

Highlights of the Supreme Iraqi Maritime Authority Act

Ali Talib Fezea

a.fezea@tamimi.com - Basra, Iraq

The text of Law No. 18 of 2019 (the 'Maritime Law') was published in the Official Gazette (Al-Waqi'a Iraqiya) on 9 September 2019. Under the Maritime Law a supreme Iraqi Maritime Commission (the 'Commission') was formed. This article addresses the most important functions of the Commission and its role in contributing to the development of the maritime trade sector in Iraq.

To speak about the maritime sector in Iraq means, on the one hand, speaking about the lack of unified legislation that brings together the provisions of maritime commercial activity. As a result, lawyers or scholars who deal with this sector find it extremely difficult to navigate its governing laws.

The Othoman Trade Law of 1864 some chapters of which are still enforceable, is dated and unable to address advancements and developments in this sector. Consequently, Iraqi Transport Law No. 80 of 1983 deals with transport, in the broadest terms, including maritime transport as well as water transport (both maritime and river transport).

The Maritime Law was introduced to fill a legislative gap and establish a framework for the legislative organisation of maritime activities and its institutions. Article 1 states that "*this law aims to organize and develop the maritime sector*" and Article 2 refers to raising the level of maritime safety, protection as well as improving the marine environment with a view to combating marine pollution.

The Supreme Iraqi Maritime Commission will be entrusted with a number of authorities. The Commission will be based in Basra and has the authority to open branches in other Iraqi provinces. It is the first time in Iraq that a unified body has been formed to govern the maritime sector. Government officials have described the Commission as a jewel in the crown of the Iraqi maritime industry.

Below are some of the powers granted to the Commission under the Maritime Law:

1. Granting licenses to maritime companies, including approving marine services' licenses;
2. Registration of ships and floating vessels and issuance of certificates and documents related thereto;
3. Issuing and approving official documents for workers in the maritime sector, marine eligibility certificates, and the identity of the seafarer (key powers under the Maritime Law as these official and legalised documents are provide proof of the aforementioned details in neighbouring countries);
4. Control and inspection of ships and floating vessels and their crews to ensure the comprehensive implementation of international maritime conventions enforce globally and to match international standards with regard to safety and maritime security as well as the protection of the marine environment within a global context;
5. Organising extension and maritime towing, and the marine activities related to Iraqi territorial waters;
6. Organising maritime search and rescue work within Iraqi waters as well as outside of them. It is useful to mention that the Maritime Law is devoid of provisions in this regard, as it was hoped that provisions for maritime aid and rescue would be regulated in the proposed amended draft Iraqi maritime law 1987, but failure to finalised and implement this proposed law resulted a lack of regulation in these areas. It is anticipated that the Supreme Council will issue guidance on these areas at a later date;
7. Administrative and technical investigations into maritime accidents and collisions in Iraqi and international waters and on-board Iraqi ships registered wherever they are found;
8. Preparing studies and research on the maritime sector, representing Iraq in international maritime bodies and organisations, and co-ordinating work with international bodies; and

9. Proposing the necessary regulations and instructions to implement the Maritime Law. This in our opinion, is one of the most important powers that allows the Commission to enjoy the necessary flexibility it needs to better face challenges and keep pace with ongoing developments.

An important point to mention about the Maritime Law is the involvement of the private sector in the board of directors of the Commission. The Maritime Law stipulates that the Commission shall co-ordinate with the private maritime sector in drawing up its general policies and its decision-making processes. As to the composition of the Commission's board of directors, Article 6 of the Maritime Law requires that the board of directors consists of the president of the organisation and its members. This includes the director general of Iraqi supplies and the general director of the General Company for Maritime Transport, as well as two specialised persons.

The coming into force of the long-awaited Maritime Law promises a new era in the Iraqi maritime sector and will, if properly enforced, offer stakeholders the comfort of the equivalent of international best practices which will encourage further commercial investment in the country.