abroad or remitting reinsurance premium or claim funds abroad. However, because of the commitment to fight money laundering and compliance with international sanctions certain procedures would be followed as directed by the Iraqi Central Bank. These include:

Thanks to the benign nature of these procedures, they have not made transfer difficult. This has been the experience in receiving premium from abroad or remitting reinsurance premium from Iraq to international brokers abroad.

1.16.2 Regarding sanctions, under current arrangements, it is not permitted to transfer funds to or from Iran and Syria. But there is cash movement through unofficial channels.

## **1.17 Insolvency Regulation and Policyholders' Protection Fund**

1.17.1 There is no "Policyholder's Protection Fund" to reimburse the insured in the event of an insurance company's insolvency. The provisions of Chapter Five, Liquidation, Articles 57-74, of the 2005 Insurance Business Law, protect the rights of the insured. Insurance

companies and their regulator are of the view that these provisions are sufficient protection to the insured.

- 1.17.2 The Diwan has no plans at present to create a Policyholder’s Protection Fund to indemnify the insured when an insurance company is liquidated. However, the 2005 Law empowers the president of the Diwan (article 83) to set up a *fund to indemnify third party victims of motor accidents* in those cases where there is no legal provision to compensate.

The president is also empowered to establish a *fund to indemnify the insured in case an insurance company is declared bankrupt*.

But to date no such funds have been established.

- 1.17.3 If an insurance policy contains a Cut Through Clause (CTC), it can be activated and “Any objection to activate the Cut Through Clause by the insured or the beneficiary from the insurance policy shall not be allowed.” (Article 71 of the 2005 Law).

## **1.18 Jurisdiction and Arbitration Clause**

### **1.18.1 Law & Jurisdiction**

Iraq’s laws are based on the *Code Napoleon*. The provisions of Iraq’s Civil Code regulate the contract of insurance.

Insurance contracts executed in Iraq are subject to Iraqi law and the jurisdiction of the competent Iraqi courts. This is not always stated in the insurance policy but when facultative reinsurance is involved it is the practice, especially that of London-based international brokers, to spell out what law and jurisdiction would apply in case of dispute or difference. Accordingly, the direct insurance will be subject to Iraqi law and jurisdiction and the reinsurance contract will be subject to English law and jurisdiction.

Invariably Iraqi insurance companies insist on Iraqi law and jurisdiction for the direct insurance policy.

### **1.18.2 Arbitration Clause**

The general rule is that an arbitration clause or contract must be in writing containing the elements of a valid agreement. Disputes or differences arising from contracts, e.g. validity or quantum of an insurance claim, are open to arbitration. However, this is subject to the dispute or difference being of a nature capable of compromise.

Iraq’s Civil Code Number 40 of 1951 and its amendments regulate arbitration.<sup>12</sup> The relevant article is 985. Sub-article 985 – 4 deals with arbitration, which states the following:

Article 985

Any of the following conditions in the insurance policy shall be invalid:

4 - The arbitration clause if it is included in the printed general conditions, and not in the form of a special agreement separate from the General Conditions.

To ensure the validity of the arbitration clause the practice was to use glue to attach the clause to the policy document. Because this was cumbersome, the current practice is to give prominence to the clause under the general conditions by pre-printing it in red font.

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<sup>12</sup> Articles 977 to 2007 of the Civil Code regulate insurance related activities including arbitration.

## **2. Peculiar Risks in Iraq**

### **2.1 Natural Catastrophic Risks**

There are no classified insurance data on natural catastrophe losses in Iraq. No attempts are being made to compile data. In the early 1970s, an engineer of Iraq Re made a study (in Arabic) of floods in Iraq to determine the scope of exposure. The study was not published and remained in private circulation.<sup>13</sup>

Recently, April and May 2012, the Iraqi press reported seismic activity in the Missan governorate, southeast of Iraq near the Iraq-Iran border, an area rich in oil and its fields are now being developed by IOCs. According to these reports (not verified), very small damages to houses and injuries were sustained. The oil installations were not affected.

### **2.2 Terrorism Coverage**

It is possible to arrange terrorism cover locally in Iraq. Iraqi insurance companies, private but mainly public companies, provide a limited form of cover.

## **3. Fronting Arrangements in Iraq**

### **3.1 Availability**

3.1.1 Fronting arrangements are known in Iraq's insurance market. Most of the companies are willing to provide the service for a mutually agreed fee. Even the state-owned insurance companies will provide the service at terms to be agreed. Major international reinsurance brokers have negotiated terms for fronting arrangements on behalf of international clients with Iraqi insurers.

