

April 18, 2006

Sheikh Al-Attiya Deputy Speaker of Parliament (SA) (Statement attached)

Iraq's oil wealth was squandered and abused;
There is agreement on need to develop legal framework based on Constitution
This is the most important law for Iraq after Constitution
The goals of this preliminary discussion with experts are to clarify the law without political hype and benefit from expertise in its evaluation,

Dr. Hussain Al-Shahritani Minister of Oil (HS)

The draft commissioned on the first week after the appointment of the government.
The drafting committee included Tariq Shafiq, Farouk Al-Qasim and Thamir Ghadhban working free of charge.
The Energy Committee comprised of 11 Ministers discussed the draft. Deliberations lasted more than 6 months, there were lengthy and at times heated.
Compromises had to be made.
We sought to develop a unified Iraqi position and to establish legal framework to allow the development of the sector.
Oil and gas are the property of all Iraqis and had to be developed to their benefit, and revenues distributed based on population through the annual federal budget
After deliberation and a unanimous vote at the Council of Ministers the draft was sent to the Shura council which should finish stylistic and legal changes next week.
Draft is an accomplishment for all Iraqis and will consolidate national unity. It is informed by the national interest.

The Oil and Gas Law (OGL)

The Council of Ministers (COM) is the main authority on all activities

The Federal Oil and Gas Council (FOGC) (which is all Iraqi including expert members) is the main executive agency of the COM

Periods: 4 years exploration extendible by 2 +20 for development

Article 39 calls for arbitration based on Iraqi law using Geneva or Cairo rules

Annex 3 includes 26 fields which are far from currently producing ones and open for development by private sector

Annex 4 includes exploration blocks

The pending parts of the package include the Revenue Sharing Law, the Ministry of Oil Law and INOC law (the latter is being reviewed by specialised committee to ensure consistency with the Companies law). The whole package should be ready for presentation to COM next week.

Ali Baban (AB), Minister of Planning and Development Cooperation (MOPDC)

Revenue law and oil law are part of the national contract both have political significance beyond their economic one.

The foundation of the laws is Iraqi national decision based on the national interest first and foremost.

The goal is to establish a stable legal environment as the basis for development. Development can not take place in environment of conflict. Technical soundness and patriotism were the main considerations in the drafting of the law.

The Law seeks to bring clarity to the constitution answering the questions of who manages current oil fields? Who signs contracts? And so on. Clarity was achieved by agreeing to bring all revenues into a single account. This is the main achievement of the law as it clarifying the issue of ownership of the fields. This approach resolved 2/3 of the argument over ownership –no ownership to provinces or regions but single ownership to all Iraqi people.

Over 92% of budget comes from oil. This may not be healthy but it is a fact and will remain so for a while. Thus oil is not incidental but essential. HS may have focused on technical issues. I want to tell you that the oil law is a result of a political and constitutional compromise involving all political parties. We sought to pursue the national interest but some may have their own ideas on certain issues. There is consensus but also disagreements on some details. I for one would have liked a more centralised national decision but we could not go beyond the Constitution and certain political parties.

Iraqi oil's importance extends beyond Iraq considering possible shortages on world markets. Iraqi oil is strategic for the world. Therefore there is global interest in the law.

Emphasising article 111 of the constitution and agreeing on a single petroleum account is a great foundation for national consensus

The Revenue Law is meant to ensure management, spending, supervision, fairness, and creating a reserve for the future. It is very important to mention future generations. This is the first law which talks about them;

The law sets up responsibility for the management of the federal oil revenue fund, a single fund for all of Iraq.

The management will ensure fairness of distribution of grants and international loans as well among regions and governorates (based on article 106 using the same words). Establishing new partnership framework. Ensure appropriate, efficient and accountable use of resources (106);

Sources of funds – oil and gas sales, rents, bonus payments, other sources. Account at the Central Bank of Iraq (CBI). The Prime Minister and the Minister of Finance or a person authorised by them will have authority to disburse the government budget. Distribution through federal budget based on population (census based) this is international standard. There will also be an allocation for a limited time suffering regions (past and recent).

The objective of balanced development is critical as it gives sense of justice. Criteria will be established for this by special committee it won't be arbitrary. Ministry of Finance (MOF) has to take care of financial needs of governorates not organized in regions and the federal ministries. Timeliness of monthly outlays will be ensured (to avoid current delays). The committee will submit a monthly schedule of payments to ensure regular payments. Supervision of the fund is by Independent Financial Committee (ministers, regions, experts) Committee linked to Council of Representatives (COR.) It is to ensure supervision and transparency. It allows all segments of population to supervise.

The Committee will ensure that all withdrawals from the account are based on budget and directed towards their intended purpose.

Internationally audited reports will be submitted to parliament. Regular financial reports will be published in the media and on the internet. The citizens will know about every dollar coming in and going out.

Committee will propose (in consultation with MoF) to set aside future generation's funds. It will direct MoF on the optimal use of these fund for the benefit of future generations.

Ali Hussein Ballu, head of Oil and Gas Committee in CoR.

Committee has not seen the draft officially yet. So comments are general not officially studied. We will look carefully to make sure compliance with constitution especially articles 111 and 112. We will look at the whole package. We would have liked to see all laws together.

