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**Project Agreement between Japan International Cooperation Agency
and UNDP for Partnership Services for Support Unit to the
Monitoring Committee on the Japanese ODA Loan project (IX)**

MIDTERM REVIEW REPORT, (JUNE TO DECEMBER 2019)

DECEMBER 2019

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Nota Bene:

This Report has been prepared based on UNDP's LMU observations, findings and opinions through its monitoring activities and does not reflect JICA's position or opinions.

Abbreviations and Acronyms	
BOC	Basra Oil Company
DGIP	Department of Governmental Investment Programmes (of MoP)
E/N	Exchange of Notes
EoJ	Embassy of Japan in Iraq
FMA Agreement	Partnership Agreement between Japan International Cooperation Agency and United Nations Development Programme for Partnership Services for Support Unit to the Monitoring Committee on the Japanese ODA Loan Project (IX)
GCC	General Customs Commission
GCPI	General Company for Ports of Iraq
GoI	Government of Iraq
GoJ	Government of Japan
CoMSec	Secretariat General of the Council of Ministers
GTC	General Tax Commission
JICA	Japan International Cooperation Agency
JFY	Japanese Fiscal Year
KRG	Kurdistan Regional Government
KR-I	Kurdistan Region – Iraq
L/A	Loan Agreement
L/C	Letter of Credit
LCOM	Letter of Commitment
LMU	UNDP's Loan Management Unit
M/C	Monitoring Committee for Japanese ODA Projects
MMPW	Ministry of Municipalities and Public Works
MoB	Mayoralty of Baghdad
MoC	Ministry of Communication
M&E	Monitoring and Evaluation
MoE/KR-I	Ministry of Electricity of Kurdistan Region - Iraq
MoF	Ministry of Finance
MoH	Ministry of Health
MoHE	Ministry of Higher Education
MoIM	Ministry of Industry and Minerals
MoM	Minutes of Meeting
MoMT/KR-I	Ministry of Municipalities and Tourism of Kurdistan Region - Iraq
MoO	Ministry of Oil
MoP	Ministry of Planning
MoP/KR-I	Ministry of Planning of Kurdistan Region - Iraq
MoT	Ministry of Transportation
MoWR	Ministry of Water Resources
MPM	Monthly Progress Meeting
MPR	Monthly Progress Report
MUFG	MUFG Bank, Ltd
ODA	Official Development Assistance
PMAC	Prime Minister's Advisory Commission

Abbreviations and Acronyms	
PMO	Prime Minister's Office
PMT	Project Management Team of an implementing ministry or agency
P/Q	Prequalification
SCFSR	State Company for Fertilizers-Southern Region
SMEs	Small and Medium Enterprises
SOE	State - Owned Enterprise
SRC	South Refineries Company
TBI	Trade Bank of Iraq
ToR	Terms of References
UNDP	United Nations Development Programme

Japan International Cooperation Agency and United Nations Development Programme have renewed for the 9th time the Project Agreement for Partnership Services for Support Unit to the Monitoring Committee on the Japanese ODA Loan Project on 30 June 2019 to expand and enhance the joint cooperation in supporting the Government of Iraq.

In accordance with the FMA Agreement, UNDP's LMU has the dual role of (i) supporting JICA's and the M/C's monitoring capacity and activities and (ii) assisting GoI, especially PMTs under each implementing ministry and agency, in implementing the ODA Loan projects through technical support, consultation and capacity development interventions.

Context

Brief Background

The Government of Japan (GoJ) announced a USD 5 billion assistance package, including USD 3.5 billion Japanese ODA loan, to support Iraq's reconstruction at the Madrid Conference in October 2003. JICA concluded 31 concessional loan agreements amounting to USD 7.6 billion as of 30 November 2019.

All Japanese ODA Loan project activities, such as procurement, project management, and financial management, are undertaken by implementing ministries and agencies of GoI. As standing mandate, JICA promotes efficient use of loan money and needs to ensure that the project implementation is undertaken in an accountable, transparent and efficient manner, in line with JICA guidelines and regulations and that the loans are properly used for the purpose of achieving each project's objectives.

As one of the actions to strengthen the monitoring mechanism for projects under Japanese ODA Loans to Iraq, GoJ, JICA and GoI established the M/C under the leadership of the Prime Minister's Advisory Commission (PMAC), the Ministry of Finance (MoF) and the Ministry of Planning (MoP). The first M/C meeting was held on July 22, 2008 in Baghdad with the presence of concerned officials of GoI, GoJ and JICA. Since then, the M/C has proven to be a very effective mechanism to facilitate and expedite project implementation. Starting from the fifth meeting (August 2009), and in accordance with the first FMA Agreement, UNDP became actively engaged in the capacity of the Support Unit to the M/C.

In November 2015, a new M/C Chairperson from Prime Minister's Office (PMO) was appointed, and the M/C started to report to the PMO.

Intended Objectives

The FMA Agreement aims to support and enhance the monitoring capacity and activities of the M/C, to ensure that projects are implemented in a transparent, accountable, efficient and timely manner, in accordance with JICA's rules and regulation, as well as those of GoI that do not contradict the stipulations of the E/Ns, L/As and JICA's guidelines and regulations, particularly in procurement and financial management. The FMA Agreement also aims to strengthen the GoI and implementing ministries/agencies capacities in procurement, project management and financial management and to execute the projects' budgets as planned through UNDP's technical and procedural support in line with JICA's requirements. Moreover, UNDP assesses the progress in implementation of projects of GoI and provides

recommendations and technical support to GoI in order to achieve efficient and effective project management.

