

Iraqi oil in the balance

Press backgrounder on Iraq oil law, contracts and trade union repression

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The issue:

- The Bush/Cheney administration is prioritizing the passage of an Iraqi oil law before it leaves office. This renewed push began with Dick Cheney's visit to Iraq in March 2008. The next six months will be key to the future of Iraq's oil.
- The oil law would transfer the main role in oil development from the public sector to companies like BP, Shell and Exxon under fixed 30-year contracts.⁴

Hassan Juma'a:

Why should Iraqis want to introduce such contracts given that they will rob Iraq of the most important thing it owns? The law is unbalanced and incoherent with the hopes of those who work in the oil industry. It has been drafted in a great rush in harsh circumstances. It is more political than economic, and it threatens to set governorate against governorate and region against region.

Current situation on the law:

- A popular campaign, led by the oilworkers' trade union and by Iraqi oil experts, has so far been successful in stopping the law from passing for nearly 2 years – in spite of relentless pressure⁵ by the USA on the Iraqi authorities. In spring 2007, parliamentary opposition to the law reached a majority.
- The USA and its Iraqi allies have a 3-part strategy to pass the oil law: 1) broker new agreement between the Kurdish⁶ and some Shi'a parties; 2) neutralise opposition to the oil law; 3) offer political inducements for more Iraqi MPs to vote for the law.
- None of these is easy, given a complex political situation, tight timing in the run-up to US elections, and overwhelming Iraqi opposition. However, the Kurdish parties have made several trips to Baghdad to resolve their differences, and claim to be making progress.

Greg Muttitt:

Now Cheney and Bush are desperately pushing for the oil law to be passed before they leave office. The law would not only undermine Iraqi control over its natural resources, it could retard the country's development, increase unemployment and exacerbate conflict. Decisions about Iraq's oil should be made by Iraqis, not by occupation powers.

Steve Kretzmann:

It's no surprise that Cheney and Bush are pushing for this law. The proposed Iraq Oil Law is, in large part, what the war was for. This lame duck Administration is once again placing profits for the oil industry above the interests – and the lives – of Iraqis and Americans.

Attacking trade unions and oil law critics:

- The oilworkers' union has faced severe repression since the campaign against the oil law started to have success in spring 2007.⁷
- These attacks are now intensifying, in an effort to get the oil law passed. In May 2008, the Oil Minister decreed that 8 leading members of the union would be transferred from their jobs in Basra (where the union is based) to one of the most dangerous areas of Baghdad.⁸
- At the same time, four oil company managers who have opposed the oil law were also transferred from their positions.

Hassan Juma'a:

In the context of Iraqi security situation such a transfer is rightfully regarded as human rights crime. Such moves are due to our union's opposition to the oil and gas law, which seeks to seize the wealth of Iraqis.

Forthcoming service contracts:

- In the mean time, before passage of the oil law, the Iraqi government plans to sign service contracts for development of the largest oilfields. The first six are due to be signed on 30 June, with Shell, BP, ExxonMobil, Chevron and Total, plus four smaller companies. The fields concerned – including Kirkuk, Rumaila and West Qurna – account for around half of Iraq's known oil reserves.
- These are 2-year technical service contracts, for providing equipment and technical oversight. But in no other country do BP or Shell use such contracts; they're normally carried out by specialist companies like Schlumberger and Saipem.
- The majors' motivation in Iraq is what comes after: they have secured a right of first preference over all future contracts on those fields. Bizarrely, it was the companies themselves, not the government, that drafted the contracts – unheard of in any public procurement in any sector.
- Also on 30 June, a licensing round is to be launched for service contracts on a second, larger group of fields. 35 companies have been pre-qualified to bid in the round.

Greg Muttitt:

"These contracts are wolves in sheep's clothing. On the face of it, they're innocuous service contracts, but peel beneath the surface, and you see that company lawyers have been insisting on wide extension rights – giving companies access to the long-term control over Iraqi oil that they so desire. Civil society groups and parliamentarians should demand transparency of the contracts before they are signed".

What companies and governments say:

"We have done all our homework for Iraq. I'm not going to speculate on the timing, but we are ready to move"
Jeroen van der Veer, Chief Executive of Royal Dutch Shell, September 2006⁹

"We want to take risks and get incentivised to perform better; service contracts don't really allow us to do that. It's what we all want, all the international companies here. Production-sharing agreements offer a win-win situation."

John Heavyside, BP Business Manager for Iraq, September 2007¹⁰

"To bring international oil companies in for the modernisation that the sector requires is going to take some further steps on the part of the Iraqi government, most importantly a hydrocarbons law... As we have in the past, we've urged them to get on with it"

Ryan Crocker, US Ambassador to Iraq, March 2008¹¹

"The Americans are very keen to see this oil law pushed through this year. It came to a standstill but I think we have now broken the standstill and have agreed to go back to the original text. There will be progress this year."
Hoshyar Zebari, Iraq Foreign Minister, May 2008¹²

Websites

PLATFORM: www.carbonweb.org/iraq

Iraq Federation of Oil Unions: www.basraoilunion.org (English and Arabic)

Oil Change International: <http://priceofoil.org/thepriceofoil/war-terror/iraqi-oil-law/>

FAQs

Isn't the oil law about revenue sharing?

No – although this is how the US administration has described it; in order to justify their intense pressure for it, on grounds of reconciliation. Of 43 articles in the law, only one (art. 11) even mentions revenue sharing between regions and provinces, and that simply says that a separate law will determine that issue.

Why shouldn't the sovereign Iraqi government sign contracts or pass laws as it sees fit?