Also these laws should be consulted with regions and provinces (since oil is not an exclusive prerogative of the Federal Government (110)) to ensure that they do not become contentious. The Committee does not see justification for rushing the law. We need more time for discussion and deliberation.

Ashti Hawrami (AH), Minister of Natural Resources, Kurdistan Regional Government (KRG)

KRG draft was published before debate began on the law in your hands today. Unfortunately, no measures were taken to discuss KRG proposals. We participated actively in discussion of this law. I believe law has some articles not consistent with constitution. Some proposals for amendments make it even more centralised. As CoR members your main functions is to protect the Constitution. Any law which does not comply with the constitution will be invalid. Alternatively you could change the constitution. We have not seen the INOC or MOO laws. We saw early drafts which were not offered for discussion. I am surprised to hear that they are all ready for submission.

Oil and Gas Law (OGL) annexes give a very visible role to INOC - more than 80% of reserves. If this is the case why have a law? We need investment. If head of INOC is minister and has 80% of reserves this means it will be another MoO. I will give you in the break more detailed comments on the law.

Fair distribution is a fundamental issue. We demand distribution to regions and qualifying governorates not through the MoF but directly. We have now been waiting for four months US\$1 billion due to us from MoF. Therefore distribution should be direct to all regions and governorates.

Tariq Shafiq (TS) Head of Oil and Gas Law drafting committee

The meeting is critical for Iraq's political, economic and social future. I hope we can agree on united centralised principles for the development of oil and gas for the interest of the Iraqi people efficiently and transparently.

What is special about Iraqi oil? What is wrong with the compromises reflected in the law? What has gone wrong since we drafted the law?

Iraqi oil is abundant and cheap

Output can be raised from 2.5 to 10 and can be sustained for 10 years without having to discover a single field.

Iraqi oil development cost is US\$1 per barrel.

We don't need large long term Exploration and Development contracts since we can only raise output so much before we hit OPEC ceilings.

Need to ensure sustainable output levels. Buyers may prefer to buy from the state as a more reliable partner.

The compromises are the result of discussion in the ministerial committee mainly between KRG and the Federal Government which lasted for eight months

The main reason are disagreements on the interpretation of the constitution.

The KRG which held confederate positions and viewed oil in KRG as ownership of KRG.

We (the federal government) consulted lawyers who said that oil belongs to the Iraqi people.

Somehow the Compromise led to a 'quota' system – this result was not good from our perspective, as it does not meet the interest of all Iraqis.

Compromises were made as if they were concession by KRG as if it is giving its oil to the federal government.

Our original draft was based on the principle of cooperation and participation. The focus was on working with discovered fields.

We drafted the law as un-politicised technocrats. We did not leave a negotiating margin. Hence any deviation harms the principle of public interest.

Decision making was disturbed especially when it comes to contracting and strategic planning. The compromise does not allow for robust policy making which ensures maximum benefit.

Farouk al-Qasim will give you details of the changes we would like to propose. I will comment in general terms.

The amendments are aimed at reversing the 'quota system' which only serves the divisive parties at the expense of the public interest. Quotas violate the main principle of unified, strategy from the centre by the feds in cooperation and consultation with the region in a way that benefits all.

The original draft went very far to ensure regional participation in planning but the compromise handed over decision making to outliers outside the central system. It violates the principle of centralise, balanced, efficient and accountable decision making.

Also competencies given to KRG can grow horizontally to other regions and governorates which will produce new obstacles to centralised decision making.

Competencies will be given to unqualified units which will reduce transparency and accountability and will produce harmful competition.

It is wrong to insert the region into the decision making process on contracts and not requiring the analysis of all contracts by the council of experts.

Direct allocation of fields and blocks to bidders is unnecessary and unprecedented.

We first need a strategic plan.

Opening the sector up in this way can reduce sovereignty over oil. Development on the basis of geographic distribution will lead to development of small fields at the expense of the more efficient large fields. This does not make sense especially since we already agreed to share the revenues.

Taking 26 fields away from INOC (according to proposed annex 3) is unconstitutional, if we agree that 112 meaning of current field applies to every discovered field. Thus unfortunately we believe that the draft is vague to the point of making it inefficient.

AH

Current draft is comprised to 95% of the KRG original draft. Unfortunately, the draft originally submitted by our colleagues was Baathist and nationalist in spirit and we threw it into the trash. We believe the final draft has some minor problems but we think it can be fixed. The most important thing is to respect of regional competencies.

INOC is being given based on MoO draft 82% of oil. This is meaningless. We should only give producing fields plus few developed ones. For example Qayara field was in INOC's hands for 30 years, yet only 1% of it was developed. How much longer should we let INOC play with it? another 30 years? Should we not give it to the private sector to develop for the benefit of the Iraqis?

We want our share of revenues from the top. We can not wait for the MoF to decide. For four months we have been waiting for MoF to pay us. We can not live with this.

Future of Iraq is in your hands. Pass laws which unite the country to establish clear partnership on the basis of constitution and not against it.

A

Thank you please do not use offensive language. Diasgreement yes but throwing in trash no.

Farouk Al-Qasim (FQ) member of the oil and gas law drafting committee

Law necessary but only if it serves the public interest

It needs to be reviewed by lawyers

The restriction of the application of law to Iraq territory only does not allow for management of Pipelines and Unified fields outside Iraq.