Targeted Projects

L/A No.	Implementing Ministry / Agency	Name
IQ-P1	MoT/GCPI	Port Sector Rehabilitation Project
IQ-P2	MoWR	Irrigation Sector Loan
IQ-P3	MoE	Al-Mussaib Thermal Power Plant Rehabilitation Project
IQ-P4	MoCH	Samawah Bridges and Roads Construction Project
IQ-P5	MoO	Engineering Services for Basrah Refinery Upgrading Project
IQ-P6	MoIM/SCFSR	Khor Al-Zubair Fertilizer Plant Rehabilitation Project
IQ-P7	MoO/BOC	Crude Oil Export Facility Reconstruction Project
IQ-P8	MoE	Electricity Sector Reconstruction Project
IQ-P9	MMPW	Basrah Water Supply Improvement Project
IQ-P11	MoMT/KR-I	Water Supply Improvement Project in Kurdistan Region
IQ-P12	MoB	Baghdad Sewerage Facilities Improvement Project (E/S)
IQ-P13	MMPW	Water Supply Sector Loan Project in Mid-Western Iraq
IQ-P15	MoE/KR-I	Deralok Hydropower Plant Construction Project
IQ-P16	MoH	Health Sector Reconstruction Project
IQ-P17	MoC	Communication Network Development Project for Major Cities
IQ-P19	MoO/SRC	Basrah Refinery Upgrading Project
IQ-P20	MoT/GCPI	Port Sector Rehabilitation Project (II)
IQ-P21	MoE	Hartha Thermal Power Plant Rehabilitation
IQ-P22	MoE	Electricity Sector Reconstruction Project (Phase 2)
IQ-P23	MoMT/KRG	Sewerage Construction Project in Kurdistan Region (I)
IQ-P24	MoE	Electricity Sector Reconstruction Project (Phase 3)
IQ-P25	MoE	Hartha Thermal Power Plant Rehabilitation – Unit 1
IQ-P26	MMPW	Basrah Water Supply Improvement Project (II)
IQ-P27	MoWR	Irrigation Sector Loan (Phase 2)
IQ-P28	MoMT/KR-I	Water Supply Improvement Project in Kurdistan Region (II)
IQ-P29	MoO/SRC	Basrah Refinery Upgrading Project

Implementation Progress and Reviews

I. Support Unit to the M/C

1. The LMU provided extensive support to the M/C, conducting and presenting analyses on cross-cutting and individual project issues identified through LMU's monitoring of procurement management, contract management, financial management activities, organizational set-up etc. and recommended actions and measures to address them. Minutes of one M/C meeting (see table below) were prepared in English and Arabic and submitted to the EoJ, JICA as well as to the GoI for official dissemination to all relevant ministries and agencies. (Clause 3.1 of the Terms of Reference of the Project Agreement).

M/C Meeting No.	Date	Venue
43 rd M/C	4 July 2019	Prime Minister's Guesthouse, Baghdad

2. The LMU conducted the required activities and delivered the periodic monitoring reports and analyses in procurement management, project management, contract management, financial management and organizational issues of the PMTs to GoI's oversight entities (PMO, PMAC, MoP, and MoF) and JICA during the M/C meetings. (Clause 3.1 of the ToR)
3. Due to the security constrains in Baghdad, the 44th M/C meeting scheduled in late October 2019 has been postponed; the LMU recommends that EoJ, JICA and the M/C find the optimal way to hold the meeting to show the continual commitment of both parties even under the challenging situation.
4. The LMU's presentation during the 43rd M/C was well recognized as analytical, informative, and contributed, not only to the smooth implementation of the projects, but also to the strategic insights of the entire ODA Programme by GoI oversight entities and JICA. In each M/C meeting, the LMU delivered a presentation and provided analyses and recommendations on the following (Clause 3.1, item 3.3 (d), (e), 3.4 (e), (f) and (h), and 3.5 (e), (g) and (h) of the ToR);
 - a. Review of the status of implementation of actions agreed in the previous M/C meeting;
 - b. Issues raised during the preparatory meeting;
 - c. Overview on progress of ODA Loan projects;
 - d. Financial management;
 - e. Tax exemption and custom duty waiving; and
 - f. The way forward.
5. **Optimized M/C Meetings**

After JICA and the LMU took actions, such as the preparatory briefing to the M/C members and the meeting planning with PMAC, MoF and MoP to ensure the optimal time management of the M/C meeting and the control of discussions and interjections and to avoid circumlocution, the outcomes and efficiency of the M/C meetings have improved by concentrating on the matters of significance and urgency that require the GoI actions and interventions. (Clause 3.1 of the ToR)
6. Due to political tension and security concerns, KRG refrained from dispatching delegations to the M/C meetings in Baghdad, which are the occasions for discussing projects' progress and cross cutting issues. So, the LMU has supported JICA and MoP/KR-I to establish supplemental monitoring mechanism for the ODA Loan projects implemented by the ministries of Kurdistan Region – Iraq since 2015. MoP/KR-I has led the monitoring meetings (M/M) held in Erbil on quarterly basis in-between the quarterly M/C meetings in Baghdad with the attendance of JICA. Under Project Agreement IX, UNDP resumed attending the M/M. This arrangement is kind of replication of the mechanism that has been established on the federal level, with the systematized set-up can lead to the potential expansion to a monitoring mechanism. (Clause 3.1 of the ToR)

Monitoring Meeting No.	Date	Venue
14 th M/M	9 July 2019	MoP/KR-I, Erbil
15 th M/M	16 October 2019	MoP/KR-I, Erbil

7. The oversight ministries meetings in-between M/C meetings:
To enable the oversight ministries/agencies to monitor and follow-up closely the progress in executing the agreed actions and measures, the LMU increased the frequency of meetings with oversight ministries/agencies and supported their communication with PMTs, especially those who have internal issues within GoI. The progress and/or identified challenges have been reported to JICA for their further intervention. (Item 3.4 (c) of the ToR)

8. The GoI session immediately before the M/C meetings
Responding to the request of PMTs, GoI parties started to have a GoI session immediately before the M/C meeting since 2016 in order to discuss internal GoI management issues related to the implementation of the ODA Loan projects. Based on the discussion, the GoI has been able to inform GoJ and JICA with the following actions to be taken by the GoI. These meetings contributed to the enhancement of the GoI ownership towards projects. The LMU supported the M/C to organize the agendas of these sessions. (Item 3.4 (c) of the ToR)

II. Support for Project Formulation

Under the Project Agreement IX, JICA and UNDP agreed that the LMU shall provide Project Formulation support to JICA and GoI by facilitating discussions, coordination and sharing documents within the GoI and between JICA and the GoI. In order to accelerate the formulation process of the new ODA Loan project, the following LMU's inputs were provided (Clause 3.2 of the ToR);

- a. Follow-up on the loan requesting process by the GoI;
- b. Supporting the needs identification and prioritization of the line ministries and providing consultation on the optimal options for the ODA Loan projects with JICA;
- c. Enhancing the GoI understanding of the ODA Loan project cycle and rules and regulations and;
- d. Providing recommendations and feedbacks from the findings of the following up the process to GoI and JICA.

