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29 July 2014

The Hon. Gray Miller
United States District Judge
United States District Court for the Southern District of Texas
515 Rusk St.
Houston, Texas 77002
c/o Ms. Rhonda Moore-Konieczny
Case Manager
cm4141@txs.uscourts.gov

Dear Judge Miller:

Re: Ministry of Oil of the Republic of Iraq v. 1,032,212 Barrels of Crude Oil Aboard the United Kalavryta and the Ministry of Natural Resources of the Kurdistan Regional Governate of Iraq, Civil Case No. 3:14-cv-249

We write on behalf of the Kurdistan Regional Government (“KRG”), which has been named in a complaint filed in this Court by the federal Ministry of Oil of the Republic of Iraq (“Ministry of Oil”) in the above-referenced matter.

Through recent press reports, the KRG has become aware of the complaint filed in the captioned matter by the Ministry of Oil on 28 July 2014 with regard to a cargo of oil aboard the United Kalavryta that belonged to the KRG prior to being shipped and sold (the “oil cargo”). The KRG has not been served with process in this case and does not waive its right to service of process through the appropriate channels. Nor does the KRG consent to the jurisdiction of the U.S. courts or waive its sovereign immunity, or any other rights, in any respect. The KRG expressly reserves all rights, defenses, objections, and immunities, including in particular its right to service of process, all jurisdictional defenses and objections, and its sovereign immunity, and should the KRG be served with process in this matter, the KRG will raise these objections in appropriate pleadings. The KRG does not concede in rem jurisdiction over the oil cargo.

Nevertheless, the KRG wishes to correct certain misrepresentations in the Ministry of Oil’s complaint. The oil cargo in question belonged to the KRG before it was legally shipped and sold pursuant to the KRG’s authority under the 2005 federal Iraqi Constitution and subsequent Kurdistan law. That constitution reserves the authority over oil produced in the Kurdistan Region exclusively to the KRG.

The oil cargo was legally produced and exported from within the undisputed boundaries of the Kurdistan Region. It was exported through the Republic of Turkey and loaded under the supervision and with the consent of Turkish authorities, which do not recognize the claims of the federal government of Iraq and against which no injunction or order exists. The U.S.

Government has not objected to the sale or unloading of the oil cargo, nor has any other governmental authority.

The Ministry of Oil's request for the seizure of the oil cargo aboard the United Kalavryta should never have been brought in any U.S. court. The oil cargo is not in U.S. territory, and even if it were, the Ministry of Oil's claims raise fundamentally important issues of Iraqi constitutional law that cannot be argued in foreign courts without the KRG's consent. These issues implicate fundamental aspects of the KRG's sovereignty over its natural resources, essential for its development and its ability to provide for the basic needs of its people. The importance of the KRG's right to manage the oil and gas extracted on its territory has become even more critical in light of the federal government's failure to fulfill its obligations to the KRG under Iraqi and international law, as well as the extreme security threat and influx of over one million refugees in recent months from Syria and other parts of Iraq due to the terrorist activities of the Islamic State of Iraq and Levant ("ISIS").

The Ministry of Oil is seeking to export this internal constitutional dispute between the federal government of Iraq and the KRG to the U.S. federal courts because the federal Iraqi courts have already rejected the Ministry of Oil's request for an order preventing this and similar oil sales by the KRG. Specifically, the Iraqi Supreme Federal Court determined that it would not issue the requested injunction until the underlying Iraqi constitutional dispute had been resolved. Given its significance and political implications, the KRG believes that this dispute cannot be resolved by a foreign court without the KRG's consent.

The KRG has substantial claims against the federal government of Iraq under the Iraqi Constitution and international law. Under Article 112 of the Constitution, the KRG is entitled to 17% of all proceeds that the federal government of Iraq receives from the sale of oil and gas as a result of the federal government's obligation to distribute revenue "in a fair manner in proportion to the population distribution in all parts of the country." Despite that clear obligation, the federal government of Iraq has failed to provide the requisite payments to the KRG. Over the last ten years, the federal government of Iraq has unlawfully withheld approximately USD 27 billion from the people of the Kurdistan Region; since January 2014 alone, the federal government of Iraq has unlawfully withheld approximately USD 7 billion.

In addition, the federal government is also required under Article 112 of the Iraqi Constitution to "specif[y] an allotment for a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country." The federal government has failed to provide any such allocation in reparation for the oppression, war crimes including the use of chemical weapons, genocide, and economic misery caused by former Iraqi regimes, including that of Saddam Hussein. The full damages suffered by the KRG and Kurdistan are not less than USD 384 billion. Despite repeated requests by the KRG, this amount remains outstanding. Finally, the KRG has suffered additional damages recently to its economy and to its people as a direct result of Iraq's imposition of an air embargo for cargo, including medicine and other essential goods.

For the ease of the Court's reference, we attach the following documents:

1. The full English translation of the 2005 federal Iraqi Constitution;
2. The Oil and Gas Law of the Kurdistan Region;

3. Kurdistan Law No. 5 on Identifying and Obtaining Financial Dues to the Kurdistan Region - Iraq from Federal Revenue;
4. The expert opinion of Prof. James Crawford regarding the Authority of the Kurdistan Regional Government over Oil and Gas under the Constitution of Iraq;
5. Letter from the Prime Minister of the Kurdistan Region to the Iraq Federal Prime Minister, dated 24 July 2013 and attaching documents showing the unlawfully withheld payments of USD 27 billion over the last ten years;
6. Letter from the Prime Minister of the Kurdistan Region to the Iraq Federal Prime Minister, dated 6 August 2013 and attaching documents showing the unlawfully withheld payments of USD 384 billion;
7. A press release issued by the KRG on 20 June 2014 regarding oil exports;
8. A press release issued by the KRG on 27 June 2014 regarding the Ruling of the Iraqi Supreme Federal Court;
9. A press release issued by the KRG on 29 June 2014, attaching the English translation of a letter from the Minister of Natural Resources of the KRG to the Federal Minister of Oil; and
10. The Legal Notice published by the KRG in the *Financial Times* on 14 July 2014.

For all of the foregoing reasons, the KRG respectfully submits that this court has no jurisdiction over either the KRG or this dispute, which directly implicates a fundamental question of Iraqi law. In any case, there is no merit whatsoever to the allegations of the Ministry of Oil; to the contrary, it is the federal government of Iraq that has acted wrongfully and that will have to answer to the KRG's substantial counter-claims.

Sincerely,



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IRAQI
CONSTITUTION

The Preamble

In the name of God, the Most merciful, the Most compassionate

{ We have honored the sons of Adam }

We, the people of Mesopotamia, the homeland of the apostles and prophets, resting place of the virtuous imams, cradle of civilization, crafters of writing, and home of numeration. Upon our land the first law made by man was passed, and the oldest pact of just governance was inscribed, and upon our soil the saints and companions of the Prophet prayed, philosophers and scientists theorized, and writers and poets excelled;

Acknowledging God's right over us, and in fulfillment of the call of our homeland and citizens, and in a response to the call of our religious and national leaderships and the determination of our great authorities and of our leaders and politicians, and in the midst of international support from our friends and those who love us, marched for the first time in our history towards the ballot boxes by the millions, men and women, young and old, on the thirtieth of January 2005, invoking the pains of sectarian oppression inflicted by the autocratic clique and inspired by the tragedies of Iraq's martyrs, Shiite and Sunni, Arabs and Kurds and Turkmen and from all other components of the people, and recollecting the darkness of the ravage of the holy cities and the South in the Sha'abaniyya uprising and burnt by the flames of grief of the mass graves, the marshes, Al-Dujail and others and articulating the sufferings of racial oppression in the massacres of Halabcha, Barzan, Anfal and the Fayli Kurds and inspired by the ordeals of the Turkmen in Bashir and the sufferings of the people of the western region, as is the case in the remaining areas of Iraq where the people suffered from the liquidation of their leaders, symbols, and Sheiks and from the displacement of their skilled individuals and from drying out of its cultural and intellectual wells, so we sought hand in hand and shoulder to shoulder to create our new Iraq, the Iraq of the future, free from sectarianism, racism, complex of regional attachment, discrimination, and exclusion.

Accusations of being infidels, and terrorism did not stop us from marching forward to build a nation of law. Sectarianism and racism have not stopped us from marching together to strengthen our national unity, following the path of peaceful transfer of power, adopting the course of just distribution of resources, and providing equal opportunity for all.

We, the people of Iraq, who have just risen from our stumble, and who are looking with confidence to the future through a republican, federal, democratic, pluralistic system, have resolved with the determination of our men, women, elderly, and youth to respect the rule of law, to establish justice and equality, to cast aside the politics of aggression, to pay attention to women and their rights, the elderly and their concerns, and children and their affairs, to spread the culture of diversity, and to defuse terrorism.

We, the people of Iraq, of all components and across the spectrum, have taken upon ourselves to decide freely and by choice to unite our future, to take lessons from yesterday for tomorrow, and to enact this permanent Constitution, through the values and ideals of the heavenly messages and the findings of science and man's civilization. The adherence to this Constitution preserves for Iraq its free union of people, of land, and of sovereignty.

Section One

Fundamental Principles

Article 1:

The Republic of Iraq is a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic, and this Constitution is a guarantor of the unity of Iraq.

Article 2:

First: Islam is the official religion of the State and is a foundation source of legislation:

- A. No law may be enacted that contradicts the established provisions of Islam
- B. No law may be enacted that contradicts the principles of democracy.
- C. No law may be enacted that contradicts the rights and basic freedoms stipulated in this Constitution.

Second: This Constitution guarantees the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights to freedom of religious belief and practice of all individuals such as Christians, Yazidis, and Mandaean Sabians.

Article 3:

Iraq is a country of multiple nationalities, religions, and sects. It is a founding and active member in the Arab League and is committed to its charter, and it is part of the Islamic world.

Article 4:

First: The Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Syriac, and Armenian shall be guaranteed in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions.

Second: The scope of the term “official language” and the means of applying the provisions of this article shall be defined by a law and shall include:

- A. Publication of the Official Gazette, in the two languages;
- B. Speech, conversation, and expression in official domains, such as the Council of Representatives, the Council of Ministers, courts, and official conferences, in either of the two languages;

- C. Recognition and publication of official documents and correspondence in the two languages;
- D. Opening schools that teach the two languages, in accordance with the educational guidelines;
- E. Use of both languages in any matter enjoined by the principle of equality such as bank notes, passports, and stamps.

Third: The federal and official institutions and agencies in the Kurdistan region shall use both languages.

Fourth: The Turkomen language and the Syriac language are two other official languages in the administrative units in which they constitute density of population.

Fifth: Each region or governorate may adopt any other local language as an additional official language if the majority of its population so decides in a general referendum.

Article 5:

The law is sovereign. The people are the source of authority and legitimacy, which they shall exercise in a direct, general, secret ballot and through their constitutional institutions.

Article 6:

Transfer of authority shall be made peacefully through democratic means as stipulated in this Constitution.

Article 7:

First: Any entity or program that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (takfir) or ethnic cleansing, especially the Saddamist Ba'ath in Iraq and its symbols, under any name whatsoever, shall be prohibited. Such entities may not be part of political pluralism in Iraq. This shall be regulated by law.

Second: The State shall undertake to combat terrorism in all its forms, and shall work to protect its territories from being a base, pathway, or field for terrorist activities.

Article 8:

Iraq shall observe the principles of good neighborliness, adhere to the principle of non-interference in the internal affairs of other states, seek to settle disputes by peaceful means, establish relations on the basis of mutual interests and reciprocity, and respect its international obligations.

Article 9:

First:

- A- The Iraqi armed forces and security services will be composed of the components of the Iraqi people with due consideration given to their balance and representation without discrimination or exclusion. They shall be subject to the control of the civilian authority, shall defend Iraq, shall not be used as an instrument to oppress the Iraqi people, shall not interfere in the political affairs, and shall have no role in the transfer of authority.
- B- The formation of military militias outside the framework of the armed forces is prohibited.
- C- The Iraqi armed forces and their personnel, including military personnel working in the Ministry of Defense or any subordinate departments or organizations, may not stand for election to political office, campaign for candidates, or participate in other activities prohibited by Ministry of Defense regulations. This ban includes the activities of the personnel mentioned above acting in their personal or professional capacities, but shall not infringe upon the right of these personnel to cast their vote in the elections.
- D- The Iraqi National Intelligence Service shall collect information, assess threats to national security, and advise the Iraqi government. This Service shall be under civilian control, shall be subject to legislative oversight, and shall operate in accordance with the law and pursuant to the recognized principles of human rights.
- E- The Iraqi Government shall respect and implement Iraq's international obligations regarding the non-proliferation, non-development, non-production, and non-use of nuclear, chemical, and biological weapons, and shall prohibit associated equipment, materiel, technologies, and delivery systems for use in the development, manufacture, production, and use of such weapons.

Second: Military service shall be regulated by law.

Article 10:

The holy shrines and religious sites in Iraq are religious and civilizational entities. The State is committed to assuring and maintaining their sanctity, and to guaranteeing the free practice of rituals in them.

Article 11:

Baghdad is the capital of the Republic of Iraq.

Article 12:

First: The flag, national anthem, and emblem of Iraq shall be regulated by law in a way that symbolizes the components of the Iraqi people.

Second: A law shall regulate honors, official holidays, religious and national occasions and the Hijri and Gregorian calendar.

Article 13:

First: This Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception.

Second: No law that contradicts this Constitution shall be enacted. Any text in any regional constitutions or any other legal text that contradicts this Constitution shall be considered void.

Section Two

Rights and Liberties

Chapter One

[Rights]

First: Civil and Political Rights

Article 14:

Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.

Article 15:

Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority.

Article 16:

Equal opportunities shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken.

Article 17:

First: Every individual shall have the right to personal privacy so long as it does not contradict the rights of others and public morals.

Second: The sanctity of the homes shall be protected. Homes may not be entered, searched, or violated, except by a judicial decision in accordance with the law.

Article 18:

First: Iraqi citizenship is a right for every Iraqi and is the basis of his nationality.

Second: Anyone who is born to an Iraqi father or to an Iraqi mother shall be considered an Iraqi. This shall be regulated by law.

Third:

A. An Iraqi citizen by birth may not have his citizenship withdrawn for any reason. Any person who had his citizenship withdrawn shall have the right to demand its reinstatement. This shall be regulated by a law.

B. Iraqi citizenship shall be withdrawn from naturalized citizens in cases regulated by law.

Fourth: An Iraqi may have multiple citizenships. Everyone who assumes a senior, security or sovereign position must abandon any other acquired citizenship. This shall be regulated by law.

Fifth: Iraqi citizenship shall not be granted for the purposes of the policy of population settlement that disrupts the demographic composition of Iraq.

Sixth: Citizenship provisions shall be regulated by law. The competent courts shall consider the suits arising from those provisions.

Article 19:

First: The judiciary is independent and no power is above the judiciary except the law.

Second: There is no crime or punishment except by law. The punishment shall only be for an act that the law considers a crime when perpetrated. A harsher punishment than the applicable punishment at the time of the offense may not be imposed.

Third: Litigation shall be a protected and guaranteed right for all.

Fourth: The right to a defense shall be sacred and guaranteed in all phases of investigation and the trial.

Fifth: The accused is innocent until proven guilty in a fair legal trial. The accused may not be tried for the same crime for a second time after acquittal unless new evidence is produced.

Sixth: Every person shall have the right to be treated with justice in judicial and administrative proceedings.

Seventh: The proceedings of a trial are public unless the court decides to make it secret.

Eighth: Punishment shall be personal.

Ninth: Laws shall not have retroactive effect unless stipulated otherwise. This exclusion shall not include laws on taxes and fees.

Tenth: Criminal laws shall not have retroactive effect, unless it is to the benefit of the accused.

Eleventh: The court shall appoint a lawyer at the expense of the state for an accused of a felony or misdemeanor who does not have a defense lawyer.

Twelfth:

- A. Unlawful detention shall be prohibited.
- B. Imprisonment or detention shall be prohibited in places not designed for these purposes, pursuant to prison laws covering health and social care, and subject to the authorities of the State.

Thirteenth: The preliminary investigative documents shall be submitted to the competent judge in a period not to exceed twenty-four hours from the time of the arrest of the accused, which may be extended only once and for the same period.

Article 20:

Iraqi citizens, men and women, shall have the right to participate in public affairs and to enjoy political rights including the right to vote, elect, and run for office.

Article 21:

First: No Iraqi shall be surrendered to foreign entities and authorities.

Second: A law shall regulate the right of political asylum in Iraq. No political refugee shall be surrendered to a foreign entity or returned forcibly to the country from which he fled.

Third: Political asylum shall not be granted to a person accused of committing international or terrorist crimes or to any person who inflicted damage on Iraq.

Second: Economic, Social and Cultural Liberties

Article 22:

First: Work is a right for all Iraqis in a way that guarantees a dignified life for them.

Second: The law shall regulate the relationship between employees and employers on economic bases and while observing the rules of social justice.

Third: The State shall guarantee the right to form and join unions and professional associations, and this shall be regulated by law.

Article 23:

First: Private property is protected. The owner shall have the right to benefit, exploit and dispose of private property within the limits of the law.

Second: Expropriation is not permissible except for the purposes of public benefit in return for just compensation, and this shall be regulated by law.

Third:

- A. Every Iraqi shall have the right to own property anywhere in Iraq. No others may possess immovable assets, except as exempted by law.
- B. Ownership of property for the purposes of demographic change is prohibited.

Article 24:

The State shall guarantee freedom of movement of Iraqi manpower, goods, and capital between regions and governorates, and this shall be regulated by law.

Article 25:

The State shall guarantee the reform of the Iraqi economy in accordance with modern economic principles to insure the full investment of its resources, diversification of its sources, and the encouragement and development of the private sector.

Article 26:

The State shall guarantee the encouragement of investment in the various sectors, and this shall be regulated by law.

Article 27:

First: Public assets are sacrosanct, and their protection is the duty of each citizen.

Second: The provisions related to the preservation of State properties, their management, the conditions for their disposal, and the limits for these assets not to be relinquished shall all be regulated by law.

Article 28:

First: No taxes or fees shall be levied, amended, collected, or exempted, except by law.

Second: Low income earners shall be exempted from taxes in a way that guarantees the preservation of the minimum income required for living. This shall be regulated by law.

Article 29:

First:

- A. The family is the foundation of society; the State shall preserve it and its religious, moral, and national values.
- B. The State shall guarantee the protection of motherhood, childhood and old age, shall care for children and youth, and shall provide them with the appropriate conditions to develop their talents and abilities.

Second: Children have the right to upbringing, care and education from their parents. Parents have the right to respect and care from their children, especially in times of need, disability, and old age.

Third: Economic exploitation of children in all of its forms shall be prohibited, and the State shall take the necessary measures for their protection.

Fourth: All forms of violence and abuse in the family, school, and society shall be prohibited.

Article 30:

First: The State shall guarantee to the individual and the family - especially children and women – social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing.

Second: The State shall guarantee social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, orphanhood, or unemployment, shall work to protect them from ignorance, fear and poverty, and shall provide them housing and special programs of care and rehabilitation, and this shall be regulated by law.

Article 31:

First: Every citizen has the right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions.

Second: Individuals and entities have the right to build hospitals, clinics, or private health care centers under the supervision of the State, and this shall be regulated by law.

Article 32:

The State shall care for the handicapped and those with special needs, and shall ensure their rehabilitation in order to reintegrate them into society, and this shall be regulated by law.

Article 33:

First: Every individual has the right to live in safe environmental conditions.

Second: The State shall undertake the protection and preservation of the environment and its biological diversity.

Article 34:

First: Education is a fundamental factor for the progress of society and is a right guaranteed by the state. Primary education is mandatory and the state guarantees that it shall combat illiteracy.

Second: Free education in all its stages is a right for all Iraqis.

Third: The State shall encourage scientific research for peaceful purposes that serve humanity and shall support excellence, creativity, invention, and different aspects of ingenuity.

Fourth: Private and public education shall be guaranteed, and this shall be regulated by law.

Article 35:

The state shall promote cultural activities and institutions in a manner that befits the civilizational and cultural history of Iraq, and it shall seek to support indigenous Iraqi cultural orientations.

Article 36:

Practicing sports is a right of every Iraqi and the state shall encourage and care for such activities and shall provide for their requirements.

Chapter Two
[Liberties]

Article 37:

First:

- A. The liberty and dignity of man shall be protected.
- B. No person may be kept in custody or investigated except according to a judicial decision.
- C. All forms of psychological and physical torture and inhumane treatment are prohibited. Any confession made under force, threat, or torture shall

not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law.

Second: The State shall guarantee protection of the individual from intellectual, political and religious coercion.

Third: Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited.

Article 38:

The State shall guarantee in a way that does not violate public order and morality:

- A. Freedom of expression using all means.
- B. Freedom of press, printing, advertisement, media and publication.
- C. Freedom of assembly and peaceful demonstration, and this shall be regulated by law.

Article 39:

First: The freedom to form and join associations and political parties shall be guaranteed, and this shall be regulated by law.

Second: It is not permissible to force any person to join any party, society, or political entity, or force him to continue his membership in it.

Article 40:

The freedom of communication and correspondence, postal, telegraphic, electronic, and telephonic, shall be guaranteed and may not be monitored, wiretapped, or disclosed except for legal and security necessity and by a judicial decision.

Article 41:

Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law.

Article 42:

Each individual shall have the freedom of thought, conscience, and belief.

Article 43:

First: The followers of all religions and sects are free in the:

- A- Practice of religious rites, including the Husseinian rituals.
- B- Management of religious endowments (waqf), their affairs, and their religious institutions, and this shall be regulated by law.

Second: The State shall guarantee freedom of worship and the protection of places of worship.

Article 44:

First: Each Iraqi has freedom of movement, travel, and residence inside and outside Iraq.

Second: No Iraqi may be exiled, displaced, or deprived from returning to the homeland.

Article 45:

First: The State shall seek to strengthen the role of civil society institutions, and to support, develop and preserve their independence in a way that is consistent with peaceful means to achieve their legitimate goals, and this shall be regulated by law.

Second: The State shall seek the advancement of the Iraqi clans and tribes, shall attend to their affairs in a manner that is consistent with religion and the law, and shall uphold their noble human values in a way that contributes to the development of society. The State shall prohibit the tribal traditions that are in contradiction with human rights.

Article 46:

Restricting or limiting the practice of any of the rights or liberties stipulated in this Constitution is prohibited, except by a law or on the basis of a law, and insofar as that limitation or restriction does not violate the essence of the right or freedom.

Section Three

Federal Powers

Article 47:

The federal powers shall consist of the legislative, executive, and judicial powers, and they shall exercise their competencies and tasks on the basis of the principle of separation of powers.

Chapter one

[The Legislative Power]

Article 48:

The federal legislative power shall consist of the Council of Representatives and the Federation Council.

First: The Council of Representatives

Article 49:

First: The Council of Representatives shall consist of a number of members, at a ratio of one seat per 100,000 Iraqi persons representing the entire Iraqi people. They shall be elected through a direct secret general ballot. The representation of all components of the people shall be upheld in it.

Second: A candidate to the Council of Representatives must be a fully qualified Iraqi.

Third: A law shall regulate the requirements for the candidate, the voter, and all that is related to the elections.

Fourth: The elections law shall aim to achieve a percentage of representation for women of not less than one-quarter of the members of the Council of Representatives.

Fifth: The Council of Representatives shall promulgate a law dealing with the replacement of its members on resignation, dismissal, or death.

Sixth: It is not permissible to combine membership in the Council of Representatives with any work or other official position.

Article 50:

Each member of the Council of Representatives shall take the following constitutional oath before the Council prior to assuming his duties:

“I swear by God Almighty to carry out my legal duties and responsibilities with devotion and integrity and preserve the independence and sovereignty of Iraq, and safeguard the interests of its people, and ensure the safety of its land, sky, water, wealth, and federal democratic system, and I shall endeavor to protect public and private liberties, the independence of the judiciary, and pledge to implement legislation faithfully and neutrally. God is my witness.”

Article 51:

The Council of Representatives shall establish its bylaws to regulate its work.

Article 52:

First: The Council of Representatives shall decide, by a two-thirds majority, the authenticity of membership of its member within thirty days from the date of filing an objection.

Second: The decision of the Council of Representatives may be appealed before the Federal Supreme Court within thirty days from the date of its issuance.

Article 53:

First: Sessions of the Council of Representatives shall be public unless, for reasons of necessity, the Council decides otherwise.

Second: Minutes of the sessions shall be published by means considered appropriate by the Council.

Article 54:

The President of the Republic shall call upon the Council of Representatives to convene by a presidential decree within fifteen days from the date of the ratification of the general election results. Its eldest member shall chair the first session to elect the speaker of the Council and his two deputies. This period may not be extended by more than the aforementioned period.

Article 55:

The Council of Representatives shall elect in its first session its speaker, then his first deputy and second deputy, by an absolute majority of the total number of the Council members by direct secret ballot.

Article 56:

First: The electoral term of the Council of Representatives shall be four calendar years, starting with its first session and ending with the conclusion of the fourth year.

Second: The new Council of Representatives shall be elected forty-five days before the conclusion of the preceding electoral term.

Article 57:

The Council of Representatives shall have one annual term, with two legislative sessions, lasting eight months. The bylaws shall define the method to convene the sessions. The session in which the general budget is being presented shall not end until approval of the budget.