Material contracts should be voted on by COR

Regulation for oil and gas need to be adopted contemporaneous with law

Regulation should cover every aspect fo the law

Early adoption of regulations, help negotiate and implement the law

COR must set a threshold for contracts which it should adopt hence Article 5 should say that COM should refer to COR ... exploration and development contracts exceeding 600k barrels or \$500m in investment

FOGC should review all contracts except those reviewed by COR

Votes in FOGC should be 50% not 2/3

Need to reconsider composition of FOGC so that it can represent the executive and be able to operate

FOGC reviews policies developed by MoO in consultation and cooperation with Regions. Let us not establish units and functions in FOGC that hollow out MOO Council of Experts need to be expanded from 3 to 9. Voting for the experts should be majority based not consensual

Experts should be able to review whatever they like and publish it.

INOC should have all fields assigned to it

Priorities in development 1) infrastructure 2) discovered fields 3) exploration is secondary based on strategic planning and without haste 4) ability of the federal government to evaluate reserve precisely is critical to obtaining good conditions in contracts

Contracting : pre-qualification by feds, contracting parties should be domiciled in states which are transparent for Iraq. Third party financing should be subject to approval by MoO and FOGC. Ministry should request that each contractor demonstrate capacity and skills to carry out its obligations independently.

Change 9 b 8 to 'supported by precise feasibility calculation'

Specify that consortia should be unincorporated, ensuring individual responsibility of member companies

Very important field development plans need to be approved by federal authorities. In the law now these are approved by various agencies. This is the most important document in relation between company and state. Therefore MoO should be able to approve as the only party that represents everyone's interest (provided MoO cooperates to the extent possible with regions)

Need to insert coordinating and consultation mechanism. No doubt that federalism introduces complications.

INOC should specialise on commercial functions and leave all regulation to administrative entities

Thamir Ghadban (TG) member of the drafting committee, chief federal government negotiator and advisor to the Prime Minister

I am happy that you are hearing this debate. Those who criticise the law should see the differences in opinion behind the compromises achieved.

Iraq is a federal state. We can not pretend that it is not. But there are different views on that. Either we define it as a State with real functions with a cooperative management or we look at it as a loose union. Our draft represents the first approach.

INOC

1/3 of Iraq e.g. Western desert is not even explored. Also the areas in Kurdistan and between the rivers have not been explored. Iraq is one of the least explored countries in the region.

There are 26 currently producing fields (referred to vaguely but not clearly in 112.) Some of the giants are in decline e.g. South Rumaila and Kerkuk

INOC established in 1964 operated in the 70's then was unfortunately dissolved. Peak activity was reached in 1989-90 in terms of wells and meters drilled. Most development in Iraqi oil was made by INOC.

Before nationalisation in 1970 Iraqi reserves were estimated at 34bn barrels. Most exploration took place in the 1970's before the war with Iran. The 70's also added 2mbpd to daily output. We now produce output level on par with 1974

What we have lost has gone to other producers.

We will not present our oil on a silver platter to the IOC's
Principles established in the in the draft include: State responsibility and maximising benefits to Iraq

Short term Goals are: Improve efficiency, Satisfy demand
Medium term: Increase output and export, increase production capacity, expand natural gas

I disagree with TS and FK on this. We need to explore to maintain reserves and realise the 200bn reserve estimate. This should be based of course on a scientific strategy

Long term goal: Iraq becoming a key oil exporter and export gas, modern and dynamic industry.

Need to reform the industry:
Separate functions

Ministry's role is policy, regulation and drafting legislation

INOC's main role is Operations
It should be efficient, like and IOC and have independent management,
No government role should be carried out by INOC;
INOC should: have performance assessment tools to be accountable;
be able to demonstrate the profitability of every unit;
have transparent accounting;
INOC should not operate as a government entity as this will force talented staff out.

INOC will be a holding company (not necessarily in title but in substance)
The parent company owns the units and manages them but does not operate
Operating units will have extensive competencies including boards of directors and financing mechanisms.
The functions of INOC are described in articles 5 and 6 of the Oil and Gas Law

INOC is not a central but a federal company. Regions will be represented on its board the boards of operators including North Oil Company and South Oil Company which are already established. New subsidiaries could be added such as an KRG operator etc. There may also be additional federal operators.

Now there is a committee putting together a law for INOC. Everyone is trying to set up a robust company

SA

All the laws are being discussed in Energy Committee but have not been offered to COM or COR

Mahdi Alhafedh MP Iraqi List and former Minister of Planning

This meeting succeeded in mobilising all the experts and will help us develop this law. There are many problematic points in the law which we should study. There is no question that the law offers a good platform for discussing policy and managing revenues. There are however reservations among many in Iraq about parts of the law. We can not divorce the discussion from the political context and its calculations.

The law is a compromise between political parties. It should become a point of compromise between people and this is a weakness in the design of the law and the negotiations approach as the discussions reveal. There are two points of view: one looks at the country as a company as if the law is regulating relations between separate parties. This could be dressed-up as partnership but sounds divisive to me. I don't understand the principle of distribution of revenues. We need a national development and reconstruction strategy which requires mobilisation of all resources. This is not consistent with distribution of revenues among units. The latter is inconsistent with national development. This partitioning approach is the weakest point both in the law and in some other discussions.