III. Preparatory Assistance for the ODA Loan Projects

1. The LMU maintained its contribution to the major areas of (i) developing the criteria for assigning the PMT members, (ii) evaluating and providing advice on the optimal organizational set-up, and (iii) establishing work procedures and coordination mechanisms. Under this Agreement (IX), the LMU provided consultations to the PMTs of IQ-P6, P7, P9/26, P13, P19/29, P20, P21, P22, P24, P25, and P27 as required, such as for restructuring the duties and responsibilities caused by personnel changes, pointing out the missing functions in the PMTs, representation of the PMTs in the ODA Loan set-up, coordination of the workloads etc. and proposing better organizational set-ups, including (Item 3.3 (a) of the ToR)

2. Effectuation of the New Projects

The pending effectuation of the L/A of IQ-P23 has been finally resolved and the project has been effectuated on 30 October 2019. In previous cases, such delays in effectuation led to serious consequences on cost estimates and design parameters made during the projects' formulation stage and could have increased the risk factors of the projects during the implementation stage.

The L/A of IQ-P29 was also effectuated on 10 December 2019. (Item 3.3 (c) of the ToR)

3. Implementing Ministries/Agencies Restructuring

The name of Ministry of Municipalities and Public Works is still officially and legally as it is. The CoM, in its 33rd Session held on 27 August 2019, endorsed the draft Law of the Council of Ministers and Ministries and sent to the CoR to enact. This law is supposed to legalize the merger of MoMPW with MoCH as MoCHMPW and the merger of MoH and the Ministry of Environment as MoHE. So, until then, the names Ministry of Municipalities and Public Works and Ministry of Health remains legally valid. (Item 3.3 (e) of the ToR)

4. Evidence of Authority

The LMU has monitored and facilitated the process of preparing and issuing the Evidence of Authority between the MoF, implementing ministries/ agencies and the PMTs. The process itself is well established between them, but the LMU observed that the general communication line between the ministries are the major challenge for the smooth issuance. (Item 3.3 (b) of the ToR)

5. Overall project implementation plan

The LMU has followed up the process of PMT's establishing the overall project implementation plan and found out that there are cases that the delay was caused by the land acquisition within the GoI system, such as the case of IQ-P22. Technically, the request for land acquisition depends on the coordination with the loan consultants, the LMU continuously monitors if there's any area to be improved as part of the capacity development intervention of the PMTs.

As to the MoE's case, though the matter remains subject of legal argument, the CoM issued Decision No. 393 (2019) to accelerate the energy project implementation. The Decision provides certain actions to avoid the time-consuming process of land allocation and transfer of ownership. This is in line with CoM Decision No. 245 (2019) "Vision on Improving the Businesses and Investment Environment" which stresses the necessity of facilitating and expediting the process of land allocation and transfer of ownership. CoM Decision No. 245 (2019) also warns that punitive and penal actions shall be taken against anyone responsible for delaying the process of land acquisition and transfer ownership processes.

This time-consuming issue is one of the key challenges to the business environment and investment in Iraq. Based on CoM Decision No. 245 (2019), CoM Decision No. 393 (2019) dictated that MoE is authorized to start implementing the Government Investment projects located on a land allotted or owned by other GoI entities upon the "initial approval of the entities owning land or other entities directly relevant".

For the case of IQ-P22, since MoE already have the initial approval, this decision strengthens the legal bases to start implementing the project. (Item 3.3 (c) of the ToR)

IV. Project Management (Procurement Management)

As a result of the LMU's monitoring activities of Procurement Management, PMTs' understanding of and compliance with JICA rules and regulations has remarkably improved, as well as the timeliness of the procurement process. With new PMTs started their procurement processes, the basic knowledge of JICA procurement guidelines has to be strengthened. The LMU will continuously and carefully monitor and identify any bottlenecks with new and on-going projects.

1. Procurement Plans (Item 3.4 (d) of the ToR)

Submission of the Procurement Plans was one of the mandatory exercises for all PMTs as emphasized time to time since the JICA ODA Seminar February 2014 and the successive M/C meetings. All PMTs have submitted their Procurement Plans, with the LMU provided support as needed.

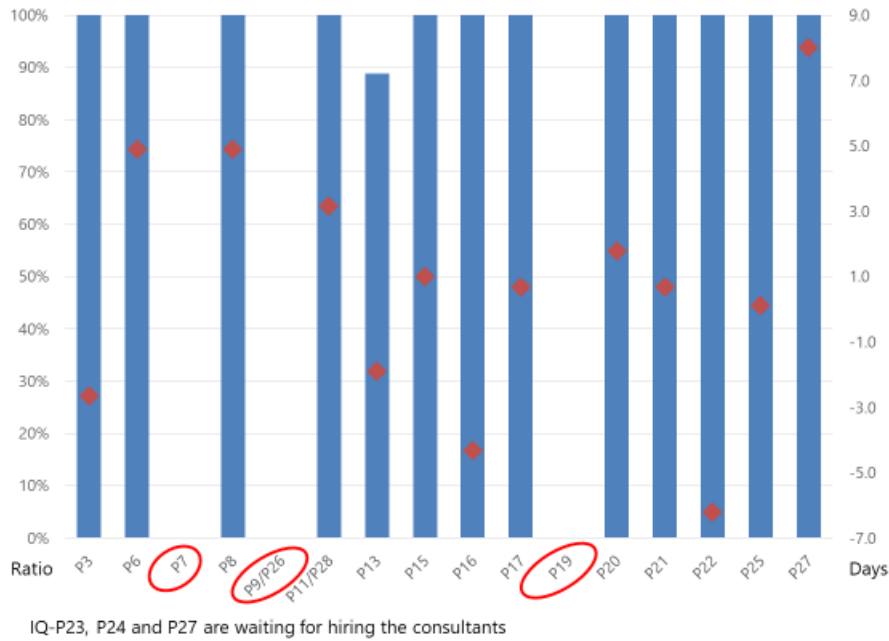
2. Procurement Management (Item 3.4 (e) and (f) of the ToR)