3.1.2 The simple easy cost effective approach is to *select one licensed company* to provide insurance fronting services. Major international reinsurance brokers can do this under their clients' instruction. In deciding on this course of action, the following two points should be considered:

- This approach means that other Iraqi insurance companies are denied the opportunity of providing their terms for the required fronting services.
- Singling out one company to act as a front may not reflect well on the client, being a foreign entity, in not providing a fair opportunity for other companies to compete for the required services.<sup>14</sup>

3.1.3 To counter these two points, the recommended approach, though entailing additional cost and time, is to *tender the required fronting services* among a pre-selected panel of licensed Iraqi insurance companies from the private and state sector.

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<sup>13</sup> Our research found that an international reinsurance broker contacted the writer of the study in Bahrain, where he is currently working, but he has no copy of his own study.

<sup>14</sup> Thus, the private insurance companies have been critical of state establishment for insuring only with state-owned insurance companies and have expressed their dissatisfaction and disapproval to the Diwan.



## **3.2 Is Fronting Arrangement Legally Permitted in Iraq?**

3.2.1 The fronting concept does not appear in the 2005 Insurance Business Law or other legislation. The law has no provision in this regard and no instructions have been issued by the Diwan to regulate this activity.

To date, no one in Iraq has challenged the concept of fronting or its application. Therefore, for all intent and purposes fronting would be looked upon as a valid agreement between two contracting parties that have been mutually made. Indeed, some of the insurance companies, and because of their limited resources, prefer not to retain a part of the risk and seek 100% reinsurance with a hold harmless agreement to absolve them from any liability in case a reinsurer fails to fulfil its obligations to the insured.

3.2.2 Furthermore, sub-article 81- First, lends broad indirect support to this activity. The provision of this sub-article states that

Any individual, natural or legal, corporate or private shall have the right to choose insurance products and *services*, and to buy from any insurer or reinsurer, unless the law stipulates otherwise. [*italics added*]

No provisions of the 2005 Law or instructions by the Diwan have been issued to prohibit the practice of fronting.

## **3.3 Fronting Experience of Insurance Companies Licensed in Iraq and Outline of Company Profile**

### **3.3.1 List of a Few Insurance Companies**

Although there are nearly thirty insurance companies operating in Iraq, they differ in terms of capital, work force resources, language and technical competencies, etc. The following short list, in alphabetical order, includes companies with whom some international reinsurance broker has in fact worked or known their management.

#### **Insurance Companies in Baghdad:**

Ahlia Insurance Co

Al-Ameen Insurance Co

Al-Etihad Insurance Co

Al-Hamra'a Insurance Co

Al-Khair Insurance Co

Gulf Insurance Co

Iraq Insurance Co

Iraq International Insurance Co

National Insurance Co

Shatt Al-Arab Insurance Co

#### **Insurance Companies in the Kurdistan Region:**

Asia Insurance Co

Kar Insurance Co

StarKar Insurance Co

Ur International Insurance Co

### **3.3.2 Availability of Financial Statements**

Financial statements are not published although the 2005 law (article 38) requires that companies must issue annual reports and financial statements. These documents are invariably in Arabic.

We have found that some international reinsurance broker can and has secured statements in those cases where it was appointed to manage the insurance programmes of international clients.

### **3.3.3 Financial Rating by S&P, A M Best, etc.**

None of the Iraqi insurance companies is rated by any international or regional classification agency.

## **3.4 Premium Cut Through and Claim Cut Through**

3.4.1 The Cut Through Clause (CTC) was also dealt with under item 1.17.3, Insolvency Regulation, of this report but to provide context here the limited legal provisions are first quoted. Under Section 5, Liquidation, of the 2005 law, article 71 regulates CTC. The first part of the article mandates that the insured or beneficiary shall not be allowed to object to activation of the clause. The second part states that

While the definition gives some comfort to international reinsurers, it does not remove their concern regarding compliance with local laws and regulations.

3.4.2 This 'premium cut through' and 'claim cut through' is *operative only when the direct insurer is in liquidation* whereas most international clients (the insured) would be keen to have in place a mechanism for the payment of premium directly to reinsurers and receiving claim funds directly from reinsurers. This arrangement effectively bypasses the direct insurer. Therefore, the need arises for drafting a responsive cut through clause that would be acceptable to the insured, the direct insurer and reinsurers.

3.4.3 The 'premium cut through' and 'claim cut through' clause would require the agreement of all contracting parties, i.e. the insured, insurer and reinsurer.