The provision over the power to sign contracts indicates that this was a subject of compromise. I don't agree with the fragmentation of decision making on this issue. The roundabout way of the region and INOC signing and then passing on to FOGC for a vote in 60 days. This is not good. The state should pool its resources and have one negotiating point. This weakens our negotiating position.

We still have a legacy of fearing the foreign investor as an enemy we can not compromise with. We need financing and technology. Investment has to take place however, within national constraints. The requirements on contracts listed in the law are very good.

All contracts should be voted on by the COR. These are major contracts. There are many interested parties which can only be protected in parliament.

IN order to assure the effectiveness of FOGC it can not be based on quotas but on competencies. It is an arm of the executive branch.

Members of the Council of Independent Advisors (CIA) should not need a unanimous of the FOGC to be appointed

We have a problem with the Constitution. AH is right in part by stressing that the Constitution is the source. But he forgets that we are reviewing the Constitution.

There is a committee working on it. We can not have an outcome of a discussion on that. This is a minefield which we have to navigate on the basis of common interest.

Hasan Alyassiri legal council to the Humam Hammudi, head of the Constitutional Review Committee

Articles 111 and 112 of the constitution are critical for oil. Oil policy making is a joint competence. It is neither exclusive to the federal government nor to the regions. The law could be read as delegating powers from the regions to the federal government. As such it does not contradict the Constitution. i.e. The region has ceded some of its powers to the federal government.

Constitutional review committee is reviewing this issue and we are viewing alternatives to these articles (110, 112, 114, 115, 121)

Farhan Baqir (UAE Iraqi)

Why do we need this law now? Why the rush? People say current fields can meet needs why rush to develop more? Why have the recommendations of the experts been altered so drastically? There is, unfortunately, a great deal of external influence in Iraq. The security situation we are aware of and also the corruption. Finally there is disagreement on the Constitution. Don't rush. I do not see ground for consensus or agreement at the moment.

Mohammed Ali Alzaini Centre for Global Energy Studies (CGES)

Annexes 1,2 are given to INOC, Annexes 3 to other actors. Annex 4 is not mentioned in the law at all. It includes 65 blocks containing as much as twice the size of known reserves based on CGES and Petrolog estimates. Now according to the Constitution this goes to the regions and governorates.

The Federal Government are the only ones pursuing the national interest. The law gives priority to the regions and governorates and relegates the centre to secondary role which is peculiar. US federal law takes priority. Our constitution is upside down.

Exploration and Production contracts mentioned in the law sound like Production Sharing Agreements (PSA). These are very expensive therefore all else should be tried first.

HS

We need to improve the wellbeing of the Iraqis. We need to work in parallel – fight terror, pursue national reconciliation, development and reconstruction. Oil is critical for all of this and the law is the first step. We need INOC to develop current fields and expand output. This is a prerequisite for security. There are disagreements, of course. This draft was agreed and now it is binding to the main political groups. Amendment and votes are now the prerogative of the CoR. The rest is all personal views. This draft was approved unanimously at the Energy Committee and COM.

There has been talk about trying to smuggle the law. No one can pass a law without a CoR vote based on its mechanisms i.e. first, second and third readings, article by article. And then vote on the total. Therefore I reassure all that this law will be discussed in an orderly way.

Some complained on language. The law is now with Shura council which is polishing the language.

TG

Why the rush? When is a good time? We had tough negotiations. Waiting will most likely increase the role of the regions and governorates. I expect regions to band together to seek more powers from the centre. If you want a more centralised law take it now. We have a long way to go. This law is the best that can be achieved within the current context and in the future like any law can be amended.

TS

Iraqi modified PSAs are more similar to service agreements. This is the model I had in mind.

HS

Exploration and Development Contracts in the law are general. The exact model will depend on the field and its definition is left to the FOGC to determine.

There are some fields which only need equipment, others need more. There are remote and complex fields which require expertise and entail risks.

On current fields INOC can if it chooses hire subcontractors. Everything else goes to FOGC to decide how to develop them.

The principle of national control, however, applies to everyone

Tawafuq MP

This is a very balanced meeting.

I agree the law needs amendments.

Why are there no women in the room?

I agree with AH that there are differences, but disagree that constitution can not be amended article 142/5 is explicitly an exception to article 126 which makes amending the constitution almost impossible.

We have to wait until the constitution is amended. We can not let in corporations now as it reduces our sovereignty

Hamza Aljawahiri Altariq Newspaper, Iraqi Communist Party

Field development requires a broad services sector. There is no such sector now.

Salah Baqir, Independent Oil Expert

Exploration and Development Contracts are in fact PSA's in disguise as they really sharing ownership in oil with the private sector. These should be limited to hard and risky areas. There are no such areas in Iraq. These should not apply to Iraq. It opens the way for corruption and abuse.

There are no models contracts. Saying that the models will come next is like asking the Iraqi people to sign an open check.

I met an oil man in Aberdeen who told me: You have a bath full of fish and you are asking a fisherman to come catch it and divide the catch 50-50

TG

Iraq signed PSAs in the past. Jabbar Laibi (SOC CEO) signed them. I didn't I am not keen on them. Ownership in oil and assets and reserves (custody transfer) all belongs to the Iraqi state. I will not be party to any deal that does not match this. No oil ownership for contractor in field.