a. Progress in procurement processes was verified through various monitoring activities. The LMU has observed some challenges with IQ-P16, P20, P22 P24, and P28 to obtain the JICA's concurrence on procurement documents. However, as a general tendency, these projects have accomplished shorter periods for each procurement process after learning from their experiences with previous lots and/or procurement management trainings provided by the UNDP.

b. Verifying that the procurement processes are conducted in accordance with JICA guidelines is one of the key monitoring activities of LMU. Thus, the LMU attended each procurement event, such as P/Q document openings, pre-bid meetings and bid openings and reported to JICA the findings and/or bottlenecks in order to prevent deviation.

3. Monthly Progress Reports (Item 3.4 (g) of the ToR)

The LMU provided regular feedbacks on Monthly Progress Reports (MPRs) jointly with JICA. This has resulted in the quality of reporting improved across all projects, which enabled JICA and the LMU to capture more accurate information. Also, JICA and the LMU enhanced their business cycle for reviewing MPRs in timely and interactive manner. Yet, there is need to improve the regularity of certain PMTs' specifically, IQ-P7, P9/P26, and P19/P29, submissions of their MPRs, and the LMU is encouraging these PMTs to submit them in timely manner.



Ratio of Submission and its Punctuality of Monthly Progress Reports (As of September 2019)

V. Project Management (Contract Management)

1. Physical Monitoring on Site (Item 3.4 (a) the ToR)
 - a. The LMU conducted physical monitoring of the implementation of each project through physical inspection, timely on-site verification and updating the progress of each project.
 - b. In 2012, the LMU set up the procedure that the LMU consults with JICA to consolidate the agenda of any physical monitoring activity that shall be discussed with PMTs prior to the mission and submitting mission reports to JICA. In the first quarter of 2016, the LMU and JICA reviewed the information sharing process in order to share the findings on the sites, especially the bottlenecks and challenges, in timely manner.
 - c. Since not so much construction works are going on, the LMU concentrated on the critical projects, such as IQ-P9/P26, P15, and P20. These projects have serious delays in implementation without adequate revised implementation plan. It is recommended to facilitate the discussion between the PMTs, contractors and consultants.
 - d. The LMU is focusing on the contract management issues to obtain detailed information from the PMTs that can be used as lessons learned for other projects.
2. The LMU continued the monitoring and verification of the management of the physical assets, particularly the utilization of equipment and machinery procured under the ODA Loan. such as IQ-P17 and P21. The findings were reported to JICA, and the LMU has been following up the required actions after the consultation with JICA. The LMU will continue to explore this matter to ensure the adequate usage of the procured equipment and machinery for further recommendation to the M/C (Item 3.4 (j) of the ToR).
3. The LMU has been continuously following up the status of PMT's preparation of the Project Completion Report. (Item 3.4 (k) of the ToR)
4. JICA and the LMU have conducted quarterly meetings in-between the M/C meetings as listed below to share and update information on project progress for close monitoring. Also, in 2019, the daily base communication between JICA and LMU has been increased to follow up the detailed issues of each project. (Item 3.4 (b) the ToR)

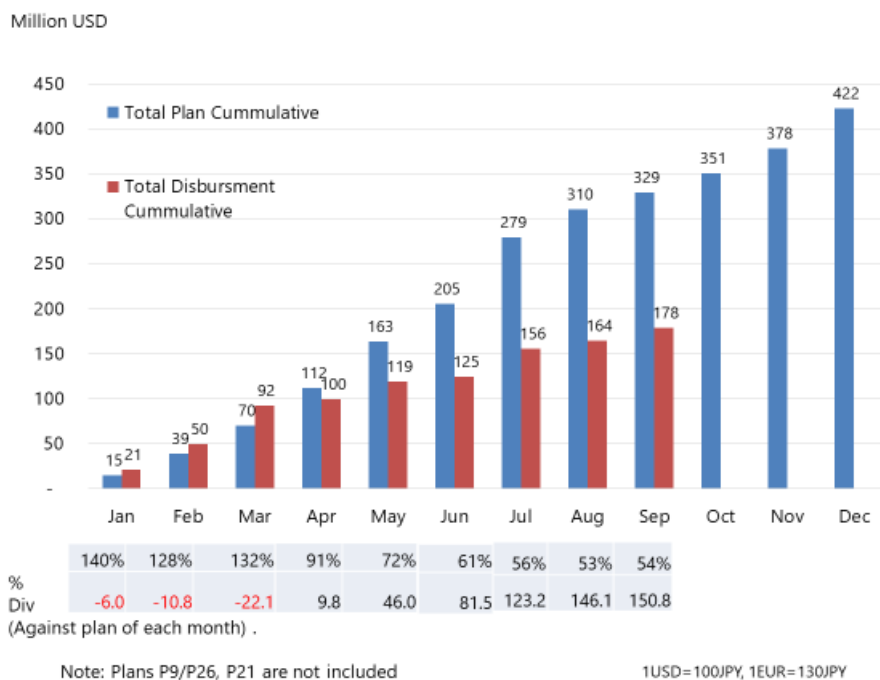
Meeting No.	Date	Venue
3Q of 2019	23 September 2019	Baghdad