Article 58:

First: The President of the Republic, the Prime Minister, the Speaker of the Council of Representatives, or fifty members of the Council of Representatives may call the Council to an extraordinary session. The session shall be restricted to the topics that necessitated the call for the session.

Second: The legislative session of the Council of Representatives may be extended for no more than 30 days to complete the tasks that require the extension, based on a request from the President of the Republic, the Prime Minister, the Speaker of the Council, or fifty members of the Council of Representatives.

Article 59:

First:

The Council of Representatives quorum shall be achieved by an absolute majority of its members.

Second:

Decisions in the sessions of the Council of Representatives shall be made by a simple majority after quorum is achieved, unless otherwise stipulated.

Article 60:

First:

Draft laws shall be presented by the President of the Republic and the Council of Ministers.

Second:

Proposed laws shall be presented by ten members of the Council of Representatives or by one of its specialized committees.

Article 61:

The Council of Representatives shall be competent in the following:

First: Enacting federal laws.

Second: Monitoring the performance of the executive authority.

Third: Electing the President of the Republic.

Fourth: Regulating the ratification process of international treaties and agreements by a law, to be enacted by a two-thirds majority of the members of the Council of Representatives.

Fifth: Approving the appointment of the following:

- A. The President and members of the Federal Court of Cassation, the Chief Public Prosecutor, and the President of Judicial Oversight Commission by an absolute majority, based on a proposal from the Higher Juridical Council.
- B. Ambassadors and those with special grades, based on a proposal from the Council of Ministers.
- C. The Iraqi Army Chief of Staff, his assistants, those of the rank of division commander and above, and the director of the intelligence service, based on a proposal from the Council of Ministers.

Sixth:

- A. Questioning the President of the Republic, based on a petition with cause, by an absolute majority of the members of the Council of Representatives.
- B. Relieving the President of the Republic by an absolute majority of the Council of Representatives after being convicted by the Federal Supreme Court in one of the following cases:
 - 1- Perjury of the constitutional oath.
 - 2- Violating the Constitution.
 - 3- High treason.

Seventh:

- A. A member of the Council of Representatives may direct questions to the Prime Minister and the Ministers on any subject within their specialty and each of them shall answer the members' questions. Only the member who has asked the question shall have the right to comment on the answer.
- B. At least twenty-five members of the Council of Representatives may raise a general issue for discussion in order to inquire about a policy and the performance of the Council of Ministers or one of the Ministries and it shall be submitted to the Speaker of the Council of Representatives, and

the Prime Minister or the Ministers shall specify a date to come before the Council of Representatives to discuss it.

- C. A member of the Council of Representatives, with the agreement of twenty-five members, may direct an inquiry to the Prime Minister or the Ministers to call them to account on the issues within their authority. The debate shall not be held on the inquiry except after at least seven days from the date of submission of the inquiry.

Eighth:

- A. The Council of Representatives may withdraw confidence from one of the Ministers by an absolute majority and he shall be considered resigned from the date of the decision of withdrawal of confidence. A vote of no confidence in a Minister may not be held except upon his request or on the basis of a request signed by fifty members after the Minister has appeared for questioning before the Council. The Council shall not issue its decision regarding the request except after at least seven days from the date of its submission.
- B.
 - 1- The President of the Republic may submit a request to the Council of Representatives to withdraw confidence from the Prime Minister.
 - 2- The Council of Representatives may withdraw confidence from the Prime Minister based on the request of one-fifth of its members. This request shall not be submitted except after an inquiry directed at the Prime Minister and after at least seven days from the date of submitting the request.
 - 3- The Council of Representatives may decide to withdraw confidence from the Prime Minister by an absolute majority of the number of its members.
- C. The Government is deemed resigned in case of withdrawal of confidence from the Prime Minister.
- D. In case of a vote of withdrawal of confidence in the Council of Ministers as a whole, the Prime Minister and the Ministers continue in their positions to run everyday business for a period not to exceed thirty days until a new Council of Ministers is formed in accordance with the provisions of Article 76 of this Constitution.
- E. The Council of Representatives may question independent commission heads in accordance with the same procedures related to the Ministers. The Council shall have the right to relieve them by absolute majority.

Ninth:

- A. To consent to the declaration of war and the state of emergency by a two-thirds majority based on a joint request from the President of the Republic and the Prime Minister.
- B. The state of emergency shall be declared for a period of thirty days, which can be extended after approval each time.
- C. The Prime Minister shall be delegated the necessary powers which enable him to manage the affairs of the country during the period of the declaration of war and the state of emergency. These powers shall be regulated by a law in a way that does not contradict the Constitution.
- D. The Prime Minister shall present to the Council of Representatives the measures taken and the results during the period of the declaration of war and the state of emergency within 15 days from the date of its end.

Article 62:

First: The Council of Ministers shall submit the draft general budget bill and the closing account to the Council of Representatives for approval.

Second: The Council of Representatives may conduct transfers between the sections and chapters of the general budget and reduce the total of its sums, and it may suggest to the Council of Ministers that they increase the total expenses, when necessary.

Article 63:

First: A law shall regulate the rights and privileges of the speaker of the Council of Representatives, his two deputies, and the members of the Council of Representatives.

Second:

- A. A member of the Council of Representatives shall enjoy immunity for statements made while the Council is in session, and the member may not be prosecuted before the courts for such.
- B. A Council of Representatives member may not be placed under arrest during the legislative term of the Council of Representatives, unless the member is accused of a felony and the Council of Representatives members consent by an absolute majority to lift his immunity or if he is caught *in flagrante delicto* in the commission of a felony.
- C. A Council of Representatives member may not be arrested after the legislative term of the Council of Representatives, unless the member is accused of a felony and with the consent of the speaker of the Council of

Representatives to lift his immunity or if he is caught *in flagrante delicto* in the commission of a felony.

Article 64:

First: The Council of Representatives may be dissolved by an absolute majority of the number of its members, or upon the request of one-third of its members by the Prime Minister with the consent of the President of the Republic. The Council shall not be dissolved during the period in which the Prime Minister is being questioned.

Second: Upon the dissolution of the Council of Representatives, the President of the Republic shall call for general elections in the country within a period not to exceed sixty days from the date of its dissolution. The Council of Ministers in this case is deemed resigned and continues to run everyday business.

Second: The Federation Council

Article 65:

A legislative council shall be established named the “Federation Council,” to include representatives from the regions and the governorates that are not organized in a region. A law, enacted by a two-thirds majority of the members of the Council of Representatives, shall regulate the formation of the Federation Council, its membership conditions, its competencies, and all that is connected with it.

Chapter Two

[The Executive Power]

Article 66:

The federal executive power shall consist of the President of the Republic and the Council of Ministers and shall exercise its powers in accordance with the Constitution and the law.

First: The President of the Republic

Article 67:

The President of the Republic is the Head of the State and a symbol of the unity of the country and represents the sovereignty of the country. He shall guarantee the commitment to the Constitution and the preservation of Iraq’s independence, sovereignty,

unity, and the safety of its territories, in accordance with the provisions of the Constitution.

Article 68:

A nominee to the Presidency of the Republic must be:

First: An Iraqi by birth, born to Iraqi parents.

Second: Fully qualified and must be over forty years of age.

Third: Of good reputation and political experience, known for his integrity, uprightness, fairness, and loyalty to the homeland.

Fourth: Free of any conviction of a crime involving moral turpitude.

Article 69:

First: The provisions for nomination to the office of the President of the Republic shall be regulated by law.

Second: The provisions for nomination to the office of one or more Vice Presidents of the Republic shall be regulated by law.

Article 70:

First: The Council of Representatives shall elect a President of the Republic from among the candidates by a two-thirds majority of the number of its members.

Second: If none of the candidates receive the required majority vote then the two candidates who received the highest number of votes shall compete and the one who receives the majority of votes in the second election shall be declared President.

Article 71:

The President shall take the constitutional oath before the Council of Representatives according to the language stipulated in Article 50 of the Constitution.

Article 72:

First: The President of the Republic's term in office shall be limited to four years. He may be re-elected for a second time only.

Second:

A- The President of the Republic's term in office shall end with the end of the term of the Council of Representatives.

B- The President of the Republic shall continue to exercise his duties until after the end of the election and the meeting of the new Council of Representatives, provided that a new President of the Republic is elected within thirty days from the date of its first convening.

C- In case the position of the President of the Republic becomes vacant for any reason, a new President shall be elected to complete the remaining period of the President's term.

Article 73:

The President of the Republic shall assume the following powers:

First: To issue a special pardon on the recommendation of the Prime Minister, except for anything concerning a private claim and for those who have been convicted of committing international crimes, terrorism, or financial and administrative corruption.

Second: To ratify international treaties and agreements after the approval by the Council of Representatives. Such international treaties and agreements are considered ratified after fifteen days from the date of receipt by the President.

Third: To ratify and issue the laws enacted by the Council of Representatives. Such laws are considered ratified after fifteen days from the date of receipt by the President.

Fourth: To call the elected Council of Representatives to convene during a period not to exceed fifteen days from the date of approval of the election results and in the other cases stipulated in the Constitution.

Fifth: To award medals and decorations on the recommendation of the Prime Minister in accordance with the law.

Sixth: To accredit ambassadors.

Seventh: To issue Presidential decrees.

Eighth: To ratify death sentences issued by the competent courts.

Ninth: To perform the duty of the High Command of the armed forces for ceremonial and honorary purposes.

Tenth: To exercise any other presidential powers stipulated in this Constitution.

Article 74:

A law shall fix the salary and the allowances of the President of the Republic.

Article 75:

First: The President of the Republic shall have the right to submit his resignation in writing to the Speaker of the Council of Representatives, and it shall be considered effective after seven days from the date of its submission to the Council of Representatives.

Second: The Vice President shall replace the President in case of his absence.

Third: The Vice President shall replace the President of the Republic in the event that the post of the President becomes vacant for any reason whatsoever. The Council of Representatives must elect a new President within a period not to exceed thirty days from the date of the vacancy.

Fourth: In case the post of the President of the Republic becomes vacant, the Speaker of the Council of Representatives shall replace the President of the Republic in case he does not have a Vice President, on the condition that a new President is elected during a period not to exceed thirty days from the date of the vacancy and in accordance with the provisions of this Constitution.

Second: Council of Ministers

Article 76:

First: The President of the Republic shall charge the nominee of the largest Council of Representatives bloc with the formation of the Council of Ministers within fifteen days from the date of the election of the President of the Republic.

Second: The Prime Minister-designate shall undertake the naming of the members of his Council of Ministers within a period not to exceed thirty days from the date of his designation.

Third: If the Prime Minister-designate fails to form the Council of Ministers during the period specified in clause "Second," the President of the Republic shall charge a new nominee for the post of Prime Minister within fifteen days.

Fourth: The Prime Minister-designate shall present the names of his members of the Council of Ministers and the ministerial program to the Council of Representatives. He is deemed to have gained its confidence upon the approval, by an absolute majority of the Council of Representatives, of the individual Ministers and the ministerial program.

Fifth: The President of the Republic shall charge another nominee to form the Council of Ministers within fifteen days in case the Council of Ministers did not win the vote of confidence.

Article 77:

First: The conditions for assuming the post of the Prime Minister shall be the same as those for the President of the Republic, provided that he has a college degree or its equivalent and is over thirty-five years of age.

Second: The conditions for assuming the post of Minister shall be the same as those for members of the Council of Representatives, provided that he holds a college degree or its equivalent.

Article 78:

The Prime Minister is the direct executive authority responsible for the general policy of the State and the commander-in-chief of the armed forces. He directs the Council of Ministers, presides over its meetings, and has the right to dismiss the Ministers, with the consent of the Council of Representatives.

Article 79:

The Prime Minister and members of the Council of Ministers shall take the constitutional oath before the Council of Representatives according to the language stipulated in Article 50 of the Constitution.

Article 80:

The Council of Ministers shall exercise the following powers:

First: To plan and execute the general policy and general plans of the State and oversee the work of the ministries and departments not associated with a ministry.

Second: To propose bills.

Third: To issue rules, instructions, and decisions for the purpose of implementing the law.

Fourth: To prepare the draft of the general budget, the closing account, and the development plans.

Fifth: To recommend to the Council of Representatives that it approve the appointment of undersecretaries, ambassadors, state senior officials, the Chief of Staff of the Armed Forces and his deputies, division commanders or higher, the Director of the National Intelligence Service, and heads of security institutions.

Sixth: To negotiate and sign international agreements and treaties, or designate any person to do so.

Article 81:

First: The President of the Republic shall take up the office of the Prime Minister in the event the post becomes vacant for any reason whatsoever.

Second: If the event mentioned in “First” of this Article occurs, the President shall charge another nominee to form the Council of Ministers within a period not to exceed fifteen days in accordance with the provisions of Article 76 of this Constitution.

Article 82:

A law shall regulate the salaries and allowances of the Prime Minister and Ministers, and anyone of their grade.

Article 83:

The responsibility of the Prime Minister and the Ministers before the Council of Representatives is of a joint and personal nature.

Article 84:

First: A law shall regulate the work and define the duties and authorities of the security institutions and the National Intelligence Service, which shall operate in accordance with the principles of human rights and shall be subject to the oversight of the Council of Representatives.

Second: The National Intelligence Service shall be attached to the Council of Ministers.

Article 85:

The Council of Ministers shall establish internal bylaws to organize the work therein.

Article 86:

A law shall regulate the formation of ministries, their functions, and their specializations, and the authorities of the minister.

Chapter Three
[The Judicial Power]

Article 87:

The judicial power is independent. The courts, in their various types and levels, shall assume this power and issue decisions in accordance with the law.

Article 88:

Judges are independent, and there is no authority over them except that of the law. No power shall have the right to interfere in the judiciary and the affairs of justice.

Article 89:

The federal judicial power is comprised of the Higher Juridical Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Department, the Judiciary Oversight Commission, and other federal courts that are regulated in accordance with the law.

First: Higher Juridical Council

Article 90:

The Higher Juridical Council shall oversee the affairs of the judicial committees. The law shall specify the method of its establishment, its authorities, and the rules of its operation.

Article 91:

The Higher Juridical Council shall exercise the following authorities:

First: To manage the affairs of the judiciary and supervise the federal judiciary.

Second: To nominate the Chief Justice and members of the Federal Court of Cassation, the Chief Public Prosecutor, and the Chief Justice of the Judiciary Oversight Commission, and to present those nominations to the Council of Representatives to approve their appointment.

Third: To propose the draft of the annual budget of the federal judicial authority, and to present it to the Council of Representatives for approval.

Second: Federal Supreme Court

Article 92:

First: The Federal Supreme Court is an independent judicial body, financially and administratively.

Second: The Federal Supreme Court shall be made up of a number of judges, experts in Islamic jurisprudence, and legal scholars, whose number, the method of their selection, and the work of the Court shall be determined by a law enacted by a two-thirds majority of the members of the Council of Representatives.

Article 93:

The Federal Supreme Court shall have jurisdiction over the following:

First: Overseeing the constitutionality of laws and regulations in effect.

Second: Interpreting the provisions of the Constitution.

Third: Settling matters that arise from the application of the federal laws, decisions, regulations, instructions, and procedures issued by the federal authority. The law shall guarantee the right of direct appeal to the Court to the Council of Ministers, those concerned individuals, and others.

Fourth: Settling disputes that arise between the federal government and the governments of the regions and governorates, municipalities, and local administrations.

Fifth: Settling disputes that arise between the governments of the regions and governments of the governorates.

Sixth: Settling accusations directed against the President, the Prime Minister and the Ministers, and this shall be regulated by law.

Seventh: Ratifying the final results of the general elections for membership in the Council of Representatives.

Eight:

- A. Settling competency disputes between the federal judiciary and the judicial institutions of the regions and governorates that are not organized in a region.
- B. Settling competency disputes between judicial institutions of the regions or governorates that are not organized in a region.

Article 94:

Decisions of the Federal Supreme Court are final and binding for all authorities.

Third: General Provisions

Article 95:

The establishment of special or extraordinary courts is prohibited.

Article 96:

The law shall regulate the establishment of courts, their types, levels, and jurisdiction, and the method of appointing and the terms of service of judges and public prosecutors, their discipline, and their retirement.

Article 97:

Judges may not be removed except in cases specified by law. Such law will determine the particular provisions related to them and shall regulate their disciplinary measures.

Article 98:

A judge or public prosecutor is prohibited from the following:

First: Combining a judicial position with legislative and executive positions and any other employment.

Second: Joining any party or political organization or performing any political activity.

Article 99:

A law shall regulate the military judiciary and shall specify the jurisdiction of military courts, which are limited to crimes of a military nature committed by members of the armed forces and security forces, and within the limits established by law.

Article 100:

It is prohibited to stipulate in the law the immunity from appeal for any administrative action or decision.

Article 101:

A State Council may be established, specialized in functions of the administrative judiciary, issuing opinions, drafting, and representing the State and various public commissions before the courts except those exempted by law.

Chapter Four
[Independent Commissions]

Article 102:

The High Commission for Human Rights, the Independent Electoral Commission, and the Commission on Public Integrity are considered independent commissions subject to monitoring by the Council of Representatives, and their functions shall be regulated by law.

Article 103:

First: The Central Bank of Iraq, the Board of Supreme Audit, the Communication and Media Commission, and the Endowment Commissions are financially and administratively independent institutions, and the work of each of these institutions shall be regulated by law.

Second: The Central Bank of Iraq is responsible before the Council of Representatives. The Board of Supreme Audit and the Communication and Media Commission shall be attached to the Council of Representatives.

Third: The Endowment Commissions shall be attached to the Council of Ministers.

Article 104:

A commission named The Martyrs' Foundation shall be established and attached to the Council of Ministers, and its functions and competencies shall be regulated by law.

Article 105:

A public commission shall be established to guarantee the rights of the regions and governorates that are not organized in a region to ensure their fair participation in managing the various state federal institutions, missions, fellowships, delegations, and regional and international conferences. The commission shall be comprised of representatives of the federal government and representatives of the regions and governorates that are not organized in a region, and shall be regulated by a law.

Article 106:

A public commission shall be established by a law to audit and appropriate federal revenues. The commission shall be comprised of experts from the federal government, the regions, the governorates, and its representatives, and shall assume the following responsibilities:

First: To verify the fair distribution of grants, aid, and international loans pursuant to the entitlement of the regions and governorates that are not organized in a region.

Second: To verify the ideal use and division of the federal financial resources.

Third: To guarantee transparency and justice in appropriating funds to the governments of the regions and governorates that are not organized in a region in accordance with the established percentages.

Article 107:

A council named the Federal Public Service Council shall be established and shall regulate the affairs of the federal public service, including appointments and promotions, and its formation and competencies shall be regulated by law.

Article 108:

Other independent commissions may be established by law, according to need and necessity.

Section Four

Powers of the Federal Government

Article 109:

The federal authorities shall preserve the unity, integrity, independence, and sovereignty of Iraq and its federal democratic system.

Article 110:

The federal government shall have exclusive authorities in the following matters:

First: Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; negotiating, signing, and ratifying debt policies and formulating foreign sovereign economic and trade policy.

Second: Formulating and executing national security policy, including establishing and managing armed forces to secure the protection and guarantee the security of Iraq's borders and to defend Iraq.

Third: Formulating fiscal and customs policy; issuing currency; regulating commercial policy across regional and governorate boundaries in Iraq; drawing up the national budget of the State; formulating monetary policy; and establishing and administering a central bank.

Fourth: Regulating standards, weights, and measures.

Fifth: Regulating issues of citizenship, naturalization, residency, and the right to apply for political asylum.

Sixth: Regulating the policies of broadcast frequencies and mail.

Seventh: Drawing up the general and investment budget bill.

Eighth: Planning policies relating to water sources from outside Iraq and guaranteeing the rate of water flow to Iraq and its just distribution inside Iraq in accordance with international laws and conventions.

Ninth: General population statistics and census.

Article 111:

Oil and gas are owned by all the people of Iraq in all the regions and governorates.

Article 112:

First: The federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country, specifying an allotment for a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country, and this shall be regulated by a law.

Second: The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment.

Article 113:

Antiquities, archeological sites, cultural buildings, manuscripts, and coins shall be considered national treasures under the jurisdiction of the federal authorities, and shall be managed in cooperation with the regions and governorates, and this shall be regulated by law.

Article 114:

The following competencies shall be shared between the federal authorities and regional authorities:

First: To manage customs, in coordination with the governments of the regions and governorates that are not organized in a region, and this shall be regulated by a law.

Second: To regulate the main sources of electric energy and its distribution.

Third: To formulate environmental policy to ensure the protection of the environment from pollution and to preserve its cleanliness, in cooperation with the regions and governorates that are not organized in a region.

Fourth: To formulate development and general planning policies.

Fifth: To formulate public health policy, in cooperation with the regions and governorates that are not organized in a region.

Sixth: To formulate the public educational and instructional policy, in consultation with the regions and governorates that are not organized in a region.

Seventh: To formulate and regulate the internal water resources policy in a way that guarantees their just distribution, and this shall be regulated by a law.

Article 115:

All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute.

Section Five

Powers of the Regions

Chapter One **[Regions]**

Article 116:

The federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations.

Article 117:

First: This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region.

Second: This Constitution shall affirm new regions established in accordance with its provisions.

Article 118:

The Council of Representatives shall enact, in a period not to exceed six months from the date of its first session, a law that defines the executive procedures to form regions, by a simple majority of the members present.

Article 119:

One or more governorates shall have the right to organize into a region based on a request to be voted on in a referendum submitted in one of the following two methods:

First: A request by one-third of the council members of each governorate intending to form a region.

Second: A request by one-tenth of the voters in each of the governorates intending to form a region.

Article 120:

Each region shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution.

Article 121:

First: The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government.

Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region.

Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population.

Fourth: Offices for the regions and governorates shall be established in embassies and diplomatic missions, in order to follow cultural, social, and developmental affairs.

Fifth: The regional government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region.

Chapter Two

[Governorates that are not incorporated in a region]

Article 122:

First: The governorates shall be made up of a number of districts, sub-districts, and villages.

Second: Governorates that are not incorporated in a region shall be granted broad administrative and financial authorities to enable them to manage their affairs in accordance with the principle of decentralized administration, and this shall be regulated by law.

Third: The governor, who is elected by the Governorate Council, is deemed the highest executive official in the governorate to practice his powers authorized by the Council.

Fourth: A law shall regulate the election of the Governorate Council, the governor, and their powers.

Fifth: The Governorate Council shall not be subject to the control or supervision of any ministry or any institution not linked to a ministry. The Governorate Council shall have independent finances.

Article 123:

Powers exercised by the federal government can be delegated to the governorates or vice versa, with the consent of both governments, and this shall be regulated by law.

Chapter Three
[The Capital]

Article 124:

First: Baghdad in its municipal borders is the capital of the Republic of Iraq and shall constitute, in its administrative borders, the governorate of Baghdad.

Second: This shall be regulated by a law.

Third: The capital may not merge with a region.

Chapter Four
[The Local Administrations]

Article 125:

This Constitution shall guarantee the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents, and this shall be regulated by law.

Section Six

Final and Transitional Provisions

Chapter One **[Final Provisions]**

Article 126:

First: The President of the Republic and the Council of the Ministers collectively, or one-fifth of the Council of Representatives members, may propose to amend the Constitution.

Second: The fundamental principles mentioned in Section One and the rights and liberties mentioned in Section Two of the Constitution may not be amended except after two successive electoral terms, with the approval of two-thirds of the members of the Council of Representatives, the approval of the people in a general referendum, and the ratification by the President of the Republic within seven days.

Third: Other articles not stipulated in clause “Second” of this Article may not be amended, except with the approval of two-thirds of the members of the Council of Representatives, the approval of the people in a general referendum, and the ratification by the President of the Republic within seven days.

Fourth: Articles of the Constitution may not be amended if such amendment takes away from the powers of the regions that are not within the exclusive powers of the federal authorities, except by the approval of the legislative authority of the concerned region and the approval of the majority of its citizens in a general referendum.

Fifth:

A- An amendment is considered ratified by the President of the Republic after the expiration of the period stipulated in clauses “Second” and “Third” of this Article, in case he does not ratify it.

B- An amendment shall enter into force on the date of its publication in the Official Gazette.

Article 127:

The President of the Republic, the Prime Minister, members of the Council of Ministers, the Speaker of the Council of Representatives, his two Deputies, members of the Council of Representatives, members of the Judicial Authority, and people of special grades may not use their influence to buy or rent any state properties, to rent or sell any of their assets

to the state, to sue the state for these assets, or to conclude a contract with the state under the pretense of being building contractors, suppliers, or concessionaires.

Article 128:

The laws and judicial judgments shall be issued in the name of the people.

Article 129:

Laws shall be published in the Official Gazette and shall take effect on the date of their publication, unless stipulated otherwise.

Article 130:

Existing laws shall remain in force, unless annulled or amended in accordance with the provisions of this Constitution.

Article 131:

Every referendum mentioned in this Constitution is deemed successful with the approval of the majority of the voters unless otherwise stipulated.

Chapter Two
[Transitional Provisions]

Article 132:

First: The State shall guarantee care for the families of the martyrs, political prisoners, and victims of the oppressive practices of the defunct dictatorial regime.

Second: The State shall guarantee compensation to the families of the martyrs and the injured as a result of terrorist acts.

Third: A law shall regulate matters mentioned in clauses “First” and “Second” of this Article.