Kamil Shabibi (Baghdad City Council)

Contracts should be compared based on their financial benefit. There are some PSA's which can produce better returns to the state than service contracts. It all depends on conditions.

Why is the state royalty set at 12.5%? why not leave flexibility for the state to set the royalty?

Also for the future generation fund, is there limiting language on investment abroad? Assets should be invested in Iraq.

Nuri Aldin Al-Hhayli, MP Oil and Gas Committee

Thank you for organising this meeting.
This law clashes with the Constitution.

Article 112 says that the Federal government manages oil and gas in the current fields. What will happen to future fields? Strategy has to fit context. Today's context is not conducive to passing the law. The law will create a dual fight –fight for wealth and fight for power. Allegedly US\$1.5bn have been stolen only from Baiji refinery in one year. During 2006 Iraq could not spend 10bn of its budget. There is no rush to vote. Wait for Constitutional review, better security and troop withdrawal.

COR should vote on all contracts

The 60 day grace period for FOGC to reject contracts is wrong.

Also FOGC should include all governorates not just those producing as this conflicts with article 111

PSA has been renamed but its still there.

AB

This discussion shows the overlap between constitution and oil law debate. The law addresses some ambiguities in the constitution

Why now? we are putting together a national consensus (contract) this law is at the heart of this. We can not sidestep this issue. It is not about external pressure. We need to have our answers to these questions.

Security and economics are intertwined. Economics won't be achieved without oil. We need changes both to the constitution and the law. And it is great that almost every speaker mentioned this.

SA

Does the law refer to PSA?

TG

An oil services sector is necessary. We have no such sector at the moment. The law promotes development of private sector.

Rent is varied. Historically it was set at 12.5%. We can have various options. It should depend on size of field – cash flow etc.

There is excessive hype about PSAs. I am not a fan. We can give you lectures about the shortcoming of these contracts. We are not going to ban PSA's in the law either as it extends into competencies of the executive branch.

HS

CoR is reviewing the Constitution. This is not a one off process. The Constitution will change and laws will have to follow. We don't need to have to wait. We should discuss law as is. Is it appropriate? Useful? Everything can evolve with time.

Karim Shammaa (oil expert)

This law falls short. This is a crude oil and gas law as it does not cover downstream. This is surprising since oil products is the most pressing issue for the majority of Iraqis.

KRG published their law on the web in June and asked the public to discuss. Mahdi Al-Hafedh held a session in Baghdad in the summer to discuss the KRG law. Why didn't the government follow suit. Why were the expert excluded from the Federal draft?

We should have another session like this in Amman. There are 150 oil experts there.

HS

This law only deals with extraction. There is a draft in parliament on downstream. It is aimed at attracting Iraqi and foreign capital to develop the sector. We are adding capacities. There is a 1bn Japanese loan to develop the sector.

Distribution is going to be privatized. The Ministry will be out of the distribution business completely in two years. Iraqi Refinerie's Company will be transformed along the lines of INOC.

There are also state owned services companies. There will be also a state owned pipeline company.

Mufid Al-Jazairi Communist MP

It is critical to listen to both the experts and the constituencies. We should also open the debate to the public in order to create national consensus and prevent the law from becoming a new source of division.

I am not for postponing the law. There is a material need for law not only a constitutional requirement. We need to transform the industry.

However, not postponing does not mean necessarily rushing the law.

Contracting must be mostly services agreements and avoid unnecessary PSA. Those should be limited to absolute necessity. There should also be limit on contract periods of no more than 15 years. Each case should be dealt with separately.

The federal government should be able to negotiate. Regions can not face the claws and fearful fangs of the IOCs

Discrimination in the past should be redressed. We should also provide additional income to the producing region to compensate for damage cause by oil industry

Ali Al-Mashhadani

Oil belongs to the people. The goal is to preserve the wealth. The mechanisms for preserving wealth should be developed by the people's representatives. I propose 25% direct distribution to citizens, 25% running costs of government and 50% investment.

This is a depleting wealth how can it be preserved. I don't worry about the oil remaining in the ground. There is no alternative to oil for the foreseeable future. Where did the money go over the past four years? Why did we lift subsidies on products? Why ask WB/IMF for loan? Bayan Jabr (MOF) says we have 40bn in cash

HS

We didn't go to IMF to borrow but to cancel Saddam's debt. We got 80% of US\$140bn cancelled. We used to sell gas at 1/5 of water price. We cancelled 60% of debts with 20% to be cancelled in July. After that we have no more obligations. We are asking all other states to cancel the debts of the regime.

Ali Hussein Mallu (Kurdish Oil and Gas Committee)

Since June the law is being debated. When do you think will we be finished with the law and the rest of the package? We should be consulted on those from the very beginning.

HS

We (political leaders) have a deadline of end of April to develop the whole package. Then CoR will have its own time to approve it. The Shura council delayed us more than we expected. The other laws. Revenue Law was discussed but KRG did not attend. Now this law is ready. Ministry of Oil and INOC laws are being discussed. INOC law is being compared to the companies' law.

Baqir Al-Issa

Is this a development law or a commercial law? Is the goal to optimise production or maximise it?

Are there privatization plans? What are the plans?

There are cross border fields how will you treat them?

You should use measurable definitions.

Jabbar Laibi (CEO, South Oil Company)

We need a law which is relevant to the state of the industry. The situation is currently very inefficient and deteriorating. If left like this we will have a decline in output and export.