5. Tax Exemption and Custom Duty Waiving (Clause 3.1 and Item 3.5 (h) (i) and (j) of the ToR)
- a. Tax exemption and custom duty waiving have been negatively impacting project implementation for the last seven years and were recognized as cross-cutting issue at the M/C level. The LMU has closely monitored the situation and provided suggestions and recommendations to the M/C.
 - b. The LMU supported the projects in KRG to sort out the legal basis of the tax exemption and custom duty waiving, as the KRG has their own regulations and procedures for tax exemption and custom duty waiving, for which the LMU provided an analysis of in the past. Yet, the KRG relies on the legal bases provided by the federal laws and regulations. It is time for the LMU to review the process again and provide recommendations to the ODA Loan projects to the KRG.
 - c. Law of Protecting Iraqi Products
 - i. In 2018, IQ-P6 and P9 had problems in proceeding with the custom duty waivers. In particular, SFCSR completed all the requirements and received the custom duty waiver from GCC in September 2017. However, as a consequence of series of CoM decisions related to the enforcement of the Law of Protecting Iraqi Products No. 11 (2010) issued over the period October 2016 - March 2018, the custom clearance of IQ-P6, and then IQ-P9, suffered serious delays while the relevant ministries had to pay the Domestic Product Protection Levy, which is an additional custom duty imposed on imported products similar or identical to domestic products. Both projects raised this issue in the 40th ODA Loan MC meeting (January 17, 2019). Meanwhile, MoE addressed the CoM (letter no. 17613 dated 31 March 2019) to exempt contracts of the MoE concluded under the German Kreditanstalt für Wiederaufbau (KfW) (Credit Institute for Reconstruction) Loan Agreement from the application of the Law of Protecting Iraqi Products No. 11 (2010). In response, the CoM issued Decision No. 184 (2019) dated 21 May 2019 dictating that “contracts of the Ministry of Electricity concluded under loan agreements shall be exempted from paying the Domestic Product Protection Levy”, thus expanding the exemption beyond what the MoE requested.
 - ii. With this issue persisted and causing serious implications and delays for ODA Programme, the 43rd ODA Loan MC meeting (4 July 2019) discussed this issue again and issued a recommendation to the CoM to expand the exemption provided under CoM Decision No. 184 (2019) to the ODA Loan Programme. The CoM endorsed the recommendation of the ODA Loan M/C in its 40th Session dated 15 October 2019 and issued Decision No. 355 (2019), which amended Para. 2 of CoM Decision No. 184 (2019) to be:

“Loans, foreign bonds and all financed projects shall be exempted from taxes and custom duties in accordance with the stipulations mentioned in the Loan Agreements, and setting the protection of products at zero for the loan agreements signed prior to the issuance of this Decision”, provided that future loan agreements shall consider the Product Protection Law in the project contracts funded by loans for the materials and goods covered by the issued decisions for product protection”.

VI. Financial Management

1. Disbursement Plans (Item 3.4 (a) and (h) of the ToR)
 - a. Except P9/P26, all required PMTs submitted annual Disbursement Plans.
 - b. The gaps between the planned and actual disbursement has increased in the 2nd quarter of 2019, as shown in the chart below. The disbursed amount was approx. USD 180 Mil only and deviation from the plan is approx. USD 150 Mil. Considering the fact that the accumulated plan amount does not include the IQ-P9/26, which disbursed USD 50 Mil, the gap shall be quite serious compared to the past years' records. The reason(s) of deviation shall be identified, and the necessary action(s) shall be agreed on and confirmed with the concerned PMTs; otherwise, it will be quite a challenge for these PMTs to catch-up with their original planned disbursement this year.



Total Actual Disbursement against Total Planned Disbursement (as of 30 September 2019)

- c. As demonstrated in the above and below charts, the accuracy of the submitted disbursement plans is an issue, with the overall deviation being more than 50% in 2019. This gap was mainly caused by IQ-P15 (43% achievement – deviation was approx. USD 26 Mil), IQ-P20 (63% achievement – deviation was approx. USD 28 Mil) and IQ-P25 (2% achievement – deviation was approx. USD 100 Mil), even though these projects, with IQ-P9/P26, were supposed to be the four largest projects to contribute to the disbursement of Iraq's ODA Loan portfolio in 2019.



Actual Disbursement against Planned Disbursement by Project (as of 30 September 2019)

2. Disbursement during JFY2019

The disbursement amount is very critical issue. The disbursement amount under the project loans of JFY 2019 was approx. USD 85 Mil as of September 2019, which was much lower than the same periods of the past years. Considering the political and security situation since October 2019, this tendency may continue for the rest of JFY2019. It is important for PMTs to maintain the smooth project implementation in this critical situation, including the soonest commencement of these contracts.

3. The LMU assessed the financial management processes of bookkeeping and financial information management system in the implementing ministries/agencies and in the MoF as limited to the Japanese ODA Loan and provided recommendations to JICA and the M/C. (Item 3.5 (c) and (d) of the ToR)

4. The LMU continuously monitored, supported and provided advice to PMTs to ensure that the financial management processes comply with JICA’s applicable guidelines. (Item 3.5 (c) of the ToR)

5. The LMU monitored the financial management procedures under each project, identified any problems or malfunctions delaying the processes and provided advice and recommendations to JICA and the M/C to resolve these issues. For example, TBI charges, the sanctions of advising bank for IQ-P9/P26, authentication of signatures for the TBI – especially for MMPW and MoIM, advising of the advance payment for IQ-P24, issues of anti-money laundry procedures in Iraq etc. (Item 3.5 (h) of the ToR)

6. Letters of Credit (L/C)

The LMU played key role to facilitate the communication among JICA, TBI, MUFG and implementing ministries / agencies, as well as beneficiaries in some cases, to follow-up the L/C issues. The LMU also supported implementing ministries / agencies on reviewing the L/C draft. These activities facilitated and accelerated the L/C issuance

and payments. However, the challenges of opening L/Cs remain, especially on the preparation of the application form of the L/C and the accuracy of the application. (Item 3.5 (b) of the ToR)

7. Since October 2019, the LMU enhanced its efforts and facilitation between the TBI and PMT, and MUFG and TBI. Because the location of the TBI HQs is close to one of the sites of the protests, the L/C Division and other functions were relocated to another location. However, the space is not enough for the full function. The L/C Division is currently operated by only 2-3 people; thus, the output is less than 10% of the normal. Additionally, the relocated L/C Division doesn't have the files, which are in the HQs, though they tried to get it, but the protestors stopped them. New L/C can be opened normally, but the amendment or extension of an L/C is very difficult without having access to the files. The LMU is also continuously coordinating with the TBI and the PMTs to ensure that the documents reach the relocated branch of the TBI. (Item 3.5 (d) of the ToR)

VII. Capacity Development

Capacity development is a key component of LMU's scope of work to tackle bottlenecks and weaknesses identified through monitoring activities. The LMU supported the institutional and individual capacity development of the implementing ministries / agencies in procurement, project management and financial management wherever necessary.