Article 133:

The Council of Representatives shall adopt in its first session the bylaws of the Transitional National Assembly until it adopts its own bylaws.

Article 134:

The Iraqi High Tribunal shall continue its duties as an independent judicial body, in examining the crimes of the defunct dictatorial regime and its symbols. The Council of Representatives shall have the right to dissolve it by law after the completion of its work.

Article 135:

First: The High Commission for De-Ba'athification shall continue its functions as an independent commission, in coordination with the judicial authority and the executive institutions within the framework of the laws regulating its functions. The Commission shall be attached to the Council of Representatives.

Second: The Council of Representatives shall have the right to dissolve this Commission by an absolute majority after the completion of its function.

Third: A nominee to the positions of the President of the Republic, the Prime Minister, the members of the Council of Ministers, the Speaker, the members of the Council of Representatives, the President, members of the Federation Council, their counterparts in the regions, or members of the judicial commissions and other positions covered by de-Ba'athification statutes pursuant to the law may not be subject to the provisions of de-Ba'athification.

Fourth: The conditions stated in clause "Third" of this Article shall remain in force unless the Commission stated in item "First" of this Article is dissolved.

Fifth: Mere membership in the dissolved Ba'ath party shall not be considered a sufficient basis for referral to court, and a member shall enjoy equality before the law and protection unless covered by the provisions of De-Ba'athification and the directives issued according to it.

Sixth: The Council of Representatives shall form a parliamentary committee from among its members to monitor and review the executive procedures of the Higher Commission for De-Ba'athification and state institutions to guarantee justice, objectivity, and transparency and to examine their consistency with the laws. The committee's decisions shall be subject to the approval of the Council of Representatives.

Article 136:

First: The Property Claims Commission shall continue its functions as an independent commission in coordination with the judicial authority and the executive institutions in accordance with the law. The Property Claims Commission shall be attached to the Council of Representatives.

Second: The Council of Representatives shall have the right to dissolve the Commission by a two-thirds majority vote of its members.

Article 137:

Application of the provisions of the articles related to the Federation Council, wherever it may be cited in this Constitution, shall be postponed until the Council of Representatives issues a decision by a two-thirds majority vote in its second electoral term that is held after this Constitution comes into force.

Article 138:

First: The expression “the Presidency Council” shall replace the expression “the President of the Republic” wherever the latter is mentioned in this Constitution. The provisions related to the President of the Republic shall be reactivated one successive term after this Constitution comes into force.

Second:

- A. The Council of Representatives shall elect the President of the State and two Vice Presidents who shall form a Council called the “Presidency Council,” which shall be elected by one list and with a two-thirds majority.
- B. The provisions to remove the President of the Republic present in this Constitution shall apply to the President and members of the Presidency Council.
- C. The Council of Representatives may remove a member of the Presidency Council with a three-fourths majority of the number of its members for reasons of incompetence and dishonesty.
- D. In the event of a vacant seat in the Presidency Council, the Council of Representatives shall elect a replacement by a two-thirds majority vote of its members.

Third: Members of the Presidency Council shall be subject to the same conditions as a member of the Council of Representatives and must:

- A. Be over forty years of age.
- B. Enjoy good reputation, integrity and uprightness.
- C. Have quit the dissolved (Ba’ath) Party ten years prior to its fall, in case he was a member of it.
- D. Have not participated in suppressing the 1991 and Al-Anfal uprisings. He must not have committed a crime against the Iraqi people.

Fourth: The Presidency Council shall issue its decisions unanimously and any member may delegate to one of the two other members to take his place.

Fifth:

- A- Legislation and decisions enacted by the Council of Representatives shall be forwarded to the Presidency Council for their unanimous approval and for its issuance within ten days from the date of delivery to the Presidency Council, except the stipulations of Articles 118 and 119 that pertain to the formation of regions.

- B- In the event the Presidency Council does not approve, legislation and decisions shall be sent back to the Council of Representatives to reexamine the disputed issues and to vote on them by the majority of its members and then shall be sent for the second time to the Presidency Council for approval.

- C- In the event the Presidency Council does not approve the legislation and decisions for the second time within ten days of receipt, the legislation and decisions are sent back to the Council of Representatives, which has the right to adopt it by three-fifths majority of its members, which may not be challenged, and the legislation or decision shall be considered ratified.

Sixth: The Presidency Council shall exercise the powers of the President of the Republic stipulated in this Constitution.

Article 139:

The Prime Minister shall have two deputies in the first electoral term.

Article 140:

First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law.

Second: The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, provided that it accomplishes completely (normalization and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31st of December 2007.

Article 141:

Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of Kurdistan, including court decisions and contracts, shall be considered valid unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region, provided that they do not contradict with the Constitution.

Article 142:

First: The Council of Representatives shall form at the beginning of its work a committee from its members representing the principal components of the Iraqi society with the mission of presenting to the Council of Representatives, within a period not to exceed four months, a report that contains recommendations of the necessary amendments that could be made to the Constitution, and the committee shall be dissolved after a decision is made regarding its proposals.

Second: The proposed amendments shall be presented to the Council of Representatives all at once for a vote upon them, and shall be deemed approved with the agreement of the absolute majority of the members of the Council.

Third: The articles amended by the Council of Representatives pursuant to item “Second” of this Article shall be presented to the people for voting on them in a referendum within a period not exceeding two months from the date of their approval by the Council of Representatives.

Fourth: The referendum on the amended Articles shall be successful if approved by the majority of the voters, and if not rejected by two-thirds of the voters in three or more governorates.

Fifth: Article 126 of the Constitution (concerning amending the Constitution) shall be suspended, and shall return into force after the amendments stipulated in this Article have been decided upon.

Article 143:

The Transitional Administrative Law and its Annex shall be annulled on the seating of the new government, except for the stipulations of Article 53(A) and Article 58 of the Transitional Administrative Law.

Article 144:

This Constitution shall come into force after the approval of the people thereon in a general referendum, its publication in the Official Gazette, and the seating of the government that is formed pursuant to this Constitution.

KURDISTAN REGION – IRAQ
PRESIDENCY OF THE REGION
THE PRESIDENT

IN THE NAME OF THE PEOPLE
DECISION
NO. (28) - 2007

OIL AND GAS LAW OF THE KURDISTAN REGION - IRAQ

Pursuant to the authorities granted to the Presidency of the Kurdistan Region in accordance with the provisions of Article 10(1) of Law No. (1) - 2005 (amended) and pursuant to the legislation enacted by the Kurdistan National Assembly - Iraq under its extraordinary session No. (8) dated 6/8/2007 we have decided to issue:

OIL AND GAS LAW OF THE KURDISTAN REGION - IRAQ **Law No. (22) - 2007**

CHAPTER ONE **DEFINITIONS**

Article 1:

The following terms shall have the meanings hereunder for the purposes of this Law:

1. **Federal Government:** the Federal Government of the Republic of Iraq;
2. **Federal Constitution:** the constitution of the Federal Republic of Iraq;
3. **Region:** the Kurdistan Region - Iraq;
4. **President of the Region:** the President of the Kurdistan Region - Iraq;
5. **Parliament:** the Kurdistan National Assembly - Iraq;
6. **Regional Government:** the Government of the Kurdistan Region-Iraq;
7. **Council of Ministers:** the Council of Ministers of the Regional Government - Iraq;
8. **Regional Council:** the Regional Council for the Oil and Gas Affairs of the Kurdistan Region - Iraq;
9. **Ministry:** the Ministry of Natural Resources of the Region;
10. **Minister:** the Minister of Natural Resources of the Region;
11. **Petroleum:** any natural hydrocarbons, or any mixture of natural hydrocarbons, whether in a gaseous or liquid state; including hydrocarbons that have been returned to a Reservoir;
12. **Crude Oil:** all liquid hydrocarbons in their unprocessed state or obtained from Natural Gas by condensation or any other means of extraction;
13. **Natural Gas:** all gaseous hydrocarbons and inerts, including wet gas, dry gas, casing head gas and residue gas remaining after the extraction of liquid hydrocarbons from wet gas, but not Crude Oil;
14. **Associated Natural Gas:** any gas produced in association with Crude Oil under reservoir conditions;

15. **Petroleum Field:** a Reservoir or group of Reservoirs within a common geological structure or feature from which Petroleum may be commercially produced under the prevailing technical and economic conditions;
16. **Current Field:** a Petroleum Field that has been in Commercial Production prior to 15 August 2005;
17. **Future Field:** a Petroleum Field that was not in Commercial Production prior to 15 August 2005, and any other Petroleum Field that may have been, or may be, discovered as a result of subsequent exploration;
18. **Petroleum Operations:** activities including prospecting, exploration for, development, production, marketing, transportation, refining, storage, sale or export of Petroleum; or construction, installation or operation of any structures, facilities or installations for the transportation, refining, storage, and export of Petroleum, or decommissioning or removal of any such structure, facility or installation;
19. **Asset:** any item of immovable property, whether public or private;
20. **Prospecting Authorisation:** an Authorisation granted by the Minister pursuant to Article 22 of this Law;
21. **Access Authorisation:** a notification or approval granted by the Minister pursuant Article 25 of this Law;
22. **Authorisation:** a Petroleum Contract, a Prospecting Authorisation or any agreement made in respect of such an Authorisation or Contract, issued by the Minister;
23. **Person:** a natural person, or other legal entity;
24. **Authorised Person:** in respect of a Petroleum Contract, a Contractor; or the Person to whom the responsibility has been granted in accordance with the Authorisation and Access Authorisation;
25. **Contractor:** a Person with whom the Ministry has entered into a Petroleum Contract in the petroleum sector;
26. **Commercial Production:** a daily production of no less than five thousand (5,000) barrels over any twelve (12) month period;
27. **Petroleum Contract:** a contract, licence, permit or other authorisation made or given pursuant to Article 24 of this Law;
28. **Contract Area:** the area granted under a Petroleum Contract;
29. **Production Sharing Contract:** a model Petroleum Contract that may be promulgated and revised from time to time by the Ministry, which contains, *inter alia*, commercial and technical risk undertaken by the Contractor in exchange for a share of production, and which may be used as the basis for negotiations for a Petroleum Contract between the Regional Government and Persons who have expressed an interest in carrying out Petroleum Operations;
30. **Revenue:** Regional Government revenue from Petroleum Operations including Petroleum sales, Royalty, signature and production bonuses related to Petroleum Contracts with foreign and local companies, profit petroleum, and the Regional Government's share of revenue from petroleum operations in the rest of Iraq;
31. **Royalty:** the percentage of Petroleum produced and saved from the Contract Area allocated for the Regional Government;
32. **Delivery Point:** the point, after extraction, at which the Crude Oil and Natural Gas is ready to be taken and sold, consistent with international practice; the point at which a Person may acquire title in the Region to Petroleum in accordance with Article 3(7) of this Law;
33. **Environment Fund:** the fund, administered by the Regional Government, to which Revenues will be allocated pursuant to this Law, and to which Contractors are required to

contribute pursuant to the terms of a Production Sharing Contract, as specified in Article 37 of this Law;

34. **Control:** direct or indirect control of the majority of the voting rights of the applicable entity at the shareholders meetings;
35. **Operator:** an Authorised Person or other Person named in an Authorisation to manage Petroleum Operations;
36. **Reservoir:** a subsurface rock formation containing an individual and separate natural accumulation of producible Petroleum characterised by a single natural pressure system; and
37. **Well:** a perforation in earth's surface dug or bored through subsurface rock formations for the purpose of exploring for, inspecting or producing Petroleum.

CHAPTER TWO MATERIAL SCOPE OF THE ACT

Article 2:

First: This Law applies to:

- (a) Petroleum Operations, whether carried out by public companies or by private sector companies, whether Iraqi or foreign; and
- (b) all activities related to Petroleum Operations.

Second: Pursuant to Article 115 and paragraphs (1) and (2) of Article 121 of the Federal Constitution, no federal legislation, and no agreement, contract, memorandum of understanding or other federal instrument that relates to Petroleum Operations shall have application except with the express agreement of the relevant authority of the Region.

CHAPTER THREE TITLE TO PETROLEUM AND GOVERNMENT RIGHTS

Article 3:

First: Petroleum in the Region is owned in a manner consistent with Article 111 of the Federal Constitution. The Regional Government is entitled to a share from the revenues from producing fields, consistent with the share of all Iraqi people, in accordance with this law and Article 112 of the Federal Constitution.

Second: The Regional Government is entitled to a share from the revenues obtained from fields producing after 15 August 2005 in accordance with the provisions of this law.

Third: The Regional Government shall, together with the Federal Government, jointly manage Petroleum Operations related to producing fields according to the provisions of Article 112(1) of the Federal Constitution.

Fourth: The Regional Government shall oversee and regulate all Petroleum Operations, pursuant to Article 115 of the Federal Constitution and in a manner consistent with Article

112 of the Federal Constitution. The Minister may after obtaining the approval of the Regional Council licence Petroleum Operations to third parties to maximise timely returns from the Petroleum resources of the Region.

Fifth: The Regional Government shall oversee and regulate the marketing of the Regional Government's share of the extracted Petroleum from the Delivery Point where that Petroleum has been extracted from Petroleum Operations, and may licence the marketing of that share to third parties.

Sixth: The Regional Government shall receive its share of all revenue derived from Petroleum Operations for the benefit of the people of the Region subject to Article 15 of this Law, and consistent with Article 112 of the Federal Constitution.

Seventh: A Person may acquire title to Petroleum exclusively at the Delivery Point.

Article 4:

The Regional Council shall be established as follows:

First: The Prime Minister - President;

Second: The Deputy Prime Minister - Deputy President;

Third: The Minister of Natural Resources - Member;

Fourth: The Minister of Finance and Economy - Member; and

Fifth: The Planning Minister - Member.

Article 5:

The Regional Council shall perform the following functions:

First: formulate the general principles of petroleum policy, prospect planning and field development, and any modifications to those principles, in the Region;

Second: approve Petroleum Contracts; and

Third: limit production levels in the Region consistent with the provisions of Article 112 of the Federal Constitution.

CHAPTER FOUR COMPETENCIES OF THE MINISTER AND THE MINISTRY

Article 6:

The Ministry or its nominee shall:

First: oversee and regulate Petroleum Operations. The responsibilities of the Ministry include the formulation, regulation and monitoring of Petroleum Operation policies, as well as the regulation, planning, implementation, supervision, inspection, auditing and for enforcement of all Petroleum Operations by all Persons and all activities relating thereto, including the marketing of Petroleum; and

Second: negotiate, agree and execute all Authorisations, including Petroleum Contracts, entered into by the Regional Government.

Article 7:

The Minister shall exercise his powers and discharge his functions under this Law, including under Authorisations made hereunder, in such a manner as:

First: to ensure sound management of the petroleum industry; and

Second: to ensure that the petroleum industry is developed in a way that minimises damage to the natural environment, is economically sustainable, promotes further investment and contributes to the long-term development of the Region; and is reasonable and consistent with good oil industry practices.

(Infrastructure and downstream activities)

Article 8:

The Ministry shall:

First: oversee and regulate all infrastructure used directly or indirectly for Petroleum Operations, including Assets for production, refining, transportation including pipelines, valve stations, pump stations, compressor stations and associated installations, and distribution, including all centres and buildings, to optimise Petroleum exploration and production;

Second: oversee and regulate all downstream Petroleum Operations, including refining, transportation, storage, and the production of petrochemicals;

Third: provide the necessary assistance to the Federal Government and all other producing regions and governorates for use of the infrastructure according to this Law for the benefit of all the people of Iraq, consistent with the federal policy of Iraq as agreed upon between the Federal Government and the Regional Government; and

Fourth: make any pipeline network with spare capacity available to any Persons lawfully conducting petroleum activities in Iraq, and access to such capacity shall be agreed by the Minister on terms to be defined by contract.

(Encouragement of investment)

Article 9:

The Ministry shall:

First: encourage public and private sector investment in Petroleum Operations to ensure efficient management of the Petroleum resources of the Region to provide maximum timely returns to the people of the Region and Iraq; and

Second: encourage the construction of all new downstream operations, including pipelines and refineries, where possible by, or in partnership with, the private sector.

CHAPTER FIVE ESTABLISHMENT OF PUBLIC ENTITIES

Kurdistan Exploration and Production Company (KEPCO)

Article 10:

First: The Kurdistan Exploration and Production Company (KEPCO) is hereby established as a public company being a legal entity with independent finance and management.

Second: Members of the Board of KEPCO shall be appointed by the Council of Ministers, and approved by an absolute majority of the Parliament. Members shall be independent of the Ministry, and shall have petroleum or other technical and management qualifications.

Third: The appointment of all KEPCO Board members shall be for a fixed five (5) year term, renewable by the Parliament by an absolute majority.

Fourth: KEPCO may, subject to the approval of the Regional Council:

- (1) compete with other companies to obtain Authorisations regarding Future Fields;
- (2) enter into joint ventures and similar contractual arrangements, whether in the Region, in other parts of Iraq or abroad; and
- (3) create operating subsidiaries for particular Petroleum Operations in respect of Future Fields.

Fifth: The Council of Ministers may, with the consent of an absolute majority of the Parliament, convert KEPCO ownership and offer its shares to Iraqi citizens.

Kurdistan National Oil Company (KNOC)

Article 11:

First: The Kurdistan National Oil Company (KNOC) is hereby established as a public company being a legal entity with independent finance and management.

Second: Members of the Board of KNOC shall be appointed by the Council of Ministers, and approved by an absolute majority of the Parliament. Members shall be independent of the Ministry, and shall have petroleum or other technical and management qualifications.

Third: The appointment of all KNOC Board members shall be for a fixed five (5) year term, renewable by the Parliament by an absolute majority.

Fourth: KNOC may, with the approval of the Regional Council:

- (1) compete with other companies to obtain Authorisations regarding the management of Current Fields;
- (2) enter into joint ventures with reputable and experienced international petroleum companies for Petroleum Operations to enhance production from Current Fields, to maximise early returns; and
- (3) on a case by case basis, compete to obtain Authorisations regarding Future Fields.

Kurdistan Oil Marketing Organisation (KOMO)

Article 12:

First: The Kurdistan Oil Marketing Organisation (KOMO) is hereby established as a public company being a legal entity with independent finance and management.

Second: Members of the Board of KOMO shall be appointed by the Council of Ministers. Members shall be independent of the Ministry, and shall have petroleum or other appropriate technical and management qualifications.

Third: The appointment of all KOMO Board members shall be for a fixed five (5) year term, renewable by the approval of the absolute majority of the Parliament.

Fourth: KOMO may market or regulate the marketing of the production from Petroleum Operations, and may, with the agreement of a Contractor to a Production Sharing Contract, market the Contractor's share of Petroleum.

Kurdistan Organisation for Downstream Operations (KODO)

Article 13:

First: The Kurdistan Organisation for Downstream Operations (KODO) is hereby established as a public company being a legal entity with independent finance and management.

Second: Members of the Board of KODO shall be appointed by the Council of Ministers, and approved by an absolute majority of the Parliament. Members shall be independent of the Ministry, and shall have petroleum or other appropriate technical and management qualifications.

Third: The appointment of all KODO Board members shall be for a fixed five (5) year term, renewable by the approval of the absolute majority of the Parliament.

Fourth: KODO may:

- (1) manage all Regional Government-owned infrastructure related to Petroleum Operations referred to in Article 8 Paragraph First of this Law, and shall make available such infrastructure, including main pipeline networks, to all relevant public and private sector entities operating in the Region.
- (2) compete with other companies for Authorisations after obtaining the approval of the Regional Council, in its own right create operating subsidiaries for particular Petroleum Operations, and enter into joint ventures and similar contractual arrangements, whether in the Region, or in other regions and governorates;
- (3) participate with international oil companies or with the local private sector for new downstream Petroleum Operations, with the approval of the Regional Council; and
- (4) license the management of any of its infrastructure to third parties with the approval of the Regional Council.

Public Entity Regulations

Article 14:

First: The Ministry is responsible for regulating the operations of:

- (1) the Kurdistan Exploration and Production Company (KEPCO);
- (2) the Kurdistan National Oil Company (KNOC);
- (3) the Kurdistan Oil Marketing Organisation (KOMO); and
- (4) the Kurdistan Organisation for Downstream Operations (KODO).

Second: The Board of Directors of each entity referred to in Paragraph First of this Article shall establish its own organisation structure, assign authorities, and determine the manner in which its functions are discharged.

Third: The Minister may recommend the creation of other public entities for Petroleum exploration, development, production, refining and for the supply and procurement of services to facilitate the effective conduct of Petroleum Operations.

CHAPTER SIX
REVENUE MANAGEMENT AND SPECIAL ALLOCATIONS

Kurdistan Oil Trust Organisation (KOTO)

Article 15:

First: The Kurdistan Oil Trust Organisation (KOTO) is hereby established as a public company being a legal entity with independent finance and management.

Second: Members of the governing body of KOTO shall be appointed by the Council of Ministers, and approved by an absolute majority of the Parliament. The powers and accountabilities of KOTO shall be defined by law.

Third: The Ministry shall provide all necessary financial information on Authorisations and Contracts to KOTO.

Fourth: KOTO shall, consistent with the entitlement defined in Articles 112 and 115 of the Federal Constitution, receive Revenues from Petroleum Operations from Current Fields and Future Fields on behalf of the people of the Region, according to the provisions stated in this Law.

Fifth: Until such time as the conditions of Article 19 of this Law are implemented, KOTO shall maintain two accounts: one for Revenues from Petroleum Operations in respect of Current Fields (the Current Fields Account); and one for Revenues from Petroleum Operations in respect of Future Fields (the Future Fields Account). Both accounts shall be part of the general revenue of the Region and shall be subject to monitoring of the Parliament.

Sixth: The Current Fields Account and the Future Fields Account shall be subject to regular independent audit, which shall be available for public viewing. In all other respects KOTO shall discharge its responsibilities consistent with the Principles and Criteria of the Extractive Industries Transparency Initiative (EITI) as set out in the EITI Source Book of March 2005.

Article 16:

The functions of KOTO shall be regulated by law for the purpose of managing those revenues and their distribution consistent with the highest international standards of transparency and responsibility.

Article 17:

The functions of KOTO shall be subject to oversight by the Parliament.

CHAPTER SEVEN COOPERATION WITH FEDERAL GOVERNMENT

Article 18:

The Regional Government, consistent with the conditions stated in Article 19 of this Law, shall:

First: agree with the Federal Government in the joint management of oil and gas extracted from Current Fields in the Region;

Second: cooperate with the Federal Government in formulating strategic policies to develop the Petroleum resources of the Region in a balanced manner compared with the other Petroleum activities throughout the country, and in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of market principles and encouraging investment, consistent with the provisions of Article 112 of the Federal Constitution;

Third: cooperate with an intergovernmental federal oil and gas council (“the Federal Oil and Gas Council”), the composition of which is to be agreed with the Regional Government, to establish the standards, model contracts, and commercial terms for negotiations and contract award procedures in Iraq; and

Fourth: agree that all the Revenues obtained by the Region from Petroleum Operations be deposited to a general petroleum revenue fund for Iraq.

Article 19:

The basis of cooperation and permissions referred to in Article 18 of this Law shall have the following conditions:

First: a general petroleum revenue fund must receive all of Iraq’s petroleum revenue, to be managed by a general joint commission pursuant to Articles 106, 112 and 121 of the Federal Constitution, and maintained at a reputable international bank, with a sub-account for the Regional Government, into which an agreed share for the Region is deposited, through KOTO, to be under the absolute authority of the Regional Government, the details of which arrangements are to be regulated by a federal law accepted by the Regional Government;

Second: the petroleum industry in Iraq must be restructured in all of Iraq, with a fair role for an Iraq National Oil Company, to encourage private investment into Iraq consistent with the requirements of Article 112(2) of the Federal Constitution, to generate maximum revenues in a timely manner for the benefit of the people of Iraq;

Third: the Regional Government and the Federal Government must jointly manage Current Fields provided that the Regional Government shall have a proportional role on the Federal Oil and Gas Council, and shall be a partner in the management of the Iraq National Oil Company, consistent with Article 105 of the Federal Constitution;

Fourth: the Federal Government must not practise any new Petroleum Operations in the disputed territories without the approval of the Regional Government until such time as the referendum required by Article 140 of the Federal Constitution is conducted; and

Fifth: any activities in the disputed territories related to Petroleum Operations carried out in contradiction to Paragraph Fourth of this Article shall be dealt with according to the provisions of this Law and Article 112(2) of the Federal Constitution once the decision is made to rejoin these territories to the Region under the provisions of Article 140 of the Federal Constitution.

Article 20:

Until the conditions set out in Article 19 of this Law are met implemented in full, the Regional Government shall proceed with its rights on the basis of Articles 112, 115, and 121(3) of the Federal Constitution, with Revenues received by KOTO pursuant to Article 15 of this Law.

**CHAPTER EIGHT
AUTHORISATIONS**

(Division into Parcels of Land)

Article 21:

For the purposes of this Law, the territory of the Region, or parts of the territory of the Region, shall be divided into parcels of land by the Ministry from time to time, and shall be defined by Universal Transverse Mercator (UTM) and geographic coordinates.

(Prospecting)

Article 22:

First: The Minister may grant a Prospecting Authorisation after obtaining the approval of the Regional Council, in respect of a specified area and a specified period, to a Person or a group of Persons.