There will be no disagreement on the INOC law. Therefore we should separate the INOC law from the rest of the package to assure its rapid passage.

Mohammad Jubburi (former SOMO CEO)

We need centralised policy and decentralised distribution

What does the MOPDC think of direct distribution?

Prime Minister Nuri Al-Said passed a law in 1950's that allocated 70% to investment. The years between 52 and 58 were the golden age of infrastructure development. The Construction Board set up then led to major projects into the 1970s.

We lost 30-40 years of economy on war lets not lose more on partisan bickering.

Ali Baban

I don't support direct distribution as it will all be consumed. We need to allocate to investment. Direct distribution was practiced in Lybia and in smaller scale (indirect) elsewhere. Direct distribution will lead to economic decline

We are going to hold a session on the economy inspired by this one where such matters can be discussed.

The imbalance between investment and current budgets is disastrous. After long fight we only got 23% of budget for investment. We can not stop (restrain) current

spending. Iraqi state is like a charity. This is an expensive legacy. Iraqi state gives away by other means what would otherwise be direct distribution. Public Distribution System for example costs \$4bn of total waste. Investment will save the economy. The proportions should be closet to what the previous speaker mentioned 70-30 or thereabouts.

We can not scale back the entitlements now

TG

Amman meeting was mentioned several times. We received the recommendations and discussions on the internet. There is no problem with the recommendations they all start with supporting the law and recommending amendments to certain passages and mechanisms. However, there is lack of appreciation of the context of the drafting committee and the needs to accommodate differences and the Constitution.

Joint fields are addressed through unitization.

Yahia Said, Revenue Watch Institute

Thank you for organizing this important meeting.

The interventions despite differences of opinion reveal a remarkable level of agreement on the core compromise of the Oil and Gas Law which is a great achievement. The law establishes the fundamental principles of ownership and management of oil wealth and clarifies these issues in comparison with the constitution. The law is based on Article 111 of the constitution which is interpreted in a way that establishes oil as an undivided patrimony of the Iraqi people. This is a precious achievement which should be safeguarded.

The weakest point in the law is the limited role it gives to the CoR and the fragmentation of the decision making process. Competencies between the FOGC, MOO, INOC and the Regions are at times overlapping. FOGC is at times assuming parliamentary functions by having the ultimate authority to veto contracts. At times it is given Ministerial functions of policy design. Its procedures and composition are cumbersome which can paralyse the entire process and reduce transparency.

These shortcomings could be overcome on the basis of suggestions voiced here today such as presenting substantial contracts to parliament for a vote or putting MoO fully in charge of policy design. However, it is also necessary to remedy the causes of such fragmentation. In particular there is a need to address the legitimate concerns of the regions, governorates and minorities in general that majority based institutions like parliament and government may not adequately protect their interest.

The dilemma is how to establish coherent, effective and transparent central institutions free of ethnic quotas and partisanship while safeguarding the interest of the regions and governorates.

This dilemma is not limited to oil and its solution lies outside the hydrocarbon legislation. It pertains to all aspects of Iraq federalism. The answer lies in the

establishment and activation of a Federation Council as an upper chamber of parliament with equal votes for each governorate and substantial powers.

What we are seeing in the Oil and Gas Law, revenue law and others is an attempt by the regions to compensate for the absence of such a Federation Council by replicating it in miniature in every sector and thus contaminating the separation of legislative and executive and bringing the 'quota system' which belongs naturally in the federation council into government where it does not belong.

Technical Questions on the Law:

Great emphasis is being placed on the establishment of a single petroleum account which is indeed an important achievement of the draft law. However several matters need clarification. For example what is the mechanism for depositing oil revenues into the account? Will there be a continuation of the current DFI practice of requiring all buyers to deposit payments directly?

Related to this. What is the expected method of marketing Iraqi oil? Will SOMO continue to be the sole marketer?

Also there are several taxes and duties related to petroleum operations listed in the Oil and Gas law such as Royalties and Income Tax. Who will collect those and how if at all will they go into the single petroleum account?

Related to above, the Investment Law offers the possibility of tax holidays to investors will these apply to investors in the hydrocarbon sector? Who will have the authority to offer such concessions?

Finally, One of the conditions listed in the law on contracts is the 'national ownership of resources'. Will this prohibit contracts from allowing companies to 'book reserves'?

HS

Today Iraqi oil buyers are obliged to deposit revenues into to DFI. All revenues will be deposited into CBI. There will be one account. All other revenues will be added to this federal account. Distribution from this account will flow through the budget. They will be used among sectors and governorates, taking into account population distribution. The distribution mechanism will be the competence of the Prime Minister and the Minister of Finance. Ensuring execution as agreed and ensuring no accidents (delays) . There will be a supervising committee representing all regions and governorates.

SOMO will continue as an independent body managing marketing and will be the sole exporter of Iraqi oil. All operators will export through SOMO. All export revenues will go to the CBI account.

Oil contracts will be independent of the Investment Law. Even in the Downstream Law will have different incentives than this or the Investment Law. There will be requirements on environmental protection for example and on the output mix of

refineries. Private refiners will be granted long term contracts to purchase Iraqi crude at 1% discount from world price for Iraqi oil.