1. UNDP Procurement Training Programme (Item 3.6 (a), (b) and (c) of the ToR)
 - a. Responding to the actual needs of PMTs as identified during the LMU's monitoring activities, which are directly linked to the progress of projects, UNDP has organized and facilitated two annual procurement trainings as of November 2019 as follows.

No.	Area	Name of Course (Target)	Date/Place	No. of Participants (Female)
1	Procurement	Advanced Skills for Meeting Management and Negotiation - Projects under Japanese ODA Loans (All Projects)	2-5 September 2019, Basra	27 officials (5 officials)
2		Contract Management Skills for Consulting Services (MoF/MoP/MoP/KR-I/P13/P15/P16/P19/P22-P28)	24-27 November 2019, Erbil	31 officials (7 officials)

- b. Ensuring the appropriate nomination of trainees by the implementing ministries / agencies is one of the critical areas for the trainings under the Project Agreement. In the past years, the LMU tried to put in place an optimal way to ensure adequate nomination, such as making the qualification for the nomination clearer, sharing PMAC's official invitation to the line ministries /agencies with the PMT Directors, making clarifications to the line ministries /agencies for inappropriate nomination etc. These efforts started to work and the process of the nomination in the line ministries /agencies has improved.
2. Financial Management Training (FMT) (Item 3.6 (a), (b), (c) and (d) of the ToR)

The LMU provided in-house training in accordance with the below schedule. The training aimed to enable the participants to lead the financial negotiations with the consultant and contractor for payments under the ODA Loan project and to be able to provide the trainings on the Financial Management in their ministries/agencies. This training targeted the qualified financial specialists in each PMT. The course was divided into three parts: 1) how to be a trainer, 2) ISBP 745 with inclusive examples, and 3) case studies.

No.	Area	Name of Course (Target)	Date/Place	No. of Participants (Female)
1	Financial Management	Training of Trainers for Financial Management "International Standard Banking Practice ISBP 745" (All projects)	17-21 November 2019, Erbil	14 officials (4 officials)

3. Project Management Training

The LMU observed that the suboptimal understanding of ODA Loan scheme by the PMTs and/or implementing ministries/agencies is causing delays in the formulation of the project components. Additionally, oversight ministries, namely MoF and MoP are increasing their interferences during the technical phase of formulation without having adequate understanding of the requirements and formulation process of ODA Loan projects. Therefore, the LMU will organize a training with JICA for the oversight ministries – MoF and MoP to discuss the role of the oversight ministries for the ODA Loan and how to synchronize with the GoI procedures in order to avoid the delay caused by the administrative procedures. (Item 3.5 (f) of the ToR)

4. Knowledge Sharing Platform

With LMU's facilitation, PMTs in Basra had regular meetings at UNDP Basra Office in order to enhance knowledge-sharing in implementing Japanese ODA Loan projects. However due to the religious holidays and visits as well as the security concerns in Basra during the 2nd quarter of 2019, it was not possible to hold any meeting.

5. Proposed measures for Capacity Development (Item 3.6 (c), (d) and (h) of the ToR)

- a. The LMU has been conducting standard procurement trainings on selection process and contract management on both basic and advanced levels. Through the findings by the monitoring activities and observation of the training feedbacks, the LMU is designing a procurement training as a "Review Station" for the previous main challenges and concerns expressed or captured.
- b. As well acknowledged, the solid knowledge sharing platform is one of the significant keys of the smooth implementation of the ODA Loan projects in Iraq. The knowledge sharing workshop for the project management has contributed to utilizing the lesson learnt among the PMTs. Therefore, the LMU is planning to facilitate the following workshops by the end of the 9th Agreement following schedule.

No.	Area	Name of Course (Target)	Date/Place
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1	Procurement Workshop	One day workshop for bid opening and evaluation for project bases	TBC
2	Financial Training	Preparatory Session Annual Financial Management Training	January 2020 Baghdad and Basra
3		Annual Financial Management Training	February 2020, Dubai, UAE
4	Project Management	ODA Seminar	2Q of 2020, Tokyo, Japan
5		M&E Training for the Oversight ministries and agency	TBD, Baghdad
6		Project Management	TBD

VIII. Performance Evaluation

The LMU finalized the Performance Evaluation as below with the clarification to JICA.

IX. Recommendation and Lesson Learned

To move forward, the LMU proposes the following recommendations to ensure efficient, effective and timely implementation of the ODA Loan projects;

1. Support Unit to the M/C
 - a. ODA Loan monitoring mechanism

Though there is certain improvement in the monitoring mechanism after JICA and the LMU took action, there is still need to improve the follow – up mechanism of the action points agreed on during the M/C meetings and interventions and responses that should be initiated immediately after the M/C meeting and to develop the capacity and skills of PMTs in presentation, discussion, interlocution and persuasion.
 - b. Capacitating the oversights ministries/agencies

The LMU has been providing on-the-job training for the MoP’s staff in the field of monitoring process after their assignment to the Follow-Up Team for Projects Funded by Foreign Loans and Grants. The LMU recommends establishing a solid approach and method for this purpose to ensure sustainability. Additionally, the LMU started the process of monitoring MoF’s roll off the ODA Loan scheme. Although the LMU’s intervention would be limited according to the ToR of the Project Agreement, it will continuously observe that area to ensure improvement.
 - c. M/M meeting in KRG