Major international reinsurance brokers can assist in negotiating appropriate clauses under reinsurance contracts and co-ordinate their signing among the contracting parties.

## **3.5 Acceptability of Terms Quoted by Japanese Insurance Company**

The terms quoted by a Japanese insurance company would be acceptable to the local Iraqi insurance company selected to provide fronting services.

## **4. Structure of Claim Payment**

### **4.1 Loss Adjusters**

There are no professional loss-adjusting firms in Iraq. To date, no international loss-adjusting firm has set up an office in Iraq. Adjusters work either from regional offices in UAE or Kuwait or Jordan, etc. or send a representative to collect the necessary data and documents from the site. The actual adjustment is made outside Iraq.

There is a limited number of surveyors-cum-loss adjusters in Iraq. The two state-owned insurance companies have their own in-house surveyors and loss adjusters. The survey and loss reports produced by Iraqis are not recognised internationally as most of them are written in Arabic needing translation or do not use an international template that addresses specific concerns of reinsurers.

Where there CTCs in place, arrangement will be made to facilitate the entry of surveyors and loss adjusters to the work site or the loss area. In certain cases and because of security issues, special permits would have to be obtained by the insured from the competent authorities to facilitate the movement of loss adjusters.

The work of international loss adjusters in Iraq can be facilitated in co-operation with Iraqi insurance companies.

### **4.2 Claim Settlement**

If the fronting company is not retaining any portion of the risk, then it is possible to arrange for the flow of 100% of the claim funds directly from the reinsurer to the insured when the appropriate CTC is in place. The arrangement can also work in case the fronting company has a retention in which case the fronting company will pay its share of the claim to the insured and the balance is paid by the reinsurer directly to the insured.

The arrangement can be in the form of a Cut through Clause dedicated to claim payment. Such a clause would be signed by the Insured, Reinsured (Fronting Company) and Reinsurer.

## **5. Indemnity Agreement on Inland Transportation in Iraq**

There is no standard form of contract between cargo owner and inland carrier. Inland transit is regulated by Transportation Law No. 80 of 1983, and section 6 of the Commercial Law No. 30 of 1984. These two laws regulate the operation of transportation activities, the rights and liabilities of each of the parties to the contract, i.e. the buyer, the seller, and the carrier.

Similarly, there is no Standard Contract between Cargo Owner and Warehouse Company.

## **6. Remarks on Arranging Insurance in Iraq for a Japanese Company to Operate in Iraq**

6.1 The general attitude in Iraq towards Japan is one of admiration and respect for its people. Commentators and politicians alike quote Japan's remarkable recovery from the consequences of the Second World War. Japan has no imperial designs in Iraq and its past and present policies vis-à-vis Iraq has not been questioned. The recent projects

implemented in Iraq (water purification, reconstruction and re-establishment of public facilities) are looked upon as genuine assistance to the Iraqi people and as contributing to the amelioration of social conditions. These projects were the work of the *Japan Self-Defence Forces Iraq Reconstruction and Support Group*, a humanitarian contingent that operated in Southern Iraq for two years (2004 -2006).

- 6.2 Against this general background, a Japanese construction and engineering company, for example, wishing to enter Iraq and arrange its insurance programme with an Iraqi insurance company will be welcome. Japanese companies are considered to be honest and not open to corruption.
- 6.3 Although a Japanese company can deal directly with an Iraqi insurance company, the practice among international companies operating in Iraq is to rely on the expertise and services of a competent broker, with the requisite knowledge of Iraq's insurance market, capable of delivering:
- (a) Insurance and reinsurance services on a par with international standards and
  - (b) Consultancy services.

This approach was adopted by major contracting houses and IOCs in particular.

## **7. Challenges Facing International Clients in Iraq**

Depending on the insurance company selected for writing an international client's policies, a major challenge would be coping with inefficient delivery of services, as not all the companies are competent in delivering the required services efficiently.

## **8. Abbreviations & Acronyms**

2005 Law	Insurance Business Regulation Act 2005 (Order Number 10)
Association	Iraqi Insurance Association
CAR	Contractors' All Risks
CTC	Cut Through Clause
Diwan	Iraqi Insurance Diwan (insurance supervisory authority)
EAR	Erection All Risks
IIC	Iraq Insurance Co
IOC	International Oil Company
Iraq Re	Iraq Reinsurance Co
KRG	Kurdistan Regional Government
NIC	Iraq Insurance Co
TPL	Third Party Liability