Second:

- (1) The holder of a Prospecting Authorisation has a right to perform geological, geophysical, geochemical and geotechnical surveys in the Authorisation area.
- (2) The Prospecting Authorisation shall require the Authorised Person as to report on the progress and results of such prospecting, and to maintain confidentiality with respect to such prospecting.
- (3) Nothing in a Prospecting Authorisation authorises the holder to drill a Well or to have any preference or right to make a Petroleum Contract.

Third:

- (1) The holder of a Prospecting Authorisation shall notify the Ministry that it has fulfilled all its defined obligations so that the Authorised Person may terminate its obligations under the Authorisation.
- (2) If the holder has not complied with a condition to which the Prospecting Authorisation is subject, the Minister may terminate it by written notice to the holder, after obtaining the approval of the Regional Council.

Article 23:

No Authorisation may be granted in respect of an area that is the subject matter of a Petroleum Contract or Prospecting Authorisation where the grant is inconsistent with the rights of the existing Authorised Person.

(Exploration and Development)

Article 24:

First: The Minister may, after obtaining the approval of the Regional Council, conclude a Petroleum Contract for exploration and development in respect of a specified area, with a Person or a group of Persons, provided that if a group, such group enters into a joint operating agreement approved by the Minister under Article 30 of this Law. The Person, or group of Persons, may include private companies in the Region and other parts of Iraq or foreign petroleum companies.

Second: A Petroleum Contract may be based on a Production Sharing Contract, or on other contracts which the Minister considers to provide good and timely returns to the people of the Region, as stated in Chapter 10 of this Law.

Third: In order to be eligible to enter into a Petroleum Contract, a Person must demonstrate:

- (1) the financial capability, and the technical knowledge and technical ability, to carry out the Petroleum Operations in the Contract Area, including direct experience in carrying out similar petroleum operations, and to submit reliable documents as proof; and
- (2) a record of compliance with principles of good corporate citizenship, and a commitment to the Ten Principles of the Global Compact, launched by the United Nations on 26 July 2000.

Fourth:

- (1) Without prejudice to Article 25, a Petroleum Contract grants to the Contractor the exclusive right to conduct Petroleum Operations in the Contract Area.
- (2) The Petroleum Contract may be limited to Crude Oil, Natural Gas or other constituents of Petroleum.

Fifth: A Contractor shall:

- (1) give written notice to the Minister within forty eight (48) hours whenever any Petroleum is encountered in the Authorisation area; and
- (2) provide in a timely manner such information relating to the discovered Petroleum to the Minister consistent with oil industry practices.

Sixth: A Petroleum Contract shall oblige the Contractor to carry on Petroleum Operations only in accordance with work programs, plans and budgets approved by the Minister or as otherwise specified in the Contract.

Access

Article 25:

First: The Minister, after obtaining the approval of the Regional Council, may grant an Access Authorisation, in respect of a specified area, to a Person or a group of Persons to:

- (1) construct, install and operate structures, facilities and installations; and
- (2) carry out other works.

Second:

- (1) An Access Authorisation may be surrendered by the holder by written notice to the Ministry, provided that the Authorised Person has fulfilled all its obligations thereunder and has obtained a relevant certificate of work completion.
- (2) An Access Authorisation may be terminated by the Minister at any time by written notice to the holder, if the holder has not complied with a condition to which the Authorisation is subject.
- (3) The Minister shall provide written notice of the surrender or termination to any Authorised Person in whose Authorisation area operations were authorised to be carried on by the Access Authorisation concerned.

Third: The Minister may give a direction to the holders of Access Authorisations and to other Authorised Persons regarding the coordination of their respective Petroleum Operations.

Fourth: Every Petroleum Contract and Access Authorisation shall ensure that the needs of others are met within the Contract Area on reasonable terms and conditions.

(Invitations and Awards)

Article 26:

First:

- (1) The Ministry may invite, by public notice, applications for Authorisations.
- (2) The Minister may, where it is in the public interest to do so, elect to award Authorisations through direct negotiation.

Second:

- (1) An invitation shall specify the area of the Authorisation, the proposed activities, the criteria upon which applications will be assessed, the applicable fees to be paid with the application, and the date and the manner in which the applications may be made.
- (2) Unless the invitation otherwise states, the Ministry is not obliged to award an Authorisation to any of the applicants.

Third:

An application for an Authorisation shall include conditions for:

- (1) securing the health, safety and welfare of persons involved in or affected by the Petroleum Operations;
- (2) protecting the environment, preventing, minimising and remedying pollution, and other environmental harm from the Petroleum Operations;
- (3) training of, and giving preference in employment in the Petroleum Operations to, citizens of the Region and other citizens of Iraq; and
- (4) the acquisition of goods and services from Persons based in the Region and other parts of Iraq.

Fourth: The Ministry shall not grant an Authorisation in respect of an area until it has given due consideration to all applications made in response to, and in compliance with, an invitation.

CHAPTER NINE RIGHTS AND RESPONSIBILITIES OF AUTHORISED PERSONS

Article 27:

First: Production of Petroleum shall take place:

- (1) in such a manner that as much as possible of the Petroleum in place in each individual Petroleum deposit, or in several deposits in combination, will be produced;
- (2) in accordance with good oil field practice and sound economic principles as described in Article 37 of this Law; and
- (3) in such a manner that waste of Petroleum or Reservoir energy is avoided.

Second: An Authorised Person shall carry out regular evaluation of Petroleum production strategy and technical solutions and shall take the necessary measures in order to achieve the objectives of Paragraph First of this Article.

Article 28:

First: The existence of Petroleum Authorisations in force in a given area does not prevent permissions for the exploration and development of natural resources other than Petroleum, provided that such other activity does not seriously hinder the proper performance of the Petroleum Operations.

Second: In the event that exercise of the rights and obligations referred to in Paragraph First of this Article are incompatible, the Regional Council shall decide which of the rights and obligations shall prevail and under what terms, without prejudice to any compensation which may be due to the holders of the rights thereby overridden.

Article 29:

First:

- (1) Regardless of the terms of an Authorisation, an Authorised Person shall not use any of the following:
 - (a) public Asset without the consent of the responsible authority;
 - (b) private Asset of the Regional Government without the consent of the responsible authority; or
 - (c) private Asset without payment of fair and reasonable compensation to the owner.
- (2) The owner of any Asset in an Authorisation area retains rights to the use of its Asset except in so far as the use interferes with Petroleum Operations.
- (3) An Authorisation may limit the use by an Authorised Person of public infrastructure, and the consumption of other natural resources, including trees, sand, gravel, rock and water.
- (4) An Authorisation does not constitute a waiver of the Authorised Person's obligations regarding the rules and regulations of the Region, unless the consent of the responsible authority has been obtained.

Second:

- (1) The Authorised Person is liable to pay fair and reasonable compensation if, in the course of Petroleum Operations, it:
 - (a) disturbs the rights of the owner of any Asset, or causes any damage thereon; or
 - (b) demonstrably interferes with any other lawful activities.

- (2) If the Authorisation value has been increased because of violations under Paragraph Second (1) of this Article, compensation payable by the Authorised Person must not be less than the amount of the loss.

Third: The Ministry shall estimate and decide a fair and reasonable compensation payable by the Authorised Person under this Article, after having considered representations by interested parties. The Authorised Person shall be entitled to arbitration in accordance with any arbitration provisions and the affected Person shall be entitled to rely on the specialist courts in the Region to object to a compensation decision.

Article 30:

An Authorisation shall specify the rights of the Minister to approve, or be notified of:

First: joint operating agreements, lifting arrangements and any other agreement related to the Petroleum Operations, as well as amendments to such agreements;

Second: any changes in Control of an Authorised Person; and

Third: any assignment, transfer, conveyance, novation, merger, encumbrance or other similar dealing in respect of the Authorisation.

Article 31:

If there is more than one Authorised Person in respect of a particular Authorisation, the obligations and liabilities of the Authorised Person under an Authorisation are the obligations and liabilities of them all, jointly and severally.

Article 32:

First: The Region shall have title to all data and information, whether raw, derived, processed, interpreted or analysed, regarding Petroleum in the Region.

Second: Notwithstanding Paragraph First of this Article, Authorised Persons may retain copies of data and information obtained pursuant to an Authorisation and may use some or all for the purposes of the Authorisation according to the terms of a relevant Authorisation but shall have no title to such data after the termination of the Authorisation.

Third: Data and information acquired during the course of Petroleum Operations may, with the permission of the Minister, be freely exported by Authorised Persons provided that the Minister may require that an original, or in the case of a core, rock, fluid or other physical sample, a usable portion of the original, of all data and information, both physical and electronic, be kept in the Region.

Article 33:

The General Inspector in the Ministry shall oversee the Authorised Person. On request, an Authorised Person shall make its books and accounts available for auditing.

Article 34:

First:

- (1) The Minister shall have the power to terminate an Authorisation as set out in the Authorisation and shall notify the Regional Council accordingly.
- (2) Termination of an Authorisation without prejudice to rights and obligations expressed in the Authorisation which shall survive after the termination.

Second: If there is more than one Authorised Person in respect of a particular Authorisation and circumstances arise in which the Minister may terminate an Authorisation, the Minister may elect to terminate the Authorisation, or terminate the Authorisation only in respect of those Authorised Persons whose acts or omissions have led to such circumstances, and shall so notify the remaining Authorised Persons.

Third: In the event that the Minister elects to terminate an Authorisation pursuant to Paragraph Second of this Article, the interest of those Authorised Persons whose Authorisation has been terminated shall revert to the Minister and shall be used for the best interests of the people of the Region.

Article 35:

First: An Authorised Person shall defend, indemnify and hold harmless the Regional Government from all claims by third parties resulting, directly or indirectly, from Petroleum Operations.

Second: An Authorised Person shall maintain insurance in respect of the potential liability under Paragraph First of this Article for such amount as the Ministry requires from time to time.

Article 36:

First: An Authorised Person shall remove from the Contract Area everything used in the Petroleum Operations and clean up the Contract Area (decommission) under the following circumstances:

- (1) termination or at the end of the period of the Authorisation; or
- (2) when no longer required for Petroleum Operations.

Second: Without prejudice to any criminal liability, a Person who engages in Petroleum Operations without an Authorisation shall:

- (1) make restitution to the Region of an amount equal to the market value of Petroleum developed, produced or exported, together with late payment interest thereon at a rate not to exceed the legal rate of interest to be determined by the Minister;
- (2) either forfeit all infrastructure and equipment used in engaging in those Petroleum Operations, or remove such infrastructure and equipment or be liable for the payment of the costs of such removal; and
- (3) clean up pollution resulting from those Petroleum Operations, or reimburse the costs of clean-up to the Region.

Third: The liabilities under Paragraph Second of this Article of Persons who, together, are engaged in, or have engaged in, Petroleum Operations are the liabilities of them all, jointly and severally.

CHAPTER TEN PRODUCTION SHARING CONTRACT

(Contract Terms)

Article 37:

First: A standard Production Sharing Contract shall include the following terms.

- 1) An initial exploration term of a maximum of five (5) years, divided into two sub-periods, of three (3) years and two (2) years, extendable on a yearly basis for up to a maximum total of seven (7) years;
- 2) Relinquishment of twenty-five percent (25%) after the initial exploration term, with a further twenty-five percent (25%) of the remaining area at the end of each renewal period. If these percentages of relinquishments can only be achieved by including part of the area of a discovery, these percentages shall be reduced to exclude the discovery area. Voluntary relinquishment at the end of each Contract year is permitted.
- 3) An exploration commitment, which shall be negotiable, involving the purchase and interpretation of all existing data, including seismic data, where available, and seismic acquisition in the first sub-period, with exploration drilling in the second sub-period and a Well in each of the annual extensions.
- 4) A development period, following discovery, to be twenty (20) years, with a right of the Contractor to a five (5) year extension, on the same terms and conditions, with possible further extensions to be negotiated.
- 5) Royalty, at a rate of ten percent (10%), and paid in accordance with Article 41 of this Law.
- 6) Cost recovery from a portion of production after deduction of the Royalty, to a maximum not exceeding forty-five percent (45%) for Crude Oil; and not exceeding sixty percent (60%) for Natural Gas.

- 7) Production sharing from remaining production after Royalty and allowable cost recovery according to a formula which takes into account cumulative revenues and cumulative petroleum costs and provides the Contractor with reasonable returns.
- 8) Annual surface rental during exploration and development phases.
- 9) Regional Government participation for a direct working interest in exploration, development and production with participation terms which must be fixed and defined in each Contract.
- 10) A commitment to the payment of an agreed amount into an Environment Fund, to be administered by the Regional Government for the exclusive benefit of the natural environment of the Region.
- 11) Provisions for securing the health, safety and welfare, environmental protection, training, and acquisition of goods and services, consistent with international standards and with the proposals made in accordance with Article 26 of this Law.

Second: For any Production Sharing Contract that the Minister considers to involve a high commercial risk or to require a high amount of up-front capital, the minimum Royalty percentage stated in Paragraph First (5) of this Article may be reduced and the cost recovery percentage stated in Paragraph First (6) of this Article may be increased according to the risk involved, after obtaining the approval of the Regional Council.

Third: For any Production Sharing Contract that the Minister considers to involve a low element of commercial risk, a Royalty percentage may be increased to a higher amount than that stated in Paragraph First (5) of this Article, and a cost recovery percentage may be reduced to a lower amount than that stated in Paragraph First (6) of this Article can, after obtaining the approval of the Regional Council.

Fourth: The terms of a Production Sharing Contract shall include good oil field practice and procedures employed in the petroleum industry worldwide by prudent and diligent operators under conditions and circumstances similar to those experienced in connection with the relevant aspect or aspects of the Petroleum Operations, principally aimed at ensuring:

- (1) conservation of Petroleum resources, which implies the utilization of adequate methods and processes to maximise the recovery of hydrocarbons in a technically and economically sustainable manner, with a corresponding control of reserves decline, and to minimise losses at the surface;
- (2) operational safety, which entails the use of methods and processes that promote occupational security and the prevention of accidents; and
- (3) environmental protection, that calls for the adoption of methods and processes which minimise the impact of Petroleum Operations on the natural environment.

Article 38:

First: A Petroleum Contract shall define the applicable terms with respect to Associated and non-Associated Natural Gas to facilitate the development of a Natural Gas industry in the Region.

Second: Those terms shall include provisions for the optimal utilisation of surplus volumes of produced Natural Gas, and terms to minimise the flaring of Natural Gas, consistent with international standards in the industry.

Third: The Minister may, by regulation or in a Petroleum Contract, specify a method for the valuation of Natural Gas that shall be consistent with international standards in the industry and shall ensure the maximum returns to the people of the Region and Iraq.

Article 39:

The Ministry may enter into service contracts, field management contracts, supply and installation contracts, construction contracts, consulting contracts, or any other types of contracts to efficiently manage the Petroleum resources of the Region. Such other contracts may contain some element of risk to reward the contractor for performance, timely completion, and achieving high value targets.

Taxation

Article 40:

First: A Contractor, Authorised Person or other Person associated with Petroleum Operations is liable for any applicable taxes of the Regional Government, including:

- 1) surface tax;
- 2) personal income tax;
- 3) corporate income tax;
- 4) customs duties and any other similar taxes;
- 5) windfall profits or additional profits tax; and
- 6) any other tax, levy or charge expressly included in its Petroleum Contract.

Second: A Petroleum Contract may exempt a Contractor from tax by law.

Third: Applicable taxes of the Regional Government shall be the only taxes that apply to Petroleum Operations.

(Other Conditions)

Article 41:

First: The volume of Petroleum constituting the Royalty shall be calculated by applying the percentage specified in the Petroleum Contract.

Second: The Minister, after obtaining the approval of the Regional Council, may require from time to time that the Royalty be paid in kind or in cash, and the Royalty shall be paid quarterly or monthly as provided for in the Petroleum Contract.

Third: Where there is no independent third party sale on an arm's length basis, the Contractor shall pay the Royalty on the international market price.

Article 42:

A Contractor is obliged to sell and transfer to the Regional Government, upon written request of the Minister, any amounts of Crude Oil that the Regional Government shall deem necessary to meet the internal consumption requirements of the Region. The sales price of Crude Oil shall be established pursuant to the applicable Petroleum Contract, or in the absence thereof, fair market value.

Article 43:

The Minister may, in a Petroleum Contract, waive on behalf of the Region any claim on to sovereign immunity with regard to legal proceedings and the enforcement of judgments.

**CHAPTER ELEVEN
LOCAL PARTICIPATION**

Article 44:

First: An Authorised Person shall give preference to:

- (1) competent local companies from the Region and other parts of Iraq, which must
 - (a) be bona fide companies not related to any public officer, directly or indirectly,
 - (b) have adequate resources and capacity to enhance the Petroleum Operations carried out by the Authorised Person, and
 - (c) be approved by the Minister, according to clear criteria which he shall prescribe by regulation;
- (2) the employment of persons from the Region and other parts of Iraq to the extent such personnel have the qualifications, competence and experience required to perform the work; and
- (3) the purchase of local products and services from the Region and other parts of Iraq, wherever they are competitive in terms of price, quality and timely availability.

Second: The Minister may give preference to an Authorised Person who partners with local companies.

Article 45:

First: An Authorisation shall include clearly defined training programs for local employees of the Authorised Person, which may be carried out in the Region, other parts of Iraq, or in foreign countries, and may include scholarships and other financial support for education.

Second: An Authorisation shall include, where possible, a commitment by the Authorised Person to maximise knowledge transfer to the people of the Region, and to establish in the Region any necessary facilities for technical work, including the interpretation of data obtained from Petroleum Operations.

Article 46:

A Contractor shall establish an office in the Region.

**CHAPTER TWELVE
UNITISATION**

(Unitisation of Reservoirs within the Region)

Article 47:

First: If a Reservoir lies entirely within the Region, any unitisation of the Reservoir shall be the responsibility of the Minister after obtaining the approval of the Regional Council, and shall be consistent with international standards in the petroleum industry.

Second: A Reservoir that lies partly within a Contract Area, and partly in another Contract Area, shall be unitised as follows:

- (1) The Minister may require by written notice the Contractors to enter into a joint unitisation agreement with each other for the purpose of securing more effective and optimised production of Petroleum from the Reservoir; and
- (2) if no joint agreement has been reached within a reasonable period of time from receipt of written notice stated in Paragraph Second (1), the Minister shall decide on the unitisation; and
- (3) if the Contractors do not agree with the Minister's decision, the Contractors shall be entitled to arbitration pursuant to the provisions of Article 50 of this Law.

Third: A Reservoir that lies partly within a Contract Area and partly in an area that is not the subject of any other Petroleum Contract, shall be unitised as follows:

- (1) The Minister may require by written notice the Contractor to enter into a joint unitisation agreement with the Minister for the purpose of securing the more effective and optimised production of Petroleum from the Reservoir; and

- (2) if no agreement has been reached within a reasonable period of time from receipt of written notice as required in Paragraph Third (1) of this Article, the Minister shall decide on the unitisation; and, if the Contractor does not agree with the Minister's decision, the Contractor shall be entitled to independent arbitration, or the decision shall be according to the conditions of the Petroleum Contract where such a process is provided for under the Petroleum Contract.

Fourth: Any unitisation agreement reached shall define the amount of Petroleum in each area covered by the agreement, and shall appoint the Operator responsible for production of the Petroleum covered by the agreement.

Fifth: The Minister may approve the development or production of Petroleum from the Reservoir only after it has approved or decided the unitisation agreement.

Sixth: Any changes to the unitisation agreement shall be subject to prior approval by the Minister.

Unitisation of Reservoirs across a Region border, within Iraq

Article 48:

First: If a Reservoir lies across a Region border into other areas that are part of Iraq, the unitisation of the Reservoir shall be the responsibility of the Minister after obtaining the approval of the Regional Council; and the Minister shall endeavour to reach agreement with the Federal Government or the other concerned parties to achieve the highest benefit to the people of the Region and all of Iraq using the most advanced techniques and market principles to encourage investment, consistent with Article 112 of the Federal Constitution.

Second: Such an agreement may specify that the unitised Reservoir be administered by a joint management body which shall comprise representatives of the Regional Government and the Federal Government or the other concerned parties.

Third: If no agreement is reached as described in the Paragraph above, the Minister shall submit, with the representative of the Federal Government and the other concerned parties, the matter to an expert to be appointed by all the concerned parties. If no agreement is reached, the matter shall be dealt with according to the Federal Constitution.

Unitisation of Reservoirs across international borders

Article 49:

If a Reservoir lies across a Region border into areas that are part of the domain of a neighbouring country, the Reservoir shall be unitised in coordination with the Federal Government according to the provisions of the Federal Constitution and by agreement with the concerned neighbouring country to ensure a complete equitable benefit for both parties from the development of Petroleum from the Reservoir, and subject to the approval of the Kurdistan Parliament.

CHAPTER THIRTEEN RESOLUTION OF DISPUTES

Article 50:

First:

The Minister may inquire into and decide all disputes involving Persons engaged in Petroleum Operations, including disputes:

- (1) among the Persons themselves, where agreements between them do not specify a dispute resolution mechanism; or
- (2) in relation to other parties (other than the Regional Government) not so engaged.

Second:

- (1) If a dispute arises relating to the interpretation and/or application of the terms of an Authorisation between an Authorised Person and the Minister, the parties shall attempt to resolve that dispute by means of negotiation.
- (2) If the dispute cannot be resolved by negotiation, either party may submit the dispute to arbitration.
- (3) Any arbitration between the Minister and an Authorised Person shall be conducted, by agreement between the Parties, in accordance with either:
 - (a) the 1965 Washington Convention, or the regulations and rules of the International Centre for the Settlement of Investment Disputes (ICSID) between States and Nationals of other States;
 - (b) the rules set out in the ICSID Additional Facility adopted on 27 September 1978 by the Administrative Council at the ICSID between States and Nationals of other States, whenever the foreign party does not meet the requirements provided for in Article 25 of the Washington Convention;
 - (c) the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL);
 - (d) the arbitration rules of the London Court of International Arbitration (LCIA);
or
 - (e) such other rules of recognised standing (as agreed by the Parties, in respect of the conditions for implementation, including the method for the designation of the arbitrators and the time limit within which the decision must be made).
- (4) The obligations of the Minister and the Authorised Person under the Authorisation shall continue pending the resolution of any matter submitted to arbitration.

CHAPTER FOURTEEN ADVERTISEMENTS AND PUBLICATIONS

Article 51:

First: The Minister shall publish:

- (1) invitations for applications for Authorisations; and
- (2) notice of the grant and termination of Authorisations.

Second: The Minister shall publish invitations for applications for Authorisations in the media and via the Ministry internet website, in such manner as is required by regulation.

Article 52:

First:

- (1) The Minister shall make available to the public:
 - (a) details of all Authorisations and amendments thereto, whether current, modified or terminated;
 - (c) information regarding unitisation agreements.
- (2) The Minister shall make available to any member of the public, within a reasonable period of time of a request having been made by that person, summary details of:
 - (a) the Authorisations (and amendments, whether or not terminated) and unitisation agreements;
 - (b) an approved Development Plan; and
 - (c) all assignments and other dealings consented to in respect of Authorisations, subject to their commercial terms and conditions; and
 - (d) Petroleum Operations.

Second: Within ten (10) business days of a request having been made, the Minister shall publish brief reasons for:

- (1) granting an Authorisation subsequent to an invitation;
- (2) approving a Development Plan under a Petroleum Contract; and
- (3) making any decision or granting any approval that, under an Authorisation, requires publication.

Third: Companies shall report on their compliance with requirements under this Law and Authorisations in such manner and detail as required by their Authorisation and as provided by regulation, and the Minister shall make available such reports to the public.

Fourth: The Minister shall publish the relevant reports related to Authorised Persons on payments relating to Petroleum Operations made to the Regional Government as are required by law.

Fifth: The information contemplated in this Article shall be available to any Person on payment of the required fee, to be provided by regulation.

CHAPTER FIFTEEN REGULATIONS

Article 53:

The Minister may make regulations under this Law relating to the following:

- First: graticulation of the territory of the Region;
- Second: Petroleum exploration and production;
- Third: the use and disclosure of data, information, records and reports;
- Fourth: the measurement and sale or disposal of Petroleum;
- Fifth: occupational health and safety;
- Sixth: protection and restoration of the environment;
- Seventh: resources management;
- Eighth: structures, facilities and installations;
- Ninth: clean-up operations and other appropriate methods to remedy and remove the effects of the escape of Petroleum;
- Tenth: abandonment and decommissioning;
- Eleventh: work programs and budgets;
- Twelfth: the auditing of an Authorised Person and of its accounts and records;
- Thirteenth: reporting by Authorised Persons on compliance with obligations set out in the Law and Authorisations, including in relation to:
 - (1) the training and employment of Region citizens and other citizens of Iraq,
 - (2) procurement of Region and other Iraqi goods and services,
 - (3) occupational health and safety,
 - (4) protection and restoration of the environment.

Article 54:

First: All agreements related to Production Sharing Contracts entered into by the Regional Government prior to the entry into force of this Law, shall be subject to review by the Regional Council to make them consistent with the provisions of this Law, taking into consideration the prevailing conditions when these agreements were entered into. The decisions of the Regional Council in this regard shall be final and may be published.

Second: All authorisations and memoranda of understanding related to oil and gas which were signed by the Regional Government prior to the entry into force of this Law shall be null and void unless they are approved by the Regional Council.