The booking of reserves will depend on contract in question. We do not prefer PSA but if they are signed they will carry same rules as everywhere.

Hameed Jaafar (Crescent Petroleum)

I want to congratulate the committee for getting to this stage. I am not a policy maker or a politician but an experienced petroleum man with 38 years of work.

I sent some recommendations and questions on the role of the private sector. The goal is to maximise the economic return to the Iraqi people, maximising output and using best practice, under the best conditions for the state. All other sloganeering is useless.

There should be a total separation between the regulator and operator. Private sector should be engaged in all stages. What is the ministry's plan in this context?

Fadhil Khan (Iraqi oil expert in UAE)

I agree with Faruks point on the independent advisors – what is the proportion of Iraqi and foreign experts. I would call for 6 out of 9 to be Iraqi.

Promotion of private sector – I used to be at the highest technical level at the national oil company in the UAE. The Emirates government issued incentives for the private sector and we all quit and set up companies and never looked back. In short order world class service companies were created. Later the incentives were removed and now its free competition.

Article 15 points to a private sector which can carry exploration and development concessions. Who can do that in Iraq today or even 10 years from now? should we not try to start small and let them build expertise first?

If the incentives are created and hopefully there will be security. I will be first to go back.

UN today is studying ways to help 4 million Iraqi refugees. It broke my heart that the UN is doing this for us as if we did not have the means. There are forced migrants from security. Resources should be allocated from oil revenue to deal with the refugees. Not future generations but current one.

HS

The conference in Geneva is convened mostly to support Syria and Jordan in taking care of the Iraqi refugees. At the COM yesterday we decided to address UNHCR call for funds. We take full responsibility for the refugees in Syria and Jordan and we will take care of them. We will dedicate more resources to this issues than any other government (and help them return)

We will be setting up a national oil services company which will include ten subsidiaries and we will invite Iraqi experts to help in the development of the services sector.

Iraqi private oil companies will be treated just like the foreigners in terms when it comes to Exploration and Development contracts. They will not be allowed to own oil oil.

TG

Future Generations fund will not have a set % as this may weaken our request for debt forgiveness and aid grants. This is why we left it open in the draft law.

AB

The failings of budget disbursements and execution are affecting all spending units and not only the KRG. MoO is one of the victims. This is a bureaucratic legacy. KRG is actually better off in collecting allocations than others. I participated in the determination of allocation to the KRG. I think the KRG received more than its fair share. Who will protect the rights of the regions and governorates and minorities? This is not the right question to ask from the perspective of economic development. This question is arising out of lack of trust. Economic decisions should only be based on efficiency considerations. The allocation to regions and governorates are secondary criteria. However, the current context and the sectarian tension created this problem. How do we address it? At the moment the solution is being sought through the establishment of institutions – monitoring, auditing etc. This raises the question of who will fill these institutions which automatically leads to ethnic quotas. In the discussion for the revenue law, for example, there was a proposal to have three sects represented in the three key finance positions PM, MOF and CBI Chief. This is the level of mistrust we are dealing with.

There is weakness in administration. This is a problem for the oil sector as well as others.

Maximising revenue is not the only criteria. Principally yes, but there is the issue of context, the exceptional context which is reflected in the law. You should take this into consideration to make a fair judgement about the law.

Jonathan Moro (Consultant to the KRG and the UN on the Constitutional Review)

The draft law articles are non-constitutional and in violation of article 112 regarding new fields. The regions could be viewed as having delegated their power to administer new fields to federal bodies including FOGS but they still have final say on those. The Ministry for example should not be given the right to monitor contract implementation throughout Iraq.

Oil provisions in the constitution are hardly changeable. All oil federations give large degree of independence to sub-national levels.

What will happen to fields after the formation of new regions? Will the fields given to INOC stay within its competence?

HS

The Constitution sets basic principles. The laws elaborate these principles. Constitutions are not meant to set detailed and rigid frameworks. This law is the joint understanding of the constitution by all those involved in its discussion including the KRG. All COM ministers including those from Kurdistan voted for the law. This is how we understand the Constitution. Going back and questioning the compliance with Constitution will represent a set back. We are not opposed, however, to amendments which will make it more compliant with Constitution. However, renegeing on the main principles agreed in the draft will be wrong.

TG

There are two views on the Constitution. I see that article 111 is the ruling article even in comparison to 112. We all agreed on this in the interest of the nation. We could have argued about these things for years but our commitment to the national interest made us agree.

This formulation provides important mechanisms. Unified revenues, unified policies, unified plans and unified marketing. Everything pours into the federal system and is distributed to the regions through the budget as approved by the peoples representatives.

AH

We are not asking for more money we only want what is rightfully ours and has been allocated to us in the budget.

There is a Constitution and there is a law. We all agreed on the draft law with conditions. The agreement was that there will be no amendments to the oil law. The distribution of revenues law should also be agreed to by the KRG. We have not seen it yet. You can not discuss oil law (in parliament) without our agreement.

Before this can happen, the annexes should be finished and agreed. Until now we have not seen them officially. I only saw them on the internet. Only later I got them from Committee. The proposed annexes give 82% of reserves to INOC. This is not good. The main purpose of the law is investment in oil. We fully support current draft but we need the annexes (they are like fuel for the car) If they stay as they are now we will not agree on them. If INOC is reduced to 50% say maybe but not ideal. Also we need to agree on the negotiations criteria with companies including model contracts before the law can go to CoR. This can not be done piecemeal. We will not budge on this. No law will go anywhere without complying with these conditions.