Due to the number of the projects implemented in KRG, the M/M meeting is focusing on the project update, but it also needs to consider the overall approach to contribute better business environment in KR-I through the lesson learnt from the implementation of the ODA Loan projects.
 - d. The regional mid-M/C meeting among Basra PMTs

Due to the physical distance, Basra PMTs faced serious coordination challenges with their HQs in Baghdad and with oversight ministries/agencies. Therefore, the LMU needs to resume the coordination of the mid-M/C meeting in Basra by adapting the current security constrain. (Item 3.3 (c) of the ToR).
2. Formulation of the new projects
 - a. The formulation of the new ODA Loan projects faced challenges. For the last five years, three candidate projects have been pending the internal discussions and internal procedures within the GoI. Although this was mainly related to the

- strategic level, oversight ministries, namely MoF and MoP, increased their intervention during the technical phase of formulation without having adequate understanding of the requirements and formulation process of ODA Loan projects. Specific cases include the timing of the listing on the Federal Budget, Annual Government Investment Programme and submission of the official request to the GoJ. In this context, and while the LMU respects GoI's internal procedures and practices in this regard, MoP's insistence on applying the "Principles of Preparing Feasibility Studies of Development Projects (2008)" as pre-condition for listing a candidate project to the ODA Loan on the Investment Programme is difficult to understand and justify, as JICA and other external funding agencies' requirements for project formulation are not the same as the requirements of GoI's feasibility studies on various levels. In addition, the LMU observed that the responses of relevant ministries / agencies to MoP's requests for clarifications and additional information has been suboptimal, whether in quality, content or time of response.
- b. In general, the LMU observed the multiple listing of the same projects on several loans in addition to Federal Budget 2019, while MoP still claims that they have not approved these projects and are, accordingly, not listed on the Annual Investment Programme. In other words, there is allocated funding on Federal Budget 2019 for projects that MoP didn't approve yet and didn't list on the Investment Programme, which is something contrary to the logic and established process within the GoI and causes administrative complications and delays for the formulation of the project.
 - c. The GoI's borrowing policy for loans is not clear. While approving several commercial loans, the GoI's approval of concessional loans has been unjustifiably delayed..
 - d. Considering the above, the LMU reckons that an in-depth involvement of the LMU in facilitating and expediting the formulation process within the GoI is inevitable. Meanwhile, oversight ministries are required to agree on how to synchronize their own procedures in order to avoid the confusions and delay caused by the inadequate procedures.
3. Preparatory Assistance for the ODA Loan projects
 - a. PMTs Organization Issues and Delegation of Authorities
Since 2009, the LMU conducted successive analyses and evaluations on the ODA Loan implementation set-ups and the related institutional capacities of the GoI to identify institutional weaknesses, capacity deficiencies, capacity development needs and to propose optimal organizational arrangements, including PMT internal structures, staffing, mode of functioning, work procedures and empowerment, in relation to the ODA projects. The ultimate purpose of these analyses and evaluations has been ensuring effective, efficient, and timely implementation of the ODA Loan projects. The LMU drafted and submitted a proposed "Code of Authorities to the ODA Loan PMT Directors" to PMAC in July 2012, but it is still pending. (Item 3.2 (a) and (e) of the ToR)

The LMU observed several cases where the decisions and recommendations made by the PMTs were turned over by their senior managements without understanding the context of the ODA Loan scheme, especially the result of the P/Q and selection processes, the responsibilities of the Employer and interpretation of the contract conditions. This caused delay in the decision-making to comply with the ODA Loan project implementation. (Item 3.2 (e) of the ToR)

- b. Reasonable delegation of authority is one of the critical pre-requirements for the smooth implementation of the ODA Loan projects. However, this is a 2 – sided issue: the willingness of the implementing ministries agencies to delegate adequate level of authorities to PMTs and the willingness of some PMT Directors to be delegated a reasonable level of authorities to implement the projects and to exercise it, which varies substantially from one PMT Director to another. Accordingly, the LMU considers that it’s time to resume the effort for a comprehensive approach to adopt the Code of Authority to the ODA Loan PMT Directors. This will be associated with the increasing role and importance of the Japanese ODA Loan in the GoI’s capital investment programme and national development due to the current budget constraints. (Item 3.7 (c) of the ToR)
 - c. Amendment of Unified Law of Retirement No. 9 (2014)
The Law No. 26 (2019) of the 1st Amendment to the Law of Retirement No. 9 (2014) was passed CoR on 19 November 2019 and will enter into effect on 31 December 2019. The Amendment reduces the legal age of retirement to 60 instead of 63 years. So, the LMU started checked the key PMT members who are over or will be 60 years old soon to identify the potential changes in the PMTs staffing. The initial survey indicate that 16 ODA Loan relevant staff will be pensioned off, thus bringing substantial changes to the GoI’s oversight and implementation management staff. Moreover, the retirement of non-approved acting DGs will further complicate the situation. Accordingly, the LMU shall review and revise the capacity development plan to address the negative impact of these personnel changes.
4. Project Management (Procurement Management)
- a. The PMTs generally understand JICA’s rules and regulations. However, the LMU observed several issues in the implementation stage that were caused by some inadequate procurement processes and documents, such as vagueness in contractual terms and conditions or inconclusive contract negotiations. The PMTs need to understand the philosophy, concept and interpretation of JICA’s rules and regulations as well as international standards and practices in order to avoid the potential risks of disputes in the implementation stage.
 - b. Timeliness of contract negotiation
The timeliness of contract negotiations is still far beyond the target. This due to the inadequate capacity and skill of PMTs in contract negotiations associated with lack of sufficient knowledge of JICA procurement guidelines among those responsible for approving the outcomes of contract negotiations. So, it is important to keep monitoring if this bottleneck is being resolved with the LMU’s capacity development interventions and the M/C facilitation. Yet, considering the strong interests of the PMTs in the capacity development training on negotiation skills, the PMTs themselves obviously recognize this challenge Therefore, it is important to have a detailed analysis on the bottlenecks and challenges, which PMTs face during contract negotiation.
5. Project Management (Contract Management)
- a. While maintaining the regular monitoring and verification of the contract management, JICA and the LMU need to reconsider the method and level of the monitoring and intervention to the projects facing serious delays by increasing the number of site visits, identifying the challenges and bottlenecks and suggesting

solutions, including how to facilitate communication between the PMTs and the contractors.