CHAPTER SIXTEEN NON-COMPLIANCE PROVISIONS

Article 55:

First: It is prohibited for public officer or his or her spouse or child or any Person for his benefit to acquire:

- (1) a benefit or an interest, whether direct or indirect, in an Authorisation; or
- (2) any direct or indirect interest or share in a corporation (or an affiliate of it) that holds an Authorisation, unless as part of a transparent process of privatisation of a Regional Government-owned entity.

Second: The Minister shall require, by regulation, that all public officers in the Ministry be subject to the filing of financial disclosure statements, which, in the case of senior public officers, shall be made public.

Article 56:

First: An Authorised Person shall be liable to the penalties set out in Paragraph Second of this Article if that Person:

- (1) breaches legislation of the Region concerning corruption; or
- (2) directly or indirectly, by any means, hinders the work of the General Inspector; or
- (3) in, or in connection with, any application or report under this Law, knowingly or recklessly gives information that is materially false or misleading; or
- (4) holds, sells, buys, or otherwise transfers, receives or deals in data and information to which the Region has title, pursuant to Article 32 of this Law, unless that Person obtains a licence from the Minister, or does so pursuant to the terms of an Authorisation;

Second: Where the Minister determines that an Authorised Person has engaged in any activities referred to in Paragraph First, in addition any punishment proceedings, the Minister shall:

- (1) cancel the Authorisation or part of the Authorisation;
- (2) cancel the right of the Authorised Person to participate in public tenders concerning Petroleum Operations, in particular those regarding Authorisations and the procurement of goods and services;
- (3) subject the Authorised Person an embargo on any construction works, in such cases as they may result in damage to relevant public interests;
- (4) prohibit the Person from practising activities related to Petroleum Operations for a period not less than two (2) years; and

- (5) publish details of the activities.

CHAPTER SEVENTEEN FINAL AND TRANSITIONAL PROVISIONS

Article 57:

First: A percentage from the Petroleum Revenues shall be used to protect the rights of the future generations, to fund strategic projects in the Region, to protect the environment, to support the families of the martyrs, and to support the necessary needs of the citizens of Kurdistan to achieve fairness amongst its religious and ethnic composition and this shall be regulated by law.

Article 58:

The Regional Government shall take into consideration the development of the areas where Petroleum Operations are carried out and shall support their local and provincial councils and shall compensate the land owners according to the laws to ensure fairness.

Article 59:

First: All legislation or decisions that are inconsistent with the provisions of this Law are invalid.

Second: The provisions of the Law of Investment of the Kurdistan Region (Law No. 4 of 2006) do not apply to Petroleum Operations.

Article 60:

The Minister shall issue the necessary regulations for the implementation of the provisions of this Law.

Article 61:

This Law enters into force upon the date of its issue, and shall be published in the Official Gazette of the Region (*Waqaa'e Kurdistan*).

Necessitating reasons

This Law was issued to develop the petroleum wealth of the Region in a way that achieves the highest benefit to the Kurdistan people and all Iraqi people, using the most advanced techniques of market principles and encouraging investment, in a manner consistent with the

provisions of Articles 111, 112, and 115 of the Federal Constitution, to promote and adhere to the highest standards of transparency, accountability, and fairness in the petroleum sector, to provide special petroleum revenue allocations for all citizens of the Region, for the future generations of the Region, for those who suffered as a result of the previous regime in Iraq for the natural environment of the Region; and to facilitate cooperation on petroleum management with the Federal Government provided that revenue is shared equitably, as required by the Federal Constitution.

Law No. (05) for the year 2013

Law of identifying and obtaining financial dues to the Kurdistan Region - Iraq from federal revenue

According to the provisions of articles (1, 13, **105, 106**, 110, 111, 112, 115, 121 and 132) of the constitution of the Federal Republic of Iraq in 2005 and the provision of **item 1** of Article 56 of the Law of Kurdistan Parliament No. 1 of 1992, **amended, and** based on **what the Council of Ministers of** Kurdistan Region – Iraq has submitted and the implementation of provisions of article 40 of Law No. 1 of 2013 (the General Budget Law of the Kurdistan Region of Iraq for the Fiscal Year 2013), Iraqi Kurdistan's parliament decided during its meeting number **10** held **on April 23**, 2013 the legislation of the following law:

Law for the year 2013

Law of identifying and obtaining financial dues to the Kurdistan Region - Iraq from federal revenue

Chapter One

Definitions

Article (1):

The following terms shall have the meanings set forth for the purposes of this law:

First: the Federal Government; Federal Government of the Republic of Iraq.

Second: The Constitution; the Constitution of the Federal Republic of Iraq in 2005.

Third: The region; The Kurdistan Region - Iraq.

Fourth: Parliament; Parliament of Kurdistan - Iraq.

Fifth: **Council of Ministers; the Council of Ministers of the Region.**

Sixth: Oil and gas revenues; Revenue s of the federal government obtained from oil operations, including oil and gas sales, and **other payments and revenues of** oil contracts concluded with foreign and local **companies** by either the federal government or the regional government.

Seventh: Expenditures' tables; Tables for **amounts of** governing and sovereign expenditures annexed to the Laws of the Annual Federal **General Budget since** 2004.

Eighth: **The following terms shall have the meanings set out in the** article 1 of the Iraqi Kurdistan Region's Oil and Gas Law No. 22 for the year 2007: (Oil, crude oil, gas, natural gas, oil field, **current** field, future field and **oil** operations).

Chapter II

The Law's Objectives

Article II:

This law aims at:

First: **Develop** legal mechanisms **to** identify and obtain financial rights owed to the Region within the federal revenues, and to **include them in the Region's general budget**.

Second: Enable the Region to obtain its financial dues **from** oil and gas revenues, in-kind or in cash according to the Constitution.

Third: Obtain the **Region's dues** from grants, aid and international loans provided to the federal government **depending on** the first item of article 106 of the Constitution.

Fourth: Obtaining the Region's share of any other resources or compensations **received** by the federal government.

Fifth: Provide the necessary mechanisms to obtain **the Region's dues** from the federal budget, taking into account the unpaid accumulated **amounts such as** sovereign and governing **expenditures that are** included in the federal budget since 2004.

Sixth: Obtain compensations owed to the Region for damages resulting from unfair practices by the former regime through mass repression, genocide, Anfal operations and scorched - earth policy in **accordance with** the first **item** of article 112 of the Constitution.

Seventh: Achieving justice in the distribution of federal resources to ensure the unity of the people of Iraq and **its** federal state in line with the first article of the Constitution.

Chapter Three

Financial Rights of the Region

Article III:

The region has the right to:

First: A fair share of oil and gas extracted in the whole of Iraq that is to be commensurate with the population distribution based on article 111 and the first item of article 112 of the Constitution.

Second: A fair share of all other revenues obtained **federally and** of grants, aid and international loans to enable the Regional government to bear its **burdens** and responsibilities according to item three of article 121 of the Constitution.

Third: An extra share of oil and gas revenues to compensate **it** for damages resulting from the practices of the former regime based on the first item of article 112 of the Constitution.

Fourth: **Actual** participation in the formation and membership of **the General Authority for Monitoring and Allocation of Federal Revenues through the Region's representation in it by its experts and representatives** according to the provisions of article 106 of the Constitution.

Fifth: **Call on** the federal government to **fulfill** legislation that embodies **its** actual partnership in the management of the state and its institutions on the basis of the provision of article 105 of the Constitution and deter damage on the **financial and economic** rights of the region, and legislation of law for distribution of oil and gas revenues based on the first item of 112 of the Constitution to accelerate development in the Region and the Governorates.

Sixth: Actual participation with the federal government for marketing oil and gas produced from the current fields and, to **perform its exclusive role in the** management of the future fields **in the Region** including marketing of oil and gas produced from them, and from which the Region was deprived because of the refusal of the federal government and its failure to perform its positive role in **developing** the necessary strategic policies to develop oil and gas wealth, as referred to in the second item of article 112 of the Constitution.

Seventh: **The allocation of** a fair share of crude oil and gas and oil products intended for consumption in the whole of Iraq to be commensurate with the distribution of population and taking into account the special circumstances of the Region and the removal of all forms of discrimination.

Chapter Four

The Bases for Identifying the Financial Rights of the Region

Article IV:

First: The 17% **accredited in the** federal budget laws **will be the** basis to determine the Region's share of total operating expenses and investment project expenses **of** the annual **federal** public budget until a general population census is conducted in Iraq and, the Region **will** have the same percentage of the following:

A - Total revenues of the federal public budget including revenues **received from** the export of crude oil.

B - Total refined crude oil provided for consumption in the whole of Iraq, including needed crude oil to run power plants.

C - Total **governing** expenses and allocations for reconstruction and development of the projects of the Region's Governorates, and increases achieved in revenues from exports of crude oil and allocations of sovereign expenses to the Regional **bodies similar to the federal bodies consisting of (Presidency of the Region, the Parliament, Council of Ministers, Presidency of Council of Minister, Office of the Deputy Prime Minister, the Region Guards [Peshmerga], the National Security Protection Council, Human Rights Board, Integrity Commission, the Nationality and Border and Security Apparatus).**

Second: The ministries of finance and economy, planning in and natural resources in the Region to calculate the referred to in paragraph (c) of this Article, in coordination with other concerned entities in the region.

E - For the Ministry of Natural Resources in the region to calculate entitlements referred to in the points (a), (b) and (c) of the first item of this article **in coordination with the other relevant parties in the Region.**

Third:

A - In addition to the share of Region's Governorates of petrodollar from the crude oil exported from the Region since 2009, the Region deserves **a dollar from** petrodollar of every barrel of crude oil and **150 cubic meters of produced and refined or intended gas for consumption in the Governorates of the Region, providing that these entitlements to be calculated by the ministry of natural resources according standards accredited by the federal government.**

B - Revenues obtained **actually** at border crossing points of the Region's Governorates **are returned and are allocated** exclusively for the rehabilitation and reconstruction of the border crossing points of each Governorate.

C – **The council of ministers**, with the approval of the Parliament, **to be competent in** determining how to deal with revenues obtained by the Region, according to the provisions of this law.

Fourth: The council of ministers should form a ministerial committee for the purposes of assessing **due** compensations in accordance with the item three of article III of this law, in cash amounts or equivalent in-kind of crude oil of the Region **providing that the estimated** compensations **are paid off** in annual installments for a period not to exceed 5 years from the date of this law entering into force.

Article V:

The ministries and parties referred to in article IV of this law to complete their tasks within a period not to exceed 60 days from the date of this law entering into force and submit their final reports to the **council of ministers** for approval within a period not to exceed 30 days from the date of their submission.

Chapter Five

Procedures for Obtaining Financial Rights of **the Region**

Article VI:

First: **The council of ministers**, after the identification and estimation of the financial rights of the Region under the provisions of this law, should request the federal government to pay the estimated financial dues in accordance with **the** law within a period of 90 days from the date of informing them of request and **to legislate** the law for oil and gas revenue distribution based on item 1 of article 112 of the Constitution.

Second: If the regional government did **not receive notice** from the federal government **about** its willingness to **hold talks** the Region's dues during the period of 30 days from the date of **receiving the Region's request**, or 90 days passed from the date of the start of talks without reaching an agreement **between both sides or rejecting the Region's demands implicitly or explicitly or being silent towards them**, the Region has to take action it deems appropriate for obtaining its financial rights under the provisions of this law, including the production, export and sale of crude oil and gas to cover all entitlements the federal government refrains to pay, whether before the entry of this law into force or after and **informing the Parliament about it**.

Article VII:

In considering the decisions and procedures of this law, the Regional government is committed to the provisions of the oil and gas law No. 22 for the year 2007; including dealing with the obtained revenues and it exercises its responsibilities in accordance with the special principles and criteria of the EITI.

Article VIII: Not to deal with any legal provision or a decision contrary to the provisions of this law.

Article IX: The Natural Resources Minister, in coordination with the Finance and Economy Minister to issue necessary instructions to facilitate the implementation of the provisions of this law.

END

**The Authority of the
Kurdistan Regional Government over Oil and Gas
under the Constitution of Iraq**

James Crawford SC, FBA, LLD

Executive Summary

- (1) Article 112 of the Constitution of Iraq gives only a qualified right to the Federal Government to “undertake the management of oil and gas extracted from present fields”. This right is to be exercised “with the producing governorates and regional governments”, and is subject to a condition of fair distribution of revenue on a basis regulated by law. As to non-producing and future fields, there is under Article 112, Second, no federal right to manage, although regional management of such fields has to respect strategic policies to be formulated by the federal government “with” the KRG.
- (2) The enactment of an oil and gas revenue sharing law is not a condition precedent to the management of oil and gas, whether extracted from “present” fields or otherwise. The federal government has the right of initiative under Article 112, First, provided it acts “with the producing governorates and regional governments”. However the federal government must propose arrangements for management of oil and gas extracted from present fields which are constitutionally compliant: so far it has not done so.
- (3) The KRG is itself bound by Article 111: it is not open to it unilaterally and permanently to take over management of present (i.e. producing) fields in the absence of any arrangements for revenue sharing. As to fields other than present fields, the federal government has no unilateral rights under Article 112, Second, and in the absence of agreed strategic policies, the KRG is entitled to proceed in the exercise of its own constitutional authority and in compliance with its own constitutional duties.
- (4) The Kurdistan Region Oil and Gas Law is consistent with the Constitution of Iraq and is effective to govern the development of oil and gas in the Kurdistan Region. In the continuing absence of agreement pursuant to Article 112, Second, on the “necessary strategic policies”, the KRG is entitled to manage its oil and gas resources, and should do so openly in a manner which gives effect to the principles set out in that Article.
- (5) Existing contracts entered into by the KRG for oil and gas exploration and exploitation since 1992 are valid unless they conflict with the Constitution. Pending agreement between the KRG and the federal government on strategic policies, the authority of the KRG to authorise the conclusion and implementation of new contracts is unqualified.



Opinion

The Authority of the Kurdistan Regional Government over Oil and Gas under the Constitution of Iraq

James Crawford*

A. Introduction

1. I am asked to advise the Kurdistan Regional Government-Iraq (KRG) on the extent of its competence with respect to oil and gas matters under the Constitution of Iraq. I do this on the basis that there are no relevant differences between the English-language version of the text and the version in the authentic Arabic and Kurdish texts.¹

B. The Constitutional Provisions

2. The Constitution of Iraq was negotiated in 2005. The Iraqi people approved it by referendum on 15 October 2005 and it entered into force in 2006.²

3. Article 142 provides for the Council of Representatives to create a constitutional review committee, operating within a strict time scale, to consider recommendations for amendments that could be made to the Constitution. If proposed, such amendments would be voted on by the Council, and then submitted to a referendum. In fact, the Committee has so far failed to agree recommendations, and its present preliminary report has no legal standing or effect.³ This opinion is based on the text of the Constitution as it stands.

4. First among the fundamental principles of the Constitution is the proposition that Iraq is a "single, federal, independent and fully sovereign State" (Section One, Article 1). Within that federation, special recognition is given to the Kurdistan Region (Article 4, Third). Although other regions are intended to be recognised as components of the federation, only the Federal Region of Kurdistan is actually recognised in the Constitution itself (Article 117, First). The Kurdish language is one of the two official languages (Article 4, First). In areas where there is no recognised regional government, the governorates perform largely the same function (Article 122).

¹ Of particular importance is Article 112 of the Constitution. Attached as Appendix 1 is a letter from a qualified Arabic-English translator certifying to the accuracy and sense of the English translation of Article 112.

² For an account of the drafting, see AS Deeks & MD Burton, "Iraq's Constitution: A Drafting History" (2007) 40 *Cornell ILJ* 1.

³ The Committee was formed, late, on 25 September 2006 and started work on 15 November 2006. On 23 May 2007, it presented a preliminary Report, proposing, *inter alia*, significant changes to federal powers and to the provisions concerning oil. The members representing Kurdistan parties have rejected these proposals, as has the Kurdistan Parliament. The Committee's final report has been repeatedly postponed, most recently to end-March 2008.

(i) *The Status of the Kurdistan Region*

5. Iraqi Kurdistan gained autonomy from Iraq in 1970, but the autonomy agreement collapsed five years later. After the 1991 Gulf War, Iraqi Kurdistan became *de facto* autonomous in October 1991 and this situation continues. On 30 June 2004, the Transitional Administrative Law recognised the autonomy of the Kurdistan Region and this status was reaffirmed by Article 117, First, of the Constitution, which provides:

“First: This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region.

Second: This Constitution shall affirm new regions established in accordance with its provisions.”

6. Not only is the KRG at present the only recognised regional government; that recognition goes back to 1992. Article 117, First, of the Constitution specifically recognises an *existing* autonomy. Article 141 provides:

“Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of Kurdistan, including court decisions and contracts, shall be considered valid unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region, provided that they do not contradict with the Constitution.”

7. The Kurdistan Region is currently comprised of the Governorates of As Sulaymaniyah, Erbil and Dahuk and parts of the Governorates of Diyala, Kirkuk and Ninawa. A referendum, required by Article 140, Second, of the Constitution, will determine whether additional parts of these last three governorates (and other “disputed territories”) will become part of the Kurdistan Region.⁴

(ii) *The general constitutional framework*

8. Not surprisingly, the Constitution proclaims its own supremacy. Article 13 provides:

“First: This Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception.

Second: No law that contradicts this Constitution shall be enacted. Any text in any regional constitutions or any other legal text that contradicts this Constitution shall be considered void.”⁵

⁴ Article 140, Second, provides that a referendum should be held before the end of 2007. No referendum has yet been held, but I understand that it has been agreed to hold a referendum by end-June 2008.

⁵ There is a Federal Supreme Court with the task, *inter alia*, of constitutional review and interpretation (Article 93, First, Second), and of resolving disputes between components of the federation (Article 93, Fourth, Fifth).

9. The distribution of power under the federation follows a distinctive pattern. Leaving to one side for the moment oil and gas matters (discussed from paragraph 18 below) the position is as follows.

10. Article 110 gives the federal government exclusive authority in relation to nine categories of matter: foreign policy; national security and defence policy; fiscal and customs policy; standards, weights and measures; citizenship and immigration; broadcasting and postal policies; budget; planning of waters flowing to Iraq; census and statistics. In some cases the power is expressed in terms of "formulating policies"; in others the term used is "regulating", either by reference to "issues" or "policies".

11. Under Article 114, there are seven categories of matters where power is shared between the federal and regional authorities: these are management of customs; generation and distribution of electric energy; environmental policy; development and planning policy; public health policy; educational policy; internal water resources policy. The repeated references in Articles 110 and 114 to the term "policy" suggest that the implementation of policy, as opposed to policy formulation, is a matter for the regional governments.

12. The regional governments have residual powers and these are entrenched. Article 121 provides:

"First: The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government.

...

Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population.

...

Fifth: The regional government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region."

13. Entrenchment is achieved by Article 126, which deals with constitutional amendment. Article 126, Fourth, provides:

"Articles of the Constitution may not be amended if such amendment takes away from the powers of the regions that are not within the exclusive powers of the federal authorities, except by the approval of the legislative authority of the concerned region and the approval of the majority of its citizens in a general referendum."

Thus, no change diminishing the powers of the Kurdistan Region as set out in the Constitution may occur without the approval by the Parliament of the Kurdistan Region and by a popular referendum within the Kurdistan Region.

14. Two provisions explicitly give priority to the law of the regions, except in relation to matters of exclusive federal authority under Article 110. These are Article 115 and Article 121, Second.

15. Article 115 provides:

"All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute."

16. Article 121, Second, provides:

"In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region."

17. Thus on a matter within the exclusive authority of the federal government, federal law prevails. On all other matters, including both shared matters under Article 114 and residual matters under Article 115 and Article 121, First, regional law prevails.

(iii) Competence over Oil and Gas Matters under the Constitution

18. It is against this background that the specific provisions of the Constitution dealing with oil and gas must be read. These provide as follows:

"Article 111:

Oil and gas are owned by all the people of Iraq in all the regions and governorates.

Article 112:

First: The federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country, specifying an allotment for a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country, and this shall be regulated by a law.

Second: The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment."

19. Article 112, First, regulates oil and gas “extracted from present fields”. It gives the federal government management powers in relation to that oil and gas, subject to three important qualifications. First, the management is to be undertaken “with the producing governorates and regional governments”, which I take to mean jointly and in cooperation with those governorates or governments or at least with their approval.⁶ Secondly, the joint management appears to be limited to oil and gas *after* it has been extracted,⁷ on which basis the management of the extraction and production process itself falls outside the federal joint management power. Joint federal power in respect of such oil and gas will be limited, presumably, to processing, transportation and export. Thirdly, revenues from present fields must be distributed in a fair manner, as stipulated in the Article.

20. On its ordinary interpretation, the term “present fields” means fields already under production. This is indicated by the word “extracted” and by the reference to “producing” governorates. The clear inference is that Article 112, First, covers oil and gas extracted from fields presently in production.⁸ By contrast, areas merely being explored, e.g. by seismic survey, are not “present fields”; indeed they are not fields at all but large tracts of territory, most or all of which will never produce any hydrocarbons. On this basis, fields not producing, developed or even discovered – and the oil and gas yet to be extracted from them – fall outside Article 112, First. They fall under the Constitution to be managed by the relevant regional government alone.

21. The time for determining whether a field is “present” or otherwise is the date of the entry into force of the Constitution (viz, 2006). I am instructed that at that date there were no producing fields in the present territory of the Kurdistan Region, i.e. no “present fields” in the sense indicated above. It follows that the provision for joint management under Article 112, First, has no application. On the other hand there are oil and gas contracts with the KRG entered into prior to the coming into force of the Constitution and providing for future exploration, appraisal and, potentially, production. Under Article 141 all such contracts, entered into by Kurdistan since 1992, are considered valid in accordance with their terms (save and to the extent that they contradict some express provision of the Constitution).

22. The question then is what constraints the Constitution imposes on regions in terms of the exploration and exploitation of new oil and gas fields? There are two.

23. First, there is the stipulation of Article 111, that “Oil and gas are owned by all the people of Iraq in all the regions and governorates”. This must be read in the context of Article 112: the “ownership” of the people of Iraq is without prejudice to the “management” of oil and gas, either by the federal government “with” the relevant producing region in the case of oil and gas extracted from “present fields”, or by the

⁶ According to the sworn translator (Appendix 1) the word translated as “with” in the English translation has the sense “together with”.

⁷ According to the sworn translator (Appendix 1) the English phrase “extracted from” is an accurate rendering of the Arabic text, which means “that the management is to be undertaken only in respect of the oil and gas that has been – now or in the future – extracted from ‘present fields’.”

⁸ Oil and gas extracted from fields which, though not yet producing, are under active development with a view to production (with, for instance, a clear development plan) might fall within the scope of the provision; but I understand there to have been no such fields in Kurdistan in 2005.

producing regional government in the case of oil and gas, pre- or post-extraction, from all other fields, including those currently (i.e., at the time of the entry into force of the Constitution) not producing. Moreover the elaborate redistributive arrangements for oil and gas revenues provided for in Article 112, First, only apply to "present fields". It is for the producing regional government, in the first place, to decide on distribution of the revenues of new production from that region, subject to policies formulated under Article 112, Second.⁹

24. Article 112, Second, provides for the joint formulation of "the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment". Again the emphasis is not on "management", but on "policies", this time policies jointly formulated. But it should be stressed that Article 112, Second, does not confer any legislative authority on the federal government, still less exclusive federal authority. Nor does it stipulate that no contracts are to be concluded for the management by a region of present or future fields until the strategic policies are agreed. Such a stipulation would give the federal government a veto over regional authority which the Constitution nowhere gives, outside the enumerated list of exclusive powers in Article 110. Even in respect of present fields, oil is not an exclusive power; *a fortiori* with new fields and projects.

25. Against this view, Deeks and Burton argue that:

"Once the Kurds and Shia had agreed on this finely parsed oil and gas language [viz, in Article 112], it changed no further. The drafters ultimately placed these compromise provisions between the two articles listing exclusive authorities and joint authorities, thereby implying that the joint competency in regulating oil and gas were to be treated differently than the other list of joint competencies."¹⁰

But Article 112 contains two provisions, one dealing with oil and gas extracted from "present fields", the other dealing with future developments, and the involvement of the federal government in the latter is limited to formulating strategic policies for hydrocarbon development together with the producing regional governments. That is not a general competence, still less an exclusive one. Moreover a key point is that the priority provision in Article 115 applies to "[a]ll powers not stipulated in the exclusive powers of the federal government". It is obvious that oil and gas development is not an exclusive federal power. Article 115 accordingly applies to it.

26. For these reasons, in my opinion, it is a matter for the KRG to decide, subject to any strategic policies jointly agreed with the federal government under Article 112, Second, on the terms and conditions for new oil exploration and exploitation. From a

⁹ The Constitutional Review Committee's preliminary Report proposed to delete the words "in all the regions and governorates". The aim seems clear: to change the Constitution in order to "centralise" oil and gas matters within the federal government. By contrast, the existing language of Article 111 affirms that there is a regional dimension to ownership oil and gas. Indeed, it might even support the view that the people of that unit own its oil and gas. But that denies effect to the term "all the people of Iraq". The better view is that Article 111 vests ownership of oil and gas in all Iraq's people, but that the distribution of the revenues of that ownership must take account of Article 112. Thus, the Constitution – an instrument of "all the people" – authorises the respective federal and regional elements in revenue distribution and management according to the carefully balanced language of Article 112.