We published KRG draft in full transparency. We had feedback form companies, lawyers and banks we used them and benefited from them. We did not publish the federal law. We used many elements form KRG law in the federal law. We sat together with TG in Sulaimania and went article by article to do this.

In a month we need to finish those annexes. We are now a month late. Hopefully in a week or two I will go to Baghdad to continue the work on this.

We (KRG) must get our money straight from the oil fund. Not from the MoF not from the PM. KRG decides how to spend this money on the people of Kurdistan, the Iraqi people in Kurdistan.

TG

I am glad AH has talked so frankly so that you can see the context within which we worked.

On the issue of allocation of 82% to INOC I disagree with AH. We have a history of struggle over oil, including nationalisation. Not giving those fields to INOC means giving them to IOC's. This is vehemently opposed outside Kurdistan. Can INOC do this? Can INOC develop giant fields? Can it explore? This is a different matter (we don't have political disagreement as technicians) I believe we have to give INOC the authority to decide on this. If it can not do it alone INOC will have the right to enter into partnerships and contracts with others.

Why did KRG publish and MoO not? KRG drafted a law published it for discussion. We had a problem they did not have. We could not publish the federal draft without agreement on it by the Cabinet. We could not publish while there was fundamental difference in positions on constitutional interpretation.

Jabir Jabir, Member of Parliament

AB said that the draft has been agreed politically but the political parties involved are not representatives.

AH says parliament can vote but not amend. This violates the Constitution that he purports to defend.

Dhafir Al-Ani Petroleum Expert based in Jordan

Are we here as a PR exercise? If the law is a set political deal what are we doing here? What is the meaning of all discussion? What is worse amending the law or voting it down? What would you have liked to see in the law?

Post meeting Perss Conference

SA

Welcome the journalist who accompanied us all day. CoR organised this event in Dubai to benefit from input of petroleum experts. The meeting proceeded in a calm and professional atmosphere with the aim of rationalising the law to arrive at the national interest.

This is a precedent for the CoR and we hope to replicate it in the future for important laws. As you must have noticed there were disagreements presented in full transparency, frankness and clarity.

Iraqia

Oil and gas law was described as most important after the Constitution. What is the economic significance of the law for opening new economic horizons?

SA

It is critical for developing oil, which is critical for the development of country. The sector needs investment to compensate for damage and negligence. We need a new law that matches current circumstance and energises the sector but also contribute to political and security areas.

It is better to get a penny today to save an unemployed person and keep them alive than a putting a dollar into their account tomorrow when they are dead.

There will be no solution to Iraq's problems without developing the oil wealth and helping the army of the unemployed

Fighting terror and those who want Iraq to sop can only be achieved by such laws which open way for development and prosperity.

Journalist

After 8 months of debate AH seems to have brought us back to square one. How do you see the way forward?

Will future sessions following this format be also on this oil? Will they involve more Iraqis?

SA

AH statements should not be interpreted as going back to square one. He insisted on the importance of this law. He was calling for approving all the oil relevant laws as a package.

We like the model of this meeting and we like to benefit form expertise especially Iraqi to drive the legislative agenda.

AH

Agrees

Reuters

AH disagrees with some of the annexes allocating fields to INOC. Have the annexes changed? Where do you think compromise is possible on the annexes?

AH

There is no disagreement on the basic law but the draft is incomplete without the annexes. It also needs the revenue sharing agreement to be complete.

We need to make these assets work therefore we can not limit everything to a national oil company. We need to engage the private sector or make sure that INOC will engage with the private sector. I am confident we will end up taking a bit away from INOC and reach agreement on annexes.

HS

There are those who think that all upstream should be national and those who disagree. The annex is a compromise brokered by the chair of the energy committee (DPM De. Barham Salih). I am surprised AH says he didn't see them. We are happy to discuss but we at the energy committee have agreed on those annexes.

TG

In the Iraqi law there is a commitment by CoM and by the FOGC to develop all the explored fields and they should lay down procedures between all the parties Ministries, Regions, etc.,

Hurria

There is overlap between security and economic. Some say it is too soon to adopt the law in this security context. Do we have to wait?

SA

We should not wait. There is decline in the oil sector and others. We need vast resources.

Hurria

Question for AB, the International Compact with Iraq will be launched in two weeks what future will it draw for Iraq?

AB

What we really need is a domestic compact. I doubt we can have an international compact without a domestic one. But we will benefit from international attention and interest

Iraqia

Will the draft be presented to the political groups before the rest of parliament?
Will the presentation to parliament be delayed? Will parliament debate for three months? Do you see from today's discussion the need to change some articles, which ones?

SA

The political blocks are presented in COM and COR so no need to distribute to them yet. As soon as the draft comes back from the Shura council we will put it through the system .

HS

The political parties will discuss and develop their positions. We know from their representatives in the COM that they will work together to pass the laws on schedule. COR can of course decide otherwise and the government will just have to wait.

TG

There are two scenarios:

- 1) Technical (linguistic) amendments which all can agree on with no problems
- 2) Significant postponement of the law and/or major changes which change the essence of the law which we can not agree with.