This law was shaped and driven by the USA and UK, not by Iraqis. The US Agency for International Development installed a team of lawyers in the Embassy in March 2006, to advise the new Oil Minister on drafting the law, before a Minister had even been appointed. With this headstart, the Oil Law was one of the first laws to be drafted after the permanent government was formed in May.

Within days of completion of the draft oil law in July 2006, it had been closely reviewed by American and British officials; it was barely two weeks before it was also shown to oil companies including ExxonMobil, Chevron, BP and Shell at a meeting in Washington, DC. It would only be nine months later – in March 2007 – that even Iraqi parliamentarians would see it. And Iraqi civil society groups would have to wait a whole year till July 2007.¹³

The February 2007 Iraqi cabinet approval of the draft oil law was brokered by the then US Ambassador, Zalmay Khalilzad. Ever since, the USA has relentlessly pressured Iraq to pass the law.⁴

Without external pressure, the oil law simply would not pass in Iraq, as it's too unpopular.

What's the difference between a service contract and a production sharing agreement?

Service contracts are a normal model of business, where a company acts as contractor, providing a service to its client, a government or national oil company, for an agreed price. The government makes the decisions and receives the revenues. It's the model used in the nationalised industries of the region, such as in Saudi Arabia and Kuwait.

Production sharing agreements (PSAs) involve the company investing risked capital; it gets exclusive rights to develop and produce the oil within the contract area, it controls the operation, and makes healthy returns on its capital by receiving a share of the revenues. And in Iraq, oil companies have made it clear that PSAs are what they really want – even though the vast majority of Iraqis oppose them, seeing them as an effective surrender of sovereignty over Iraq's natural resources.

If the Iraqi government is signing contracts, why does it need the oil law?

Iraqi law (specifically the partial nationalization law of 1961, and the full nationalization laws of 1972-75) only permit the Iraq National Oil Company and its subsidiaries to manage oilfields. Service contracts are permitted, as control remains with the Iraqi company. The current planned contracts step very close to the boundary, and no doubt lawyers have carefully scrutinized how far they can go under existing law.

How much oil does Iraq have?

The best estimates are that Iraq has 115 billion barrels of proven reserves – approximately 10% of the world's total, the world's third largest. Only 16 of Iraq's known 75 fields have been developed. There is also considerable unexplored potential; 2007 estimates by the consultancy IHS energy suggest that with likely new discoveries, Iraq's reserves could double.¹⁴

Iraq's economy is heavily dependent on oil, which accounts for about 70% of GDP, and 95% of government revenues.

Doesn't Iraq need foreign capital and technology?

Reliance on multinational companies is not economically necessary for development of Iraq's oil. Iraqis have considerable technical skills, and any new technology they lack can be provided under service

contracts, which do not cede control over the resource, and are commonly used in the region. The capital requirement is quite achievable from public budgets, or alternatively from bank loans.¹⁵ Indeed, the Iraqi government has had serious problems with *unspent* capital funds – unspent amounts available in the Oil Ministry alone could fund two years' worth of development. The decision of where to obtain these funds is a political, not economic one.

Notes and references

¹ The IFOU, formed in April 2003, represents more than half of Iraq's oilworkers

² PLATFORM monitors the human rights, development and environment impacts of the oil industry

³ Oil Change International exposes the true price of oil and campaigns to overcome political barriers to a clean energy transition

⁴ The contracts, known as production sharing agreements, would give foreign companies exclusive rights to develop and produce the oil. They would fix the economic terms for their entire duration. They would likely contain stabilisation clauses, which require future governments to compensate the oil companies for any future laws that affect their profits.

⁵ Passage of the oil law is the top political 'benchmark' announced in President Bush's January 2007 new strategy, alongside the 'surge' in troop numbers. On every trip to Iraq by senior members of the US administration – including Bush, Cheney, Rice and Gates – the oil law is the main topic discussed. There is a team of at least 20 US officials in the Embassy in Baghdad working full time on the oil law, and it is a major priority of Ambassador Ryan Crocker. The USA has made aid and reconstruction funds conditional on the law's passage, and even threatened in spring/summer 2007 to topple the al-Maliki government if the law weren't passed. The International Monetary Fund has also made it a condition of debt reduction.

⁶ Whilst the campaign held up the oil law, the Kurdistan Regional Government lost patience, and in September 2007 started signing its own contracts. In the space of two months, it signed away nearly half the land area of the Kurdistan Region, and some parts outside its jurisdiction. All were no-bid contracts. The resulting dispute about constitutional authority prevented any movement on the oil law, until Cheney's March visit, when he insisted that the Kurds do a deal with Baghdad.

⁷ In June 2007, arrest warrants were issued for the union's leaders, and troops sent into worksites in response to a protest. Union leaders have also been threatened in their homes.

⁸ At the same time, four oil company managers who have opposed the oil law were also transferred.

⁹ speaking at the OPEC conference, Vienna, 13 September 2006

¹⁰ Speaking at Iraq Petroleum Conference, Dubai, 8-10 September

¹¹ Remarks by Vice President Cheney, General David Petraeus and Ambassador Ryan Crocker in Press Availability, 18 March 2008, Business Wire

¹² Middle East Economic Digest, 23 May 2008, Baghdad to limit power of revived Inoc

¹³ even then, it was only published because copies had leaked and were already circulating

¹⁴ IHS Inc, 18 April 2007, 'IHS launches first detailed report on Iraq's oil reserves

and production potential since start of Iraq conflict', at <http://www.ihs.com/News/Press-Releases/2007/IraqAtlas.htm>

¹⁵ This point has been demonstrated by numerous Iraqi and non-Iraqi experts. See for example, Merklein, H, 2006, 'Who needs Big Oil in Iraq?', *Middle East Economic Survey*, 49:29, 17 July, pp.25-29, and 49:30, 24 July, pp.29-33