¹⁰ Deeks & Burton, 58.

legislative point of view, such matters fall within the first sentence of Article 115 (paragraph 15 above), as supported by Article 121, Second.

C. The Draft Federal Oil and Gas Law (2007) and the KRG Oil and Gas Law

27. In the purported exercise of their respective authorities, the federal Oil and Energy Committee of the Council of Ministers has proposed a Draft Oil and Gas Law, which has not yet been enacted.¹¹ By contrast, the KRG has actually enacted its own such Law for Kurdistan. Something should be said about each.

(i) The Draft Federal Oil and Gas Law

28. The Draft Federal Law seeks to maximise federal control over oil and gas activities, with little regard to the actual provisions of the Constitution. It places heavy reliance on Article 111, treating other relevant provisions – Articles 110, 112, 114 and 115 are mentioned – as to be “seen in the light of Article 111” (Preamble para 3; see also Article 1). It seeks to establish “the regime for the management of Petroleum Operations in the Republic of Iraq” (Article 3; also Article 2), with little reference to any distinction between “present fields” and those not producing and not-yet-discovered. In respect of “present fields”, it makes no reference to any distinction between oil and gas pre-extraction and post-extraction. “Petroleum Operations” are widely defined to include

“all or any of the activities related to Exploration, Development, Production, separation and treatment, storage, transportation and sale or delivery of Petroleum at the Delivery Point, Export Point or to the agreed Supply Point inside or outside Iraq, and includes Natural Gas treatment operations and the closure of all concluded activities;”
(Article 4(19)).

29. The Draft Federal Law would establish a Federal Oil and Gas Council, with regional representation (Article 5(C)), which would be responsible for “putting [sic] Federal Petroleum policies, Exploration plans, Development of Fields and main pipeline plans inside Iraq, and ... has the right to approve any major changes in such plans and policies”.¹² The federal Ministry of Oil would moreover undertake “the necessary monitoring and supervisory actions in coordination with the Regional Authorities and Producing Governorates, to ensure their proper, coordinated, and uniform implementation throughout Iraq” (Article 5(D), Third). And there would be an independent Iraq National Oil Company (INOC) which would manage and operate “existing producing Fields mentioned in Annex No. 1”¹³ and participate in the development and production of “discovered and yet not developed Fields mentioned in Annex No. 2” (Article 6).

¹¹ Republic of Iraq, Oil and Energy Committee, Council of Ministers, Draft Oil and Gas Law (15 February 2007). I rely on an English translation provided by the KRG.

¹² Article 5(C), Second. By “putting” is presumably meant “implementing” or “putting into effect”.

¹³ I understand that the Annexes referred to in the draft Law were a later addition after 15 February 2007 and have not been approved by the federal Council of Ministers. The Annexes have been categorically rejected by the KRG.

30. Against this background the Draft Federal Law defines the competencies of regional authorities in far narrower terms. These are confined to undertaking "preparations" and proposals for inclusion in federal plans; and carrying out licensing on the basis of federally regulated procedures and conditions. Although the Draft Federal Law would make regional authorities responsible for licensing "discovered but undeveloped Fields mentioned in Annex No. 3", they would do so subject to the substantial control of the Federal Oil and Gas Council; see also Article 9. In particular, all contracts are subject to a non-objection procedure from the Federal Oil and Gas Council (Article 10). There would be no role for a regional authority to manage oil and gas in present fields prior to extraction. Ignoring the right of regions to receive revenues from future fields, all petroleum revenues would be paid into a central account, to be distributed equitably according to the Constitution (Article 11).

31. Specific provision is contemplated for existing contracts entered into by KRG. Article 40(A) provides:

"The Designated Authority in the Kurdistan Region will take responsibility to review all existing Exploration and Production contracts with any entity before this law enters into force to ensure harmony with the objectives and general provisions of this law to obtain maximum economic returns to the people of Iraq, taking into consideration the prevailing circumstances at the time at which those contracts were agreed, and in a period not exceeding three (3) months from the date of entry into force of this law. The Panel of Independent Advisors will take responsibility to assess the contracts referred to in this Article, and their opinion shall be binding in relation to these contracts."

This would give the last word on the consistency of these contracts to a federally-appointed advisory panel.

32. To summarise, although the KRG could be a "Designated Authority" with responsibility for contracting in respect of Annex 3 fields, under the Draft Law it would lack virtually any independent authority over oil operations in the Kurdistan region, whether in present or future fields, and would lack any authority over, or direct benefit from, revenue flows from those fields. Except for "municipal and local taxes due" (Article 33(A)(3)), all revenue would flow initially to the federal authorities, subject to subsequent redistribution nationally. The careful balance struck by Articles 110-115 of the Constitution is to a significant extent ignored by the proposed Law. In these circumstances it is difficult to see how an investor could rely on the proposed Law to protect investments.

33. Whether or not these proposals could have been amended so as to be made acceptable to the Kurdistan Region and consistent with the Constitution, any prospect of agreement seems to have been dashed by the subsequent publication (in April 2007) of Annexes to the Draft Law which allocated almost all proven reserves to federal control (i.e. in Annexes 1 and 2), leaving only a small number of marginal fields in Annex 3.¹⁴ The KRG subsequently passed its own legislation, to which I now turn.

¹⁴ See Tactical Report, *Baghdad, KRG and the Differences over Draft Oil Law*, 6 June 2007 (http://iraq.tacticalreport.com/index.php?option=com_content&task=view&id=460&Itemid=42) and the various items collected at <http://www.iraqog.com/>.

(ii) *The Kurdistan Region Oil and Gas Law*

34. The Oil and Gas Law of the Kurdistan Region was enacted in August 2007.¹⁵ It makes a series of claims which stand in high relief to the provisions of the Draft Federal Law. The Oil and Gas Law of the Kurdistan Region applies to petroleum operations and all related activities in the Region (Article 2, First). It asserts power under Articles 115 and 121 of the federal Constitution to take priority over federal authority. Article 2, Second, provides:

"Pursuant to Article 115 and paragraphs (1) and (2) of Article 121 of the Federal Constitution, no federal legislation, and no agreement, contract, memorandum of understanding or other federal instrument that relates to Petroleum Operations shall have application except with the express agreement of the relevant authority of the Region."

35. Article 3 deals with ownership, regulation and revenue. It provides in relevant part that:

"First: Petroleum in the Region is owned in a manner consistent with Article 111 of the Federal Constitution. The Regional Government is entitled to a share from the revenues from producing fields, consistent with the share of all Iraqi people, in accordance with this law and Article 112 of the Federal Constitution.

Second: The Regional Government is entitled to a share from the revenues obtained from fields producing after 15 August 2003 in accordance with provisions of this law.

Third: The Regional Government, together with the Federal Government, jointly manage Petroleum Operations relating to producing fields according to the provisions of Article 112(1) of the Federal Constitution.

Fourth: The Regional Government shall oversee and regulate all Petroleum Operations, pursuant to Article 115 of the Federal Constitution and in a manner consistent with Article 112 of the Federal Constitution. The Minister may, after obtaining the approval of the Regional Council licence Petroleum Operations to third parties to maximise timely returns from the Petroleum resources of the Region.

..."

36. Chapter Seven of the Law deals with cooperation with the Federal Government. Article 18 lays down a program of eventual cooperation, including revenue sharing. The program involves four elements:

"First: agree with the Federal Government in the joint management of oil and gas extracted from Current Fields in the Region;

Second: cooperate with the Federal Government in formulating strategic policies to develop the Petroleum resources of the Region in a balanced manner compared with the other Petroleum activities throughout the

¹⁵ Law No (22) - 2007.

country, and in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of market principles and encouraging investment, consistent with the provisions of Article 112 of the Federal Constitution;

Third: cooperate with an intergovernmental federal oil and gas council ('the Federal Oil and Gas Council'), the composition of which is to be agreed with the Regional Government, to establish the standards, model contracts, and commercial terms for negotiations and contract award procedures in Iraq; and

Fourth: agree that all the Revenues obtained by the Region from Petroleum Operations to be deposited to a general petroleum revenue fund for Iraq."

This cooperative program is subject to a series of conditions laid down in Article 19: these concern the conditions for holding and distribution of revenues from oil on a national basis, the role of the yet-to-be-constituted INOC, and various other matters. Article 20 then provides:

"Until the conditions set out in Article 19 are met in full, the Regional Government shall proceed with its rights on the basis of Articles 112, 115, and 121(3) of the Constitution of Iraq, with Revenues received by [Kurdistan Oil Trust Organisation] pursuant to Article 135 of this Law."

37. Article 40 deals with taxation, providing *inter alia* that:

"Third: Applicable taxes of the Regional Government shall be the only taxes that apply to Petroleum Operations."

38. At first glance, the KRG Law may raise constitutional issues. For example, Article 49 deals with unitisation of reservoirs across international borders; but it provides that such reservoirs "shall be unitised in coordination with the Federal Government according to the provisions of the Federal Constitution". Thus the exclusive power of the Federal Government under Article 110, First, is not infringed. More problematic, perhaps, is Article 40, Third. The KRG can in principle, under Articles 112 and 115 of the Constitution, exclude any federal taxation power in respect of fields other than "present fields", and in respect of pre-extraction oil and gas operations in present fields themselves. If there were present fields in the Kurdistan Region in which there is post-extraction federal involvement pursuant to Article 112, First (which I understand is not the case), it would not be clear how a regional government could exclude any concurrent federal powers of taxation that may exist. I note however that the exclusive power of the federal authorities in respect of fiscal and customs *policy* under Article 110, Third, does not include a power to levy taxation, a curious omission.

39. But these are peripheral points. The KRG Law pays much closer regard to the federal Constitution than does the federal Draft Oil and Gas Law. The following points may be made:

- (a) The KRG Law proceeds on the basis that Article 111 of the Federal Constitution applies to oil and gas resources in Iraq generally for the benefit

of the people of Iraq as a whole. Ownership of reserves under the Law is expressly stated to be "in a manner consistent with Article 111".

- (b) The KRG Law asserts a right of joint involvement with the Federal Government under both limbs of Article 112 of the Iraq Constitution. This is a defensible interpretation of Article 112.
- (c) In particular, the KRG Law does not assert a monopoly control over "present fields": rather the claim is to joint management of extracted oil and gas from present fields on the basis of agreement: see Article 18, First.
- (d) In my opinion it is open to a regional legislature under Article 115 of the Constitution to lay down the conditions on which a constitutionally envisaged agreement will be reached. No doubt such conditions may not all be acceptable to the federal government, and to the extent that eventual agreement is reached, further legislation may be necessary. But for the most part the KRG Law allows for federal cooperation based on agreement, and is thus fully consistent with the Constitution.

40. From a constitutional point of view, three points are of particular significance. First, the right of the Federal Government under Article 112, First, to "undertake the management of oil and gas extracted from present fields" is not unconditional but is subject to the condition of fair distribution as set out in that provision: there is at present no legislative basis for such distribution. Secondly, as noted, the right is limited to oil and gas extracted from present fields. Thirdly, that right is not a unilateral one but is expressly one to be exercised "with the producing governorates and regional governments". In marked contrast, federal statements assert exclusivity not based on any law or agreement and are unsupported by the Constitution. Indeed, they are inconsistent with the Constitution in which, as noted already, authority over oil and gas is "not stipulated in the exclusive powers of the federal government".

D. CONCLUSIONS

41. For these reasons, in my opinion, the Constitution of Iraq does not give exclusive authority over oil and gas to the Federal Government. Article 112 of the Constitution gives only a qualified right to the Federal Government to "undertake the management of oil and gas extracted from present fields". But even this is not an exclusive or unconditional right: it is to be exercised "with the producing governorates and regional governments", and it is subject to a condition of fair distribution of revenue on a basis regulated by law. On the footing that there is a dispute between the federal and regional authorities (of which there can be no doubt), Article 115 provides that priority is to be given to the law of the region - subject only to the Constitution itself. As to non-producing and future fields, there is under Article 112, Second, no federal right to manage, although regional management has to respect strategic policies, which have still to be formulated by the federal government "with" the KRG.

42. The enactment of an oil and gas revenue sharing law is not a condition precedent to the management of oil and gas, whether extracted from "present" fields or otherwise. The stipulation in Article 111 is itself unconditional. The federal government is constitutionally required to enact such a law in terms of its continuing right to undertake the management of post-extraction oil and gas from present fields: it cannot rely on Article 112, First, only as concerns those parts which suit it. The federal government


has the right of initiative under Article 112, First, provided it acts "with the producing governorates and regional governments". However if the federal government does not propose arrangements for management of oil and gas extracted from present fields which are constitutionally compliant – and it has so far not done so – a regional government is entitled to withhold consent; otherwise the provisions of Article 112, First, would be nugatory.

43. As to oil and gas extracted from present fields, the onus is on the federal government to comply with the conditions for the management of such oil and gas, acting with the producing regional government, in accordance with the Constitution. If it fails to do so, constitutional remedies are available to the KRG. The KRG would, in any case, be entitled to manage any present fields in the Region up to the point of extraction, if such fields existed. But the KRG is itself bound by Article 111: it is not open to it unilaterally and permanently to take over present fields in the absence of any arrangements for revenue sharing. As to fields other than present fields, the federal government has no unilateral rights under Article 112, Second, and in the absence of agreed strategic policies, in my opinion, the KRG is entitled to proceed in the exercise of its own constitutional authority and in compliance with its own constitutional duties.

44. Turning to existing or proposed legislation, an obvious point, but one which seems to be routinely ignored by federal spokesmen, is that the Draft Iraq Oil and Gas Law has no effect prior to its enactment. Its language merely indicates the thinking of those proposing it. In terms of its legal effect on existing arrangements for oil and gas development in the Kurdistan Region, the Draft Law has no effect.

45. By contrast, the KRG Oil and Gas Law is drafted with careful attention to the Constitution of Iraq. Assuming its due enactment according to the regional procedures, the KRG Law is effective to govern the development of oil and gas in the Kurdistan Region. If, as I am instructed, there are no "present fields" in that region for the purpose of Article 112, First, there is no requirement for joint management of post-extraction oil and gas from such fields. In the continuing absence of agreement pursuant to Article 112, Second, on the "necessary strategic policies", the KRG is entitled to manage its oil and gas resources, and should do so openly in a manner which gives effect to the principles set out in that Article.

46. As to contracts entered into by the Kurdistan Region authorities for oil and gas development since 1992, if and to the extent that their provisions are not inconsistent with the Constitution, I see no reason to question their validity or legal effect. In particular, and pending agreement between the KRG and federal authorities on strategic policies, the authority of the KRG to authorise the conclusion and implementation of such contracts is, in my opinion, unqualified. When such policies are agreed, they will need to take account of existing legal commitments binding at that time.


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29 January 2008

ههريمی كوردستان - عيراق

اقليم كوردستان _ العراق

مجلس الوزراء

مكتب رئيس الوزراء



Kurdistan Regional Government
Council of Ministers
Prime Minister Office

ئهنجومهنی وهزيران

نووسينگهی سهروك وهزيران

العدد:

التاريخ:

٤٠١٣١٧١٢٤

ژماره: ٩٢٣

بهروار: ١٢ خهرمهانه / ٢٠١٣



دولة رئيس مجلس الوزراء الإتحادي الأستاذ نوري المالكي المحترم

تحية طيبة ..

أتقدم اليكم بوافر احتراماتي، وتمنياتي لكم وللزملاء في مجلس الوزراء بالموفقية.

في سياق مداولتنا الاخيرة خلال زيارتنا الى بغداد وتأكيدينا المشترك على ضرورة حل المشاكل العالقة بين حكومة الاقليم والحكومة الاتحادية وفق الدستور و محاضر الاتفاقيات التي تمت بين الطرفين، وتمكين الاقليم من استحصال مستحقاته الماليّة من الواردات الاتحادية حسب قوانين الموازنة الاتحادية للسنوات ٢٠٠٥ الى ٢٠١٣، والتي اعتمدت نسبة ١٧% سبع عشرة بالمائة أساساً لتحديد حصة الاقليم سواء ما يستحقه من الواردات الاتحادية بما فيها النفط والغاز، او ما يستحقه من تعويضات لما فاتته من منافع وما لحقه من اضرار جراء حرمانه من استحقاقاته كنتيجة لممارسات النظام السابق البائد.

وعلى الرغم من المطالبات القانونية المتكررة بهذه الحقوق من قبل الاقليم ومحاضر الاجتماعات التي اجريت بين الطرفين بهذا الخصوص إلا أنه لم يتم التوصل الى حل جذري لهذه المشاكل. ولحل هذه الاشكالية أصدر برلمان الاقليم القانون رقم ٥ لسنة ٢٠١٣ الخاص ب(تحديد و استحصال المستحقات المالية لاقليم كوردستان- العراق من الواردات الاتحادية) و بموجبه تم تحديد الآليات اللازمة لاستحصال مستحقات الاقليم من الموازنة الاتحادية وبضمنها النفقات الحاكمة وتخصيصات اعمار و تنمية مشاريع محافظات الاقليم، والزيادة المتحققة في الإيرادات عن صادرات النفط الخام، وتخصيصات النفقات السيادية للهيئات الاقليمية والمماثلة للهيئات الاتحادية ومستحقات (البيشمركه) و حصة محافظات الاقليم من (بترودولار) عن النفط الخام المنتج والمكرر في الاقليم، والإيرادات المتحققة فعلاً في المنافذ الحدودية لمحافظة الاقليم.

اقليم كوردستان _ العراق

مجلس الوزراء

مكتب رئيس الوزراء



Kurdistan Regional Government
Council of Ministers
Prime Minister Office

ههريمي كوردستان - عيراق

ئهنجومهني وهزيران

نووسينگه ي سهروك وهزيران

العدد:

التاريخ:

ژماره:

بهروار:

فقد الزم القانون رقم ٥ لسنة ٢٠١٣ مجلس وزراء الاقليم بمفاتيحة الحكومة الاتحادية بمستحقاته المالية المقدره اصولياً حسب هذا القانون، لذا نرفق طياً الجداول الخاصة بالمبالغ المقدره للحقوق المالية المستحقة للاقليم ضمن الواردات الاتحادية وفق الاستدادات القانونية التي اشير اليها بالتفصيل في القانون المشار اليه. يرجى من دولتكم اليعاز الى وزارة المالية الاتحادية و الوزارات الاتحادية الاخرى ذات العلاقة للتنسيق والتعاون معنا لتسوية هذه المستحقات بأسرع وقت ممكن، علماً ان التقديرات الواردة في الجداول المرفقة لا تتضمن مبالغ التعويض عن الاضرار الناتجة عن ممارسات النظام السابق والتي تم تقديرها من قبل الجهات المختصة في الاقليم ويتم المطالبة بها لاحقاً.

مع التقدير

المرفقات:

- نسخة من جريدة وقائع كوردستان الرسمية عدد ١٦٢ في ٢٠١٣/٥/٩ والمنشور فيها القانون رقم ٥ لسنة ٢٠١٣.
- جداول بالمبالغ المقدره للمستحقات المالية للاقليم (ما عدا مبالغ التعويض عن الاضرار الناتجة عن ممارسات النظام السابق).

نيجيرفان بارزاني

رئيس مجلس الوزراء

اقليم كوردستان _ العراق

مجلس الوزراء

مكتب رئيس الوزراء



Kurdistan Regional Government
Council of Ministers
Prime Minister Office

ههريى كوردستان - عيراق

ئهنجومهنى وهزيران

نووسينگهى سهروك وهزيران

العدد:

التاريخ:

ژماره:

بهروار:

نسخة منه مع المرفقات الى:

- رئاسة اقليم كوردستان/ الديوان، للفضل بالعلم مع التقدير.
- رئاسة برلمان اقليم كوردستان/ للفضل بالعلم مع التقدير.
- رئاسة مجلس الوزراء الاتحادي/ مكتب السيد نائب رئيس الوزراء الاستاذ الدكتور روز نوري شاويس/ مع التقدير.
- مكتب السيد رئيس وزراء الاقليم/ مع التقدير.
- مكتب السيد نائب رئيس وزراء الاقليم/ مع التقدير.
- وزارة المالية الاتحادية/ مكتب السيد الوزير/ مع التقدير.
- وزارة الثروات الطبيعية في الاقليم / مكتب السيد الوزير/ مع التقدير.
- وزارة البشمركة/ مكتب السيد الوزير/ مع التقدير.
- وزارة المالية والاقتصاد في الاقليم / مكتب السيد الوزير/ مع التقدير.
- ممثلية حكومة اقليم كوردستان في بغداد/ للمتابعة/ مع التقدير.
- دائرة التنسيق والمتابعة في رئاسة مجلس وزراء الاقليم/ لاجراء اللازم و المتابعة/ مع التقدير.
- المكتب الخاص / مع الاوليات.

Reference No.:
Date: [2/ Khahr Manan/ 2713K]

Reference No.: 923
Date: July 24, 2013

[Stamp:] Confidential; Outgoing; Prime Minister Office

His Excellency the Federal Prime Minister, Nouri al-Maliki

Dear Sir,

With all due respect and with my best wishes for you and for the colleagues at the Council of Ministers.

Pursuant to the recent discussions we held during my visit to Baghdad and our joint statement that it is necessary to resolve the pending problems between the Regional Government and the Federal Government pursuant to the Constitution and the agreements between the two parties, the Region should be able to collect its financial dues from the Federal revenue in accordance with the Federal Budget Law of 2005 to 2013, which sanctioned 17% (seventeen percent) as the basis for the Region's share, whether as its dues from the Federal revenue, including oil and gas, or its dues for the losses ensuing from the profits it did not receive and the resulting damages for the payments it did not obtain because of the former regime's actions.

Despite the repeated legal claims concerning the Region's dues and the minutes of the meetings that were held by both parties in this regard, these problems were not fundamentally addressed. In order to resolve this matter, the Region's Parliament issued Law No. 5 of 2013 on Establishing and Collecting the Iraqi Kurdistan Region's Financial Dues from the Federal Revenue. Pursuant to this Law, the necessary procedures for collecting the Region's dues from the Federal budget were established. These included the principal expenditures and the allocations for construction and the development of the Region's governorate projects, realized revenue surpluses from crude oil exports, and the sovereign expenditure allocations for the Regional authorities and those for the Federal authorities and the Peshmerga's dues as well as the petrodollar share of the Region's governorates from the Region's produced crude and refined oil, in addition to the actual realized revenues at the Region's governorate border crossings.

Kurdistan Region – Erbil
Phone: +964 (066) 2220210 – 2220247 - 2220248

E-mail:
council_of_ministers@krg.org

Reference No.:

Date:

Reference No.:

Date:

Law No. 5 of 2013 mandated the Region's Council of Ministers to discuss its financial claims, which are duly estimated under this Law, with the Federal Government. Thus, we are enclosing the tables pertaining to the estimated amounts of the Region's financial dues from the Federal revenues in accordance with the legal provisions that were explicitly referred to in the aforesaid Law. We would appreciate it if Your Excellency instructs the Federal Ministry of Finance and the other relevant Federal Ministries to coordinate and cooperate with us in order to settle these dues as soon as possible. It bears noting that the estimates contained in the enclosed tables do not include the amount of damages for the losses ensuing from the actions of the former regime. These damages were estimated by the Region's competent authorities and will be claimed later on.

Sincerely,

Enclosures:

- A copy of Kurdistan Official Gazette No. 162, dated May 9, 2013, wherein Law No. 5 of 2013 is published.
- Tables containing the Region's estimated financial dues (excluding the amount of damages for the losses ensuing from the former regime's actions).

[Signature]

Nechirvan Barzani

Prime Minister

Kurdistan Region – Erbil

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E-mail:

council_of_ministers@krg.org

Reference No.:

Date:

Reference No.:

Date:

CC with Enclosures:

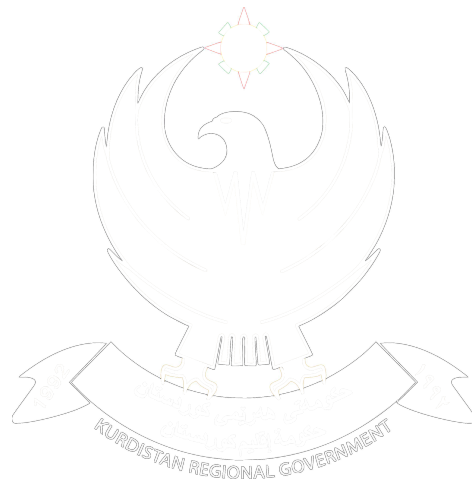
- President of the Kurdistan Region / Council, respectfully for your information.
- Speaker of the Kurdistan Region Parliament / respectfully for your information.
- Federal Prime Minister / the office of the Deputy Prime Minister, Dr. Rose Nouri Shawis / respectfully.
- Office of the Region's Prime Minister / respectfully.
- Office of the Region's Deputy Prime Minister / respectfully.
- Federal Finance Ministry / Office of the Minister / respectfully.
- The Region's Natural Resources Ministry / Office of the Minister / respectfully.
- Ministry of Peshmerga / Office of the Minister / respectfully.
- The Region's Ministry of Finance and Economy / Office of the Minister / respectfully.
- Kurdistan Regional Government's Mission in Baghdad / for follow-up / respectfully.
- Coordination and Follow-up Department at the Office of the Region's Prime Minister / to do what is necessary and for follow-up / respectfully.
- The Special Bureau / including supporting documentation.

Kurdistan Region – Erbil

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جداول المستحقات

جدول رقم (1) اجمالي المستحقات لاقليم كردستان لاعوام 2004 الى 2012 بمليون دينار

التفاصيل	المتبقية من 2005 الى 2012	المدفوعة من 2005 الى 2012	المستحقات من 2005 الى 2012	النوع
جدول رقم - 2 و 3	5,741,854	5,946,648	11,688,502	النفقات الحاكمة
جدول رقم - 4	10,682,414	0	10,682,414	النفقات السيادية
جدول رقم - 5	780,034	49,570	829,604	الايادات الكمركية
جدول رقم - 6	1,584,247	3,962,626	5,546,873	تنمية الاقاليم
جدول رقم - 7	817,190	0	817,190	مبالغ اخرى
جدول رقم - 8	455,400	43,158	498,558	البترو دولار
جدول رقم - 9 الى 15	6,960,331	0	6,960,331	العجز في المشتقات النفطية
	27,021,470	10,002,002	37,023,472	المجموع الكلي

جدول رقم (2) حصة حكومة اقليم كوردستان من النفقات الحاكمة لاعوام 2005-2012 - مليون دينار

النسبة المئوية المستلمة	المبالغ المتبقية	المبالغ المستلمة	التخصيات بموجب الموازنات العامة	النوع
60%	2,523,733	3,785,600	6,309,333	البطاقة التموينية بالكميات
33%	973,518	593,147	1,566,665	الادوية
100%	0	877,354	877,354	استيراد الطاقة
0%	233,093	0	233,093	نفقات الانتخابات
100%	0	130,347	130,347	التعداد السكاني
100%	0	102,000	102,000	دعم المزارعين
100%	0	231,200	231,200	دعم شراء الحنطة والشلب
100%	0	7,650	7,650	الرعاية الاجتماعية
100%	0	5,100	5,100	ازالة الالغام
20%	38,218	9,910	48,128	نفقات الحج
32%	417,690	204,340	622,030	استيراد الوقود للمحطات
0%	289,952	0	289,952	نفقات حل النزاعات الملكية
0%	1,265,650	0	1,265,650	استيراد الوقود
	5,741,854	5,946,648	11,688,502	المجموع

جدول رقم (3) حصة حكومة اقليم كردستان من النفقات الحاكمة لاعوام 2005-2012 - مليون دينار

العنوان	سنة 2005	سنة 2006	سنة 2007	سنة 2008	سنة 2009	سنة 2010	سنة 2011	سنة 2012	المجموع الكلي
البطاقة التموينية	1,020,000	765,000	667,760	1,187,573	714,000	595,000	680,000	680,000	6,309,333
الادوية	147,390	147,390	123,808	140,047	213,960	264,690	264,690	264,690	1,566,665
استيراد الطاقة	76,500	76,500	64,337	64,337	96,560	96,560	96,560	306,000	877,354
نفقات الانتخابات	47,600	47,600	0	0	0	74,601	31,646	31,646	233,093
التعداد السكاني	0	8,108	22,100	21,454	16,327	33,892	28,466	0	130,347
دعم المزارعين	51,000	51,000	0	0	0	0	0	0	102,000
دعم شراء الحنطة والشلب	0	0	0	0	0	0	0	231,200	231,200
الرعاية الاجتماعية	7,650	0	0	0	0	0	0	0	7,650
ازالة الالغام	5,100	0	0	0	0	0	0	0	5,100
نفقات الحج	7,650	7,650	10,098	10,880	3,690	0	0	8,160	48,128
استيراد الوقود للمحطات	0	41,650	35,190	137,190	102,000	102,000	102,000	102,000	622,030
نفقات حل النزاعات الملكية	54,740	51,000	51,000	51,000	30,753	17,153	17,153	17,153	289,952
استيراد الوقود	612,000	653,650	0	0	0	0	0	0	1,265,650
المجموع	2,029,630	1,849,548	974,293	1,612,481	1,177,290	588,896	1,220,515	1,640,849	11,688,502

جدول رقم (4) حصة حكومة اقليم كردستان من النفقات السيادية للدائرات المماثلة لاعوام 2005-2013 - مليون دينار

العنوان	سنة 2005	سنة 2006	سنة 2007	سنة 2008	سنة 2009	سنة 2010	سنة 2011	سنة 2012	سنة 2013	المجموع الكلي
مجلس النواب	0	110,418	119,586	197,056	232,945	306,053	289,752	282,942	228,366	1,767,118
رئاسة الجمهورية	0	125,460	120,921	153,221	98,511	119,358	98,015	113,384	94,769	923,639
حقوق الانسان	0	0	0	0	0	0	0	0	20,675	20,675
هيئة النزاهة	0	0	0	0	0	0	0	34,307	61,753	96,060
الدفاع	0	5,218,030	6,351,944	4,863,012	5,733,824	6,839,031	7,060,707	9,206,856	45,273,404	45,273,404
الجنسية والحدود	0	0	1,167,118	604,591	611,314	590,401	938,098	1,259,983	5,171,505	5,171,505
جهاز المخابرات الوطنية	0	0	0	0	0	0	202,307	274,320	699,318	699,318
مكتب القائد العام	0	0	0	0	0	0	69,993	62,800	197,974	197,974
مجلس الامن الوطني	0	0	0	0	0	0	9,511	11,429	40,740	40,740
مجلس الوزراء	0	173,952	762,827	2,389,349	958,347	792,031	141,553	81,049	94,743	5,393,851
رئاسة مجلس الوزراء	0	0	0	0	0	0	424,256	418,549	1,239,721	1,239,721
اجمالي 2005 لعدم وجود التفاصيل	2,013,724	0	0	0	0	0	0	0	0	2,013,724
المجموع	2,013,724	409,830	6,221,364	10,258,688	6,757,406	7,562,580	8,664,819	9,225,956	11,723,362	62,837,729
حصة الاقليم ١٧%										10,682,414

جدول رقم (5) الايرادات الكمركية المتحققة لحكومة اقليم كردستان من 2010 الى 2012 مليون دينار

سنة	اجمالي الايرادات	المبالغ المعادة للاقليم	المبالغ المتبقية المستحقة للاقليم
2010	217,970	8,152	209,818
2011	326,650	16,418	310,232
2012	284,984	25,000	259,984
المجموع	829,604	49,570	780,034

جدول رقم (6) مشاريع تنمية الاقاليم من عام ٢٠٠٦ - ٢٠١٣

الفروقات / مليون دينار	طريقة احتساب حصة الاقليم من تنمية الاقاليم على اساس نسبة %١٧	طريقة احتساب حصة الاقليم لمشاريع تنمية بموجب الموازنات العامة	اجمالي مشاريع تنمية الاقاليم للعراق	سنة
-59,000	255,000	196,000	1,500,000	2006
-114,000	510,000	396,000	3,000,000	2007
-331,000	1,365,000	1,034,000	8,033,850	2008
-166,186	488,251	322,065	2,872,065	2009
-67,910	190,910	123,000	1,123,000	2010
-254,798	452,940	198,142	2,664,354	2011
-272,089	1,051,252	779,163	6,183,838	2012
-319,264	1,233,520	914,256	7,256,000	2013
-1,584,247	5,546,873	3,962,626	32,633,107	المجموع الكلي

جدول رقم (7) مبالغ اخرى	
المبالغ / مليون دينار	عنوان
600,000	دعم القطاع الزراعي حسب قانون الموازنة لسنة 2008
217,190	الزيادة في الايرادات عن صادرات النفط لسنة 2011
817,190	المجموع الكلي

جدول رقم (8) مستحقات البترودولار لاقليم كردستان لغاية 31/12/2012

الكميات (برميل)	احتساب البترودولار
189,652,365	اجمالي النفط المنتج (برميل)
66,153,450	النفط المكرر في المصافي الرئيسية (برميل)
58,311,177	النفط المكرر في المصافي الصغيرة (برميل)
12,000,000,000	الغاز الطبيعي المنتج (متر مكعب)
المبالغ المستحقة	بالدولار الامريكي
\$189,652,365.00	البترودولار مقابل النفط المنتج
\$66,153,450.00	البترودولار مقابل النفط المكرر في المصافي الرئيسية
\$58,311,177.00	البترودولار مقابل النفط المكرر في المصافي الصغيرة
\$80,000,000.00	البترودولار مقابل كل 100 الف م ³ من الغاز الطبيعي
\$394,116,992.00	المستحقات الكلية من البترودولار
\$34,116,992.00	البترودولار المدفوع للاقليم
\$360,000,000.00	البترودولار الغير المدفوع
455,400,000,000	البترودولار الغير المدفوع (بالدينار العراقي)

جدول رقم (9) النفط الاجمالي المنتج في اقليم كوردستان منذ 2003 الى 2012 (برميل)

المجموع	DANA	Afren	WZ	GKPI	KAR	TTOPCO	DNO	السنة
395,945	0	0	0	0	0	395,945	0	2003
160,599	0	0	0	0	0	160,599	0	2004
367,738	0	0	0	0	0	367,738	0	2005
506,269	0	0	0	0	0	506,269	0	2006
1,524,211	0	0	0	0	0	393,781	1,130,430	2007
3,117,172	328,708	0	0	0	0	316,097	2,472,367	2008
15,689,046	1,585,777	862	0	0	1,662,504	6,858,564	5,581,340	2009
27,483,775	2,696,152	375,172	0	56,583	8,019,718	12,012,546	4,323,605	2010
68,449,186	5,394,195	0	220,374	208,692	19,705,367	24,005,281	18,915,278	2011
71,958,423	6,134,930	2,450	818,920	858,532	20,024,339	27,470,180	16,649,072	2012
189,652,365	16,139,762	378,484	1,039,294	1,123,807	49,411,928	72,486,999	49,072,091	المجموع الكلي

جدول رقم (10) الجزء المصدر من نطف اقليم كوردستان عبر شركة سومو(برميل)

المجموع	شركة DANA	شركة Afren	شركة WZ	شركة GKPI	شركة KAR	شركة TTOPCO	شركة DNO	السنة
0	0	0	0	0	0	0	0	2003
0	0	0	0	0	0	0	0	2004
0	0	0	0	0	0	0	0	2005
0	0	0	0	0	0	0	0	2006
0	0	0	0	0	0	0	0	2007
326,070	326,070	0	0	0	0	0	0	2008
6,868,786	1,584,212	0	0	0	0	1,542,831	3,741,743	2009
2,107,455	1,910,878	0	0	0	196,577	0	0	2010
37,215,093	1,925,981	0	0	21,346	6,744,620	13,252,904	15,270,243	2011
19,636,046	890,361	0	87,799	0	2,721,621	8,450,296	7,485,970	2012
66,153,450	6,637,502	0	87,799	21,346	9,662,817	23,246,030	26,497,956	المجموع الكلي

جدول رقم (11) الجزء المجهز من النفط للمصافي الرئيسية في اقليم كوردستان منذ 2003 الى 2012 (برميل)

المجموع	شركة DAN	شركة Afren	شركة WZ	شركة GKPI	شركة KAR	شركة TTOPCO	شركة DNO	السنة
395,117	0	0	0	0	0	395,117	0	2003
160,599	0	0	0	0	0	160,599	0	2004
367,738	0	0	0	0	0	367,738	0	2005
505,780	0	0	0	0	0	505,780	0	2006
391,617	0	0	0	0	0	391,617	0	2007
178,429	0	0	0	0	0	178,429	0	2008
1,716,206	0	0	0	0	1,662,504	0	53,702	2009
13,039,469	0	315,301	0	0	7,823,141	3,470,335	1,430,692	2010
19,357,929	0	0	0	0	12,769,704	5,799,990	788,235	2011
22,198,293	0	0	0	0	11,754,774	8,648,344	1,795,175	2012
58,311,177	0	315,301	0	0	34,010,123	19,917,950	4,067,804	المجموع الكلي

جدول رقم (12) الجزء المجهز من النفط للمصافي الصغيرة في اقليم كوردستان منذ 2003 الى 2012 (برميل)

المجموع	DANA	Afren	WZ	GKPI	KAR	TTOPCO	DNO	السنة
0	0	0	0	0	0	0	0	2003
0	0	0	0	0	0	0	0	2004
0	0	0	0	0	0	0	0	2005
0	0	0	0	0	0	0	0	2006
1,118,191	0	0	0	0	0	0	1,118,191	2007
2,594,596	0	0	0	0	0	135,628	2,458,968	2008
7,065,234	0	862	0	0	0	5,308,810	1,755,562	2009
12,152,594	701,619	59,871	0	56,583	0	8,468,810	2,865,711	2010
11,470,721	3,118,520	0	220,374	187,346	191,045	4,885,716	2,867,720	2011
30,058,511	5,239,971	2,450	731,122	858,532	5,547,944	10,362,006	7,316,486	2012
64,459,848	9,060,111	63,183	951,496	1,102,461	5,738,988	29,160,970	18,382,638	المجموع الكلي

جدول رقم (13) معدل الاستهلاك اليومي من النفط الخام في عموم العراق منذ 2004 الى 2012 (برميل)

الكميات المكررة والمستهلكة من قبل الحكومة الاتحادية وحكومة الاقليم (ب.ي)	الكميات المكررة من قبل وزارة النفط والمستهلكة في العراق (ب.ي)	حصة الاقليم المستحقة على اساس 17% (ب.ي)	اجمالي الاستهلاك الفعلي في الاقليم (ب.ي)	المشتقات المجهزة للاقليم من قبل وزارة النفط (ب.ي)	الكميات المكررة محليا والمستهلكة في الاقليم (ب.ي)	السنة
383,404	383,000	65,179	40,904	40,500	404	2004
382,924	352,000	65,097	42,924	42,000	924	2005
418,271	377,000	71,106	30,671	29,400	1,271	2006
340,984	295,000	57,967	30,484	29,500	984	2007
460,477	407,000	78,281	41,477	39,000	2,477	2008
374,366	293,000	63,642	58,366	47,000	11,366	2009
436,036	336,000	74,126	67,036	32,000	35,036	2010
478,337	357,000	81,317	91,337	37,000	54,337	2011
545,506	404,000	92,736	95,506	20,000	75,506	2012

جدول رقم (14) الاستهلاك الاجمالي للنفط في عموم العراق منذ 2004 الى 2012 (برميل)

السنة	اجمالي الكميات المستهلكة في الاقليم (برميل)	الكميات المستحقة للاقليم على اساس ١٧% (برميل)	اجمالي الكميات المستهلكة في العراق من ضمنها حكومة الاقليم (برميل)
2004	14,929,834	23,790,197	139,942,334
2005	30,597,196	47,550,648	279,709,696
2006	41,792,199	73,504,379	432,378,699
2007	52,918,968	94,662,455	556,837,968
2008	68,058,163	123,235,068	724,912,163
2009	89,361,581	146,464,449	861,555,581
2010	113,829,682	173,520,476	1,020,708,682
2011	147,167,784	203,201,303	1,195,301,784
2012	182,027,591	237,049,970	1,394,411,591

جدول رقم (15) العجز السنوي والاجمالي لاستهلاك النفط في اقليم كردستان منذ 2004 الى 2012 (برميل)

السنة	الفائض او العجز السنوي (برميل) مقارنة بالنسبة المستحقة 17%	اجمالي الفائض او العجز السنوي (برميل) مقارنة بالنسبة المستحقة 17%
2004	-8,860,363	-8,860,363
2005	-8,093,089	-16,953,452
2006	-14,758,728	-31,712,180
2007	-10,031,306	-41,743,486
2008	-13,433,419	-55,176,905
2009	-1,925,963	-57,102,868
2010	-2,587,926	-59,690,794
2011	3,657,274	-56,033,520
2012	1,011,140	-55,022,380
		القيمة المالية لعجز (بالدينار العراقي)
		6,960,331,000,000

[LOGO]:
KURDISTAN REGIONAL GOVERNMENT

TABLES OF RECEIVABLES

TABLE 1: 2004-2012 GROSS RECEIVABLES FOR KURDISTAN REGION PER MILLION DINARS

Type	2005-2012 Receivables	2005-2012 Paid	2005-2012 Remaining	Details
Governing Expenditures	11,688,502	5,946,648	5,741,854	Tables No. 2 and 3
Sovereign Expenditures	10,682,414	0	10,682,414	Table No. 4
Customs Revenues	829,604	49,570	780,034	Table No. 5
Regional Development	5,546,873	3,962,626	1,584,247	Table No. 6
Other Amounts	817,190	0	817,190	Table No. 7
Petrodollars	498,558	43,158	455,400	Table No. 8
Deficit in Oil Derivatives	6,960,331	0	6,960,331	Tables No. 9-15
Grand Total	37,023,472	10,002,002	27,021,470	

TABLE 2: 2005-2012 KURDISTAN REGION'S SHARE OF GOVERNING EXPENDITURES - MILLION DINARS

Type	Allocations Per the General Budgets	Received Amounts	Remaining Amounts	Percentage Received
Ration Cards per Quantities	6,309,333	3,785,600	2,523,733	60%
Drugs	1,566,665	593,147	973,518	33%
Energy Import	877,354	877,354	0	100%
Elections' Expenses	233,093	0	233,093	0%
Census	130,347	130,347	0	100%
Farmers' Subsidies	102,000	102,000	0	100%
Wheat Purchase Subsidies	231,200	231,200	0	100%
Social Welfare	7,650	7,650	0	100%
Mine Removal	5,100	5,100	0	100%
Hajj Expenses	48,128	9,910	38,218	20%
Gasoline Import	622,030	204,340	417,690	32%
Property Dispute Resolution Expenses	289,952	0	289,952	0%
Gasoline Import	1,265,650	0	1,265,650	0%
Total	11,688,502	5,946,648	5,741,854	

TABLE 3: 2005-2012 KURDISTAN REGION'S SHARE OF GOVERNING EXPENDITURES - MILLION DINARS

Item	Year 2005	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012	Grand Total
Ration Cards	1,020,000	765,000	667,760	1,187,573	714,000	595,000	680,000	680,000	6,309,333
Drugs	147,390	147,390	123,808	140,047	213,960	264,690	264,690	264,690	1,566,665
Energy Import	76,500	76,500	64,337	64,337	96,560	96,560	96,560	306,000	877,354
Elections' Expenses	47,600	47,600	0	0	0	74,601	31,646	31,646	233,093
Census	0	8,108	22,100	21,454	16,327	33,892	28,466	0	130,347
Farmers' Subsidies	51,000	51,000	0	0	0	0	0	0	102,000
Wheat Purchase Subsidies	0	0	0	0	0	0	0	231,200	231,200
Social Welfare	7,650	0	0	0	0	0	0	0	7,650
Mine Removal	5,100	0	0	0	0	0	0	0	5,100
Hajj Expenses	7,650	7,650	10,098	10,880	3,690	0	0	8,160	48,128
Gasoline Import	0	41,650	35,190	137,190	102,000	102,000	102,000	102,000	622,030
Property Dispute Resolution Expenses	54,740	51,000	51,000	51,000	30,753	17,153	17,153	17,153	289,952
Gasoline Import	612,000	653,650	0	0	0	0	0	0	1,265,650
Total	2,029,630	1,849,548	974,293	1,612,481	1,177,290	588,896	1,220,515	1,640,849	11,688,502

TABLE 4: 2005-2013 KURDISTAN REGION'S SHARE OF SOVEREIGN EXPENDITURES FOR SIMILAR AGENCIES - MILLION DINARS

Item	Year 2005	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012	Year 2013	Grand Total
Council of Representatives	0	110,418	119,586	197,056	232,945	306,053	289,752	282,942	228,366	1,767,118
Presidency	0	125,460	120,921	153,221	98,511	119,358	98,015	113,384	94,769	923,639
Human Rights	0	0	0	0	0	0	0	0	20,675	20,675
Ethics Authority	0	0	0	0	0	0	0	34,307	61,753	96,060
Defense	0	0	5,218,030	6,351,944	4,863,012	5,733,824	6,839,031	7,060,707	9,206,856	45,273,404
Citizenship & Borders	0	0	0	1,167,118	604,591	611,314	590,401	938,098	1,259,983	5,171,505
National Intelligence Agency	0	0	0	0	0	0	202,307	222,691	274,320	699,318
General Commander's Office	0	0	0	0	0	0	69,993	62,800	65,181	197,974
National Security Council	0	0	0	0	0	0	9,511	11,429	19,800	40,740
Council of Ministers	0	173,952	762,827	2,389,349	958,347	792,031	141,553	81,049	94,743	5,393,851
Prime Ministry	0	0	0	0	0	0	424,256	418,549	396,916	1,239,721
2005 Gross Due to lack of details	2,013,724	0	0	0	0	0	0	0	0	2,013,724
Total										62,837,729
Region's Share, 17%	2,013,724	409,830	6,221,364	10,258,688	6,757,406	7,562,580	8,664,819	9,225,956	11,723,362	10,682,414

TABLE 5: 2010-2012 CUSTOMS REVENUES REALIZED FOR KURDISTAN REGION'S GOVERNMENT - MILLION DINARS

Year	Total Revenues	Amounts returned to the Region	Remaining Amounts Owing to the Region
2010	217,970	8,152	209,818
2011	326,650	16,418	310,232
2012	284,984	25,000	259,984
Total	829,604	49,570	780,034

TABLE 6: 2006-2013 REGIONAL DEVELOPMENT PROJECTS

Year	Iraq's Total Regional Development Projects	How the Region's Share of Development Projects was calculated per the General Budgets	How the Region's Share of Regional Development Projects was calculated based on 17%	Differences/ Million Dinars
2006	1,500,000	196,000	255,000	-59,000
2007	3,000,000	396,000	510,000	-114,000
2008	8,033,850	1,034,000	1,365,000	-331,000
2009	2,872,065	322,065	488,251	-166,186
2010	1,123,000	123,000	190,910	-67,910
2011	2,664,354	198,142	452,940	-254,798
2012	6,183,838	779,163	1,051,252	-272,089
2013	7,256,000	914,256	1,233,520	-319,264
Grand Total	32,633,107	3,962,626	5,546,873	-1,584,247

TABLE 7: OTHER AMOUNTS

Item	Amounts / Million Dinars
Farming Sector Subsidy pursuant to the 2008 Budget Law	600,000
Increase in Revenues for Oil Exports in 2011	217,190
Grand Total	817,190

TABLE 8: KURDISTAN REGION'S PETRODOLLAR RECEIVABLES THROUGH 12/13/2012

Petrodollar Calculation	Quantities (Barrel)
Gross Oil Produced (Barrel)	189,652,365
Oil Refined at Main Refineries (Barrel)	66,153,450
Oil Refined at Small Refineries (Barrel)	58,311,177
Natural Gas Produced (Cubic Meter)	12,000,000,000
In U.S. Dollars	Due Amounts
Petrodollars for Oil Produced	\$189,652,365.00
Petrodollars for Oil Refined at Main Refineries	\$66,153,450.00
Petrodollars for Oil Refined at Small Refineries	\$58,311,177.00
Petrodollars per 150,000 m ³ of Natural Gas	\$80,000,000.00
Total Petrodollar Receivables	\$394,116,992.00
Petrodollars Paid to the Region	\$34,116,992.00
Unpaid Petrodollars	\$360,000,000.00
Unpaid Petrodollars (Iraqi Dinars)	455,400,000,000

TABLE 9: GROSS OIL PRODUCED IN KURDISTAN REGION FROM 2003 TO 2012 (BARREL)

Year	DNO	TTOPCO	KAR	GKPI	WZ	Afren	DANA	Total
2003	0	395,945	0	0	0	0	0	395,945
2004	0	160,599	0	0	0	0	0	160,599
2005	0	367,738	0	0	0	0	0	367,738
2006	0	506,269	0	0	0	0	0	506,269
2007	1,130,430	393,781	0	0	0	0	0	1,524,211
2008	2,472,367	316,097	0	0	0	0	328,708	3,117,172
2009	5,581,340	6,858,564	1,662,504	0	0	862	1,585,777	15,689,046
2010	4,323,605	12,012,546	8,019,718	56,583	0	375,172	2,696,152	27,483,775
2011	18,915,278	24,005,281	19,705,367	208,692	220,374	0	5,394,195	68,449,186
2012	16,649,072	27,470,180	20,024,339	858,532	818,920	2,450	6,134,930	71,958,423
Grand Total	49,072,091	72,486,999	49,411,928	1,123,807	1,039,294	378,484	16,139,762	189,652,365

TABLE 10: OIL EXPORTED FROM KURDISTAN REGION THROUGH SOMO (BARREL)

Year	DNO	TTOPCO	KAR	GKPI	WZ	Afren	DANA	Total
2003	0	0	0	0	0	0	0	0
2004	0	0	0	0	0	0	0	0
2005	0	0	0	0	0	0	0	0
2006	0	0	0	0	0	0	0	0
2007	0	0	0	0	0	0	0	0
2008	0	0	0	0	0	0	326,070	326,070
2009	3,741,743	1,542,831	0	0	0	0	1,584,212	6,868,786
2010	0	0	196,577	0	0	0	1,910,878	2,107,455
2011	15,270,243	13,252,904	6,744,620	21,346	0	0	1,925,981	37,215,093
2012	7,485,970	8,450,296	2,721,621	0	87,799	0	890,361	19,636,046
Grand Total	26,497,956	23,246,030	9,662,817	21,346	87,799	0	6,637,502	66,153,450

TABLE 11: OIL SUPPLIED TO THE MAIN REFINERIES IN KURDISTAN REGION FROM 2003 TO 2012 (BARREL)

Year	DNO	TTOPCO	KAR	GKPI	WZ	Afren	DAN	Total
2003	0	395,117	0	0	0	0	0	395,117
2004	0	160,599	0	0	0	0	0	160,599
2005	0	367,738	0	0	0	0	0	367,738
2006	0	505,780	0	0	0	0	0	505,780
2007	0	391,617	0	0	0	0	0	391,617
2008	0	178,429	0	0	0	0	0	178,429
2009	53,702	0	1,662,504	0	0	0	0	1,716,206
2010	1,430,692	3,470,335	7,823,141	0	0	315,301	0	13,039,469
2011	788,235	5,799,990	12,769,704	0	0	0	0	19,357,929
2012	1,795,175	8,648,344	11,754,774	0	0	0	0	22,198,293
Grand Total	4,067,804	19,917,950	34,010,123	0	0	315,301	0	58,311,177

TABLE 12: OIL SUPPLIED TO THE SMALL REFINERIES IN KURDISTAN REGION FROM 2003 TO 2012 (BARREL)

Year	DNO	TTOPCO	KAR	GKPI	WZ	Afren	DANA	Total
2003	0	0	0	0	0	0	0	0
2004	0	0	0	0	0	0	0	0
2005	0	0	0	0	0	0	0	0
2006	0	0	0	0	0	0	0	0
2007	1,118,191	0	0	0	0	0	0	1,118,191
2008	2,458,968	135,628	0	0	0	0	0	2,594,596
2009	1,755,562	5,308,810	0	0	0	862	0	7,065,234
2010	2,865,711	8,468,810	0	56,583	0	59,871	701,619	12,152,594
2011	2,867,720	4,885,716	191,045	187,346	220,374	0	3,118,520	11,470,721
2012	7,316,486	10,362,006	5,547,944	858,532	731,122	2,450	5,239,971	30,058,511
Grand Total	18,382,638	29,160,970	5,738,988	1,102,461	951,496	63,183	9,060,111	64,459,848

TABLE 13: AVERAGE DAILY COMSUMPTION OF CRUDE OIL THROUGHOUT IRAQ FROM 2004 TO 2012 (BARREL)

Year	Quantities refined locally and consumed in the Region (b/d)	Derivatives supplied to the Region by the Ministry of Oil (b/d)	Gross Actual Consumption in the Region (b/d)	Region's share due on the basis of 17% (b/d)	Quantities refined by the Ministry of Oil and consumed in Iraq (b/d)	Quantities refined and consumed by the federal government and the Region's government (b/d)
2004	404	40,500	40,904	65,179	383,000	383,404
2005	924	42,000	42,924	65,097	352,000	382,924
2006	1,271	29,400	30,671	71,106	377,000	418,271
2007	984	29,500	30,484	57,967	295,000	340,984
2008	2,477	39,000	41,477	78,281	407,000	460,477
2009	11,366	47,000	58,366	63,642	293,000	374,366
2010	35,036	32,000	67,036	74,126	336,000	436,036
2011	54,337	37,000	91,337	81,317	357,000	478,337
2012	75,506	20,000	95,506	92,736	404,000	545,506

TABLE 14: GROSS OIL COMSUMPTION THROUGHOUT IRAQ FROM 2004 TO 2012 (BARREL)

Year	Gross quantities consumed in the Region (Barrel)	Quantities owing to the Region on the basis of 17% (Barrel)	Gross quantities consumed in Iraq, including the Region's government (Barrel)
2004	14,929,834	23,790,197	139,942,334
2005	30,597,196	47,550,648	279,709,696
2006	41,792,199	73,504,379	432,378,699
2007	52,918,968	94,662,455	556,837,968
2008	68,058,163	123,235,068	724,912,163
2009	89,361,581	146,464,449	861,555,581
2010	113,829,682	173,520,476	1,020,708,682
2011	147,167,784	203,201,303	1,195,301,784
2012	182,027,591	237,049,970	1,394,411,591

TABLE 15: ANNUAL AND GROSS DEFICIT OF OIL COMSUMPTION IN THE KURDISTAN REGION FROM 2004 TO 2012 (BARREL)

Year	Annual surplus or deficit (barrel) compared with the due percentage of 17%	Gross annual surplus or deficit (barrel) compared with the due percentage of 17%
2004	-8,860,363	-8,860,363
2005	-8,093,089	-16,953,452
2006	-14,758,728	-31,712,180
2007	-10,031,306	-41,743,486
2008	-13,433,419	-55,176,905
2009	-1,925,963	-57,102,868
2010	-2,587,926	-59,690,794
2011	3,657,274	-56,033,520
2012	1,011,140	-55,022,380
		Monetary Value of Deficit (Iraqi Dinars)
		6,960,331,000,000

اقليم كوردستان _ اعراق

مجلس الوزراء

مكتب رئيس الوزراء



Kurdistan Regional Government
Council of Ministers
Prime Minister Office

ههريمي كوردستان - عيراق

ئهنجومهني وهزيران

نوسينگه ي سهروك وهزيران

العدد:

التاريخ:

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ژماره:

بهروار:

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خهرمهانه

دولة رئيس مجلس الوزراء الإتحادي الأستاذ نوري المالكي المحترم

تحية طيبة ..

الحاقاً بكتابنا المرقم ٩٢٣ في ٢٤/٧/٢٠١٣ فيما يخص مطالبة حكومة الاقليم بمستحقاته المالية من الوردات الاتحادية حسب احكام الدستور و قوانين الموازنة الاتحادية للسنوات ٢٠٠٥ الى ٢٠١٣، قرر مجلس وزراء حكومة الاقليم في اجتماعه الاعتيادي المنعقد بتاريخ ٢٨ تموز ٢٠١٣ و في ضوء قانون برلمان الاقليم رقم ٥ لسنة ٢٠١٣ والخاص ب(تحديد واستحصال المستحقات المالية لاقليم كوردستان العراق من الوردات الاتحادية) مطالبة الحكومة الاتحادية بما يستحقه من تعويضات لما فاته من منافع وما لحقه من اضرار جراء حرمانه من استحقاقاته كنتيجة لممارسات مجحفة من قبل الانظمة السابقة البائدة خلال سنوات ١٩٦٣ الى ٢٠٠٣ و ذلك وفق التفاصيل المبينة في الجداول انرفقة بهذا الكتاب.

وقد تم تقدير هذه التعويضات اصولياً من قبل الجهات المختصة في الاقليم بمبلغ (٣٨٤,٦٩٨,٣٠٢,٦٠٠ \$) ثلاثمائة واربعة وثمانون مليار وستمائة وثمانية وتسعون مليون وثلاثمائة واثنان الف وستمائة دولار امريكي مع احتفاظ الاقليم بحق المطالبة بأية تعويضات اخرى عن اضرار لحقت بالاقليم والتي لم يتم تقديرها في الوقت الحاضر والمستحقة حسب الدستور والقوانين ذات العلاقة.

اقليم كوردستان _ العراق

مجلس الوزراء

مكتب رئيس الوزراء



Kurdistan Regional Government
Council of Ministers
Prime Minister Office

ههريه كوردستان - عيراق

ئهجومهني وهزيان

نوسينگه ي سهروك وهزيان

العدد:

التاريخ:

ژماره:

بهروار:

- وزارة المالية والاقتصاد في الاقليم /مكتب السيد الوزير/ مع التقدير.
- وزارة الشهداء والمؤنفلين في الاقليم/ مكتب السيد الوزير/ مع التقدير.
- ممثلية حكومة اقليم كوردستان في بغداد/ للمتابعة/ مع التقدير.
- دائرة التنسيق والمتابعة في رئاسة مجلس وزراء الاقليم/ لاجراء اللازم و المتابعة/ مع التقدير.
- المكتب الخاص / مع الاوليات.

Reference No.:

Date: [15/ Khahr Manan/ 2713K]

Reference No.: 980

Date: August 6, 2013

His Excellency the Federal Prime Minister, Nouri al-Maliki

Dear Sir,

With reference to our letter number 923, dated July 24, 2013 with respect to the Regional Government's claim concerning its financial dues from the federal revenue pursuant to the provisions of the Constitution and the Federal Budget Laws for 2005 to 2013, the Regional Government Council of Ministers resolved during its ordinary meeting held on July 28, 2013, in accordance with Regional Parliament Law No. 5 of 2013 on Establishing and Collecting the Iraqi Kurdistan Region's Financial Dues from the Federal Revenue, to request the payment by the Federal Government of its dues with respect to the profits it did not receive and for damages ensuing from the dues it did not receive because of the unfair actions of the former regimes from 1963 to 2003, as shown in the items contained in the tables appended to this letter.

These damages were duly estimated by the Region's competent authorities at \$384,698,302,600 (US Dollars Three Hundred Eighty-Four Billion Six Hundred Ninety-Eight Million Three Hundred Two Thousand Six Hundred). Moreover, the Region will reserve the right to request any other damages for the losses that the Region incurred and that have not been estimated to date and which are due in accordance with the Constitution and the relevant laws.

Kurdistan Region – Erbil
Phone: +964 (066) 2220210 – 2220247 - 2220248

E-mail:
council_of_ministers@krg.org

Reference No.:
Date:

Reference No.:
Date:

We would appreciate it if Your Excellency notifies the Federal Ministry of Finance and the other relevant Federal Ministries to coordinate and cooperate with us in order to settle these dues as soon as possible.

Sincerely,

Enclosures:

- A copy of Kurdistan Official Gazette No. 162, dated May 9, 2013, wherein Law No. 5 of 2013 is published.
- Tables containing the Region's estimated financial dues as damages for the losses ensuing from the former regime's actions.

[Signature]

Nechirvan Barzani
Prime Minister

CC with Enclosures:

- President of the Kurdistan Region / Council, respectfully for your information.
- Speaker of the Kurdistan Region Parliament / respectfully for your information.
- Federal Prime Minister / the office of the Deputy Prime Minister, Dr. Rose Nouri Shawis / respectfully.
- Office of the Region's Prime Minister / respectfully.
- Office of the Region's Deputy Prime Minister / respectfully.
- Federal Finance Ministry / Office of the Minister / respectfully.
- The Region's Natural Resources Ministry / Office of the Minister / respectfully.
- Ministry of Peshmerga / Office of the Minister / respectfully.

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E-mail:
council_of_ministers@krg.org

Kurdistan Regional Government
Council of Ministers
Prime Minister Office



Kurdistan Regional Government
Council of Ministers
Prime Minister Office

Reference No.:
Date:

Reference No.:
Date:

- The Region's Ministry of Finance and Economy / Office of the Minister / respectfully.
- The Region's Ministry of Martyrs and Anfal Affairs / Office of the Minister / respectfully.
- Kurdistan Regional Government's Mission in Baghdad / for follow-up / respectfully.
- Coordination and Follow-up Department at the Office of the Region's Prime Minister / to do what is necessary and for follow-up / respectfully.
- The Special Bureau / including supporting documentation.

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council_of_ministers@krg.org



الجدول الاجمالي لجبر الاضرار
الناجمة عن جرائم النظام البائد خلال
سنوات
2003 - 1963

المحتويات

05

الخسائر المادية

04

الخسائر البشرية

03

الملخص

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المصادر

07

ملاحظات

06

خسائر اخرى

نوع الخسائر	القيمة (بالدولار الامريكي)
الخسائر البشرية	306,849,950,000
الخسائر المادية	32,848,352,600
الخسائر البيئية (انشاء صندوق خاص)	5,000,000,000
الخسائر الغير مباشرة (انشاء صندوق خاص)	5,000,000,000
خسائر الاهمال المتعمد للبنية التحتية	30,000,000,000
اعادة الاعمار	5,000,000,000
اجمالي المبلغ	\$ 384,698,302,600

الخصائر البشرية

المجموع	معدل التقدير المادي لكل ضحية/متضرر	عدد الضحايا	الخصائر البشرية
60,000,000,000	300,000	200,000	الضحايا في عمليات الإبادة الجماعية
19,500,000,000	300,000	65,000	ضحايا جرائم ضد الانسانية و جرائم الحرب
47,700,000,000	90,000	530,000	جبر ضرر ذوي الضحايا (فردين لكل عائلة من ذوي الضحايا)
2,805,000,000	150,000	18,700	المعوقون نتيجة حملات الإبادة و الحروب
1,000,000,000	100,000	10,000	السجناء السياسيين خلال الانظمة البائدة
25,844,950,000	50,000	516,899	المرحلون (حسب المادة 140)
150,000,000,000	250,000	600,000	التهجير والترحيل القسري خلال فترة الانظمة البائدة (حتى الان سجلت 600,000 عائلة)
\$ 306,849,950,000	المجموع الكلي		

الخسائر المادية

المجموع	معدل التقدير المادي لكل وحدة	المجموع / العدد	معدل *	العدد	الخسائر المادية
12,507,500,000		250,150	50	5,003	مركز الاقضية و النواحي و القرى و القصبات المدمرة، المحروقة و المتأثرة
291,900,000		834		834	المدارس
688,471,000		1,667		1,667	دور العبادة
73,500,000		350		350	مركز صحي
12,507,500,000		250,150		250,150	المزارع لكل بيت
4,746,981,600		23,734,908		23,734,908	الحيوانات
32,500,000		65		65	مركز شرطة و دفاع مدني
2,000,000,000					الخدمات الاخرى (الاتصالات و الكهرباء و الماء و الطرق و الجسور)
\$ 32,848,352,600	المجموع الكلي				

* معدل عدد الوحدات السكنية

خسائر اخرى

المجموع	الخسائر
5,000,000,000	الخسائر البيئية (انشاء صندوق خاص) البيئة الارضية و العوامل المناخية
5,000,000,000	دور الخسائر الغير مباشرة (انشاء صندوق خاص) الخسائر الاجتماعية و الاقتصادية و اخرى
30,000,000,000	خسائر الاهمال المتعمد للبنية التحتية المطارات و الطرق السريعة و الجامعات و المعاهد و الجامعات و المعاهد و المراكز العامة
5,000,000,000	اعادة الاعمار
\$ 45,000,000,000	المجموع الكلي

ملاحظات 1

الملاحظات	الخسائر البشرية
تشمل عمليات الانفال، البارزانيون، القصف الكيماوي لمناطق كردستان المختلفة، الفيليون و الحالات الاخرى	الضحايا في عمليات الابداء الجماعية
الشهداء من المواطنين و شهداء الحركة التحررية الكردستانية	ضحايا جرائم ضد الانسانية و جرائم الحرب
تشمل العاهات المستديمة و الاضطرابات النفسية و الامراض المزمة التي تعرض لها ذوي الضحايا	جبر ضرر ذوي الضحايا (فردين لكل عائلة من ذوي الضحايا)
تشمل العاهات المستديمة و الاضطرابات النفسية و الامراض المزمة التي تعرض لها من غير ذوي الضحايا	المعوقون نتيجة حملات الابداء و الحروب
	السجناء السياسيين خلال الانظمة البائدة
تشمل المناطق الكوردستانية المتنازع عليها على وفق الدستور	المرحلون (حسب المادة 140)
تشمل المطرودون بشكل مباشر و غير مباشر للاشخاص المحميون قسرا من مناطقهم الاصلية الى داخل العراق وخارجه	التهجير و الترحيل القسري خلال فترة الانظمة البائدة (حتى الان سجلت 600000 عائلة)

ملاحظات 2

الملاحظات	الخسائر المادية (خسائر التدمير)
تشمل ممتلكات سكنة هذه القرى والنواحي والاقضية من المنشآت السكنية. هناك مناطق تعرضت عدة مرات للتدمير فى فترات و حملات مختلفة	القرى و الاقضية و النواحي و القصبات المدمرة، المحروقه و المتأثرة
	المدارس
تشمل الجوامع والمساجد والكنائس والصوامع	دور العبادة
تشمل كل الوحدات الصحية	مركز صحي
تشمل البساتين والحقول والاشجار المنزلية المثمرة وغير المثمرة	المزارع لكل بيت
تشمل جميع اصنف الحيوانات	الحيوانات لكل بيت
	مركز شرطة و دفاع مدني
تشمل محطات الاتصالات وشبكتها، ومحطات توليد الطاقة ومراكز وشبكات توزيعها، والابار والكهاريزومشاريع تصفية واسالة الماء والحنفيات العامة والخاصة وشبكات توزيعها والطرق والشوارع الداخلية والجسور على احجامها وانواعها	الخدمات الاخرى

ملاحظات 3 / 4

الملاحظات	الخسائر البيئية (انشاء صندوق خاص)
تشمل الغابات الطبيعية والانهار والروافد والعيون والينابيع والكهاريز والمراعي الطبيعية والهضاب والتلال والصخور والتربة والتصحر، والرياح والحرارة والرطوبة والضغط الجوي والامطار	البيئة الارضية و العوامل المناخية
لا تقدر بثمن بل يتم الاتفاق عليها	الآثار

الملاحظات	الخسائر الغير مباشرة (انشاء صندوق خاص)
تشمل تفتت الاسر والعوائل وفقدان الاتصال بين افرادها وتفشي اثار الصدمة والسلبية وفقدان الثقة بالمقابل وفقدان الاحساس بالحياة والاحساس بالمهانة والمذلة وفقدان الاحساس بالمواطنة الحقة وكذلك التأثير في دوران الدورة الاقتصادية وتبعاتها وتدني الانتاج والانتاجية والاعتماد على الخارج وتفشي البطالة وعدم توفير وتقديم الخدمات العامة وما ينجم عنها من خسائر واضرار	الخسائر الاجتماعية و الاقتصادي و اخرى

ملاحظات 5 / 6

الملاحظات	خسائر الاهمال المتعمد للبنية التحتية
انشاء المطارات فى محافظات الاقليم	المطار
الطريقة الرئيسية والفرعية وسكك الحديد	الطرق السريعة
انشاء الجامعات فى المدن الكبيرة و المعاهد فى الاقضية و النواحي	الجامعات والمعاهد
تشمل المركز والنتجعات السياحية والتجارية و المعامل المنتوجات الحيوانية والزراعية ومراكز عامة أخرى .	المراكز العامة

الملاحظات	اعاده الاعمار (انشاء صندوق خاص)
تشمل محطات الاتصالات وشبكتها، ومحطات توليد الطاقة ومراكز وشبكات توزيعها، والابار والكهاريز و مشاريع تصفية واسالة الماء والحنفيات العامة والخاصة و شبكات توزيعها والطرق والشوارع الداخلية والجسور على احجامها وانواعها المختلفة	اعادة الاعمار (تعويض اعاده البناء)

مصادر البيانات:

1. وزارة شؤون الشهداء والمؤنفلين
2. وزارة التخطيط - هيئة الاحصاء
3. وزارة البيشمركة
4. وزارة الداخلية - مديرية الهجرة والمهجرين
5. هيئة المناطق المتنازع عليها (المادة 140)



Total Statement for compensation of damages
resulting from the crimes of the former regime
for years 1963 - 2003

July 2013

Contents

05

Material losses

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Human losses

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Summary

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Resources

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Other losses

Contents

Value (in USD)	Type of losses
306,849,950,000	Human losses
32,848,352,600	Material losses
5,000,000,000	Environmental losses (To establish a private fund)
5,000,000,000	Indirect losses (To establish a private fund)
30,000,000,000	Losses of intentional negligence for infrastructure
5,000,000,000	Reconstruction
\$ 384,698,302,600	Total amount

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Human losses

Total	Average material compensation for each victim/damaged	Number of victims	Human losses
60,000,000,000	300,000	200,000	Victims in genocides
19,500,000,000	300,000	65,000	Victims in crimes of humanity and war crimes
47,700,000,000	90,000	530,000	Compensations for victims' parents (2 members of each victim's family)
2,805,000,000	150,000	18,700	Disabled individuals resulting from genocides and wars
1,000,000,000	100,000	10,000	Political prisoners during the former regimes
25,844,950,000	50,000	516,899	Deportees (According to Article 140)
150,000,000,000	250,000	600,000	Displacement and forced deportation during the former regimes (600,000 families recorded to date)
\$ 306,849,950,000	Total		

.....

Material losses

Total	Average material estimate for each unit	Total/Number	*Average	Number	Material losses
12,507,500,000		250,150	50	5,003	Destroyed, burnt and affected districts, villages, areas and [illegible]
291,900,000		834		834	Schools
688,471,000		1,667		1,667	Houses of worship
73,500,000		350		350	Health Centre
12,507,500,000		250,150		250,150	Farms for each house
4,746,981,600		23,734,908		23,734,908	Animals
32,500,000		65		65	Police and Civil Defence Station
2,000,000,000					Other Services (Communications, electricity, water, roads and bridges)
\$ 32,848,352,600	Total				

* Average of residential units

.....
Other losses

Total	Losses
5,000,000,000	Environmental losses
	Ground environment and climatic factors
5,000,000,000	Indirect losses (To establish a private fund)
	Social, economic and other losses
30,000,000,000	Losses of intentional negligence for infrastructure
	Airports, highways, universities, institutions, colleges and public centres
5,000,000,000	Reconstruction
\$ 45,000,000,000	Total

Notes 1

Notes	Human losses
Including operations of Al Anfal, Barzanis, chemical bombing to various regions in Kurdistan, Feyli, and other cases	Victims in genocides
Martyrs of nationals, martyrs of the Kurdish Liberal Movement	Victims in crimes of humanity and war crimes
Including permanent disabilities, psychological disorders and chronic diseases suffered by the victims' parents	Compensations for victims' parents (2 members of each victim's family)
Including permanent disabilities, psychological disorders and chronic diseases suffered by other than the victims' parents	Disabled individuals resulting from genocides and wars
	Political prisoners during the former regimes
Including the disputed Kurdish regions according to the Constitution	Deportees (According to Article 140)
Including the exiled individuals either directly or indirectly for the persons protected by force from their original regions to Iraq or abroad	Displacement and forced deportation during the former regimes (600,000 families recorded to date)

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Note 2

Notes	Material losses (destruction losses)
Residential units include these districts, villages and areas from the residential facilities. There are regions that were subject many times to destruction in various periods and campaigns	Destroyed, burnt and affected districts, villages, areas and [illegible]
	Schools
Including mosques, churches and silos	Houses of worship
Including all health units	Health Centre
Including gardens, fields as well as fruitful and fruitless domestic trees	Farms for each house
Including all types of animals	Animals for each house
	Police and Civil Defence Station
Including communications stations and networks, power generation stations, as well as centres and networks of distribution thereof, wells, [illegible], filtration and liquefaction of water, private and public taps, networks of distribution thereof, roads, internal streets, and bridges of all types and sizes.	Other Services

Notes 3/4

Notes	Environmental losses
Including natural forests, rivers, tributaries, springs, [illegible], natural pastures, plateaus, hills, rocks, soil, desertification, wind, temperature, humidity, barometric pressure and rains	Ground environment and climatic factors
They are priceless and shall be agreed upon	Effects

Notes	Indirect losses (To establish a private fund)
Including family fragmentation, loss of communication between family members, outbreak of shock effects, negativity and loss of confidence in return, loss of sense of life, humiliation, true citizenship as well as affecting the economic cycle and consequences thereof, decrease of production and productivity, depending on resources from abroad, outbreak of unemployment, non provision of public services as well as losses and damages resulting there from.	Social, economic and other losses

Notes 5/6

Notes	Losses of intentional negligence for infrastructure
Establishing airports in the provinces	Airport
Main and secondary roads, railways	Highways
Establishing universities in the main cities, and colleges in the districts and areas	Universities and colleges
Including touristic and commercial centres and resorts, as well as animal and agricultural products, and other public centres.	Public centres

Notes	Reconstruction (To establish a private fund)
Including communications stations and networks, power generation stations, as well as centres and networks of distribution thereof, wells, [illegible], filtration and liquefaction of water, private and public taps, networks of distribution thereof, roads, internal streets, and bridges of all types and sizes	Redevelopment (Compensation for reconstruction)

Sources

Source of information:

1. Ministry of Martyrs and [illegible] Affairs
2. Ministry of Planning - Statistics Authority
3. Ministry of [illegible]
4. Ministry of Interior - Department of Immigration and Immigrants
5. Authority of Disputed Regions (Article 140)

بسم الله الرحمن الرحيم
باسم الشعب
برلمان كردستان - العراق

استناداً الى أحكام المواد (١، ١٣، ١٠٥، ١٠٦، ١١٠، ١١١، ١١٢، ١١٥، ١٢١، ١٣٢) من دستور جمهورية العراق الاتحادية لسنة ٢٠٠٥، وحكم الفقرة (١) من المادة (٥٦) من قانون برلمان كردستان - العراق رقم (١) لسنة ١٩٩٢ المعدل، وبناءً على ما عرضه مجلس وزراء اقليم كردستان - العراق، وتنفيذاً لأحكام المادة (٤٠) من قانون رقم (١) لسنة ٢٠١٣ (قانون الموازنة العامة لاقليم كردستان العراق للسنة المالية ٢٠١٣)، قرر برلمان كردستان العراق بجلسته المرقمة (١٠) والمنعقدة بتاريخ ٢٣/٤/٢٠١٣ تشريع القانون الآتي:

قانون رقم (٥) لسنة ٢٠١٣

قانون تحديد واستحصال المستحقات المالية لاقليم كردستان - العراق
من الواردات الاتحادية