Though kept improving, PMTs' understanding of the contracts is important. Most of the challenges/bottlenecks in contract management are caused by external factors. Accordingly, PMTs are required to adopt pragmatic and flexible solutions within the framework set for the ODA Loan project. Though not only the responsibility of the PMTs – consultant/contractors should be the responsible as well, as many contract disputes under the ODA Loan projects do not have the “exit policy” at the contract negotiation stage, and both parties keep insisting on their own positions or attempting to convince the other parties. The negotiation strategy shall be well established and agreed internally before entering the negotiation. So, it is required for the PMTs to analyze the risks and prepare mitigation plans for these issues. Though the discussion points are different from one project to another, the basic understanding shall be enhanced through the capacity development training.

- b. The GoI system of physical asset management and the sustainability of completed ODA Loan projects needs to be reviewed, analyzed and evaluated. This is extremely important to ensure the adequate operation, maintenance and, eventually, sustainability of the ODA Loan project, particularly considering the GoI's long record of poor operation and maintenance that led to rapid deterioration of these physical assets. (Item 3.4 (j) of the ToR)

6. Financial Management

- a. It is recommended to closely monitor and analyze the PMTs' consistent commitment to the procurement management and contract management components of a project, as well as project components, in view of financial management. During this period, the LMU observed several delays in payments against the physical progress of the contracts, particularly IQ-P3, IQ-P9/P26 and partially IQ-P20 and P25. The LMU started collecting the data on the process from the submission of invoices for contractual payment to the effectuation of disbursement, delineating duration of delays and reasons. Some of these delays were caused by internal PMTs and implementing ministries/agencies complications. In particular, some payment processes, especially those requiring sort of certificate from the PMTs, showed some delays.
- b. It is important for the LMU to closely monitor and analyze the PMTs' coordination of the procurement management and contract management components of a project in view of financial management. As part of the LMU's attempts, ToT was provided to the PMT members who are responsible the financial management in order to lead the financial part of contract negotiations. Simultaneously, there is need to identify the responsible party for these delays in order to provide the appropriate actions to overcome the bottleneck. Moreover, the LMU recommends that consultants should give more attention to these delays because all claims from contractors are submitted to them to verify before being processed by PMTs.
- c. Capacity of Iraqi contractors
Though few works contracts and subcontracts have been awarded to local (Iraqi) private contractors, the LMU observed their weak financial capacity as well as their inadequate experience in international financial management practices. The LMU recommends conducting an analysis of this matter and adequately addressing these

weaknesses through capacity development. This will eventually contribute to the strategic GoI target of developing vibrant private sector as set in the National Development Plan 2018–2022 and the Private Sector Development Strategy 2014 – 2030.

7. Capacity Development

The LMU planned the capacity development activities of 2019 in consideration of the following main approaches;

a. Regular capacity development training

The LMU conducted the financial management training as in-house training by utilizing the LMU's accumulated knowledge over the past years' training coordination with the MUFG and JICA. However, in 2019, the LMU will conduct the trainings together with MUFG and JICA by acknowledging the importance of maintaining the knowledge and lessons learnt from the professional practice of MUFG.

b. Knowledge-sharing

Recognition of the importance of knowledge-sharing is increasing among the oversight ministries/agencies and PMTs, which has materialized in several occasions since 2014. As mentioned above, the current challenges require PMTs to adopt more practical solutions, which they can learn from other PMTs' experiences. Therefore, the LMU is planning to have a knowledge sharing workshop for the PMTs with the topic of the project management. The LMU will keep facilitating such events in close coordination with JICA.

8. Performance Evaluation (Clause 3.7 of ToR)

Annual Project Performance Evaluation is under the planning and reviewing the criteria to submit to JICA and the M/C for their review and comments. Considering the time timeframe of 2019, the report of the result will drafted in February 2020.

9. Consultation

a. The LMU updated the ODA Loan Project Information Sheets with focus on the impact of the project. It is recommended to develop these information sheets to a simplified PR package for ODA Loan Project to appeal to the people outside of the ODA Loan projects circle.

b. The LMU shared media reports and articles related to ODA Loan Programme with JICA with English translation. It is observed that most of the articles include inaccurate information. The LMU recommends that the M/C and JICA publish a comprehensive article of the ODA Loan Programme in the Iraqi media. (Item 3.7 (d) of the ToR)

c. Tax exemption and custom duty waiving for the ODA Loan contracts has been one of the key challenges that had negative impact on the progress of procurement and contract management, causing substantial delays in implementation and unexpected costs to contractors and suppliers. The new GoI policies of increasing custom revenue and protecting domestic products led to conflict with the established tax exemption and custom duty waiving mechanism for ODA Loan contracts in particular. This contradiction was caused mostly by series of CoM Decisions made without the detailed legal consultation and review as well as arbitrary interpretation and enforcement of these CoM Decision. Also, there is still considerable confusion about the legal basis for the tax exemption and custom duty waiving among GoI entities, including GTC, GCC, MoP-DGIP and implementing ministries/agencies.

The LMU will continuously ensure that the implementing ministries/agencies apply in appropriate manner the Mechanism for Requesting Tax Exemption and Custom Duty Waiving for the Japanese ODA Loan Projects. (Item 3.7 (e) of the ToR)

- d. The LMU recommends that the M/C and JICA organize awareness workshop(s) on the ODA Loan projects for the senior levels of the GoI, including the Council of Representatives, implementing ministries/agencies, Secretariat General of the Council of Ministers, independent commissions (Central Bank of Iraq, Integrity Commission) and the TBI after the political situation is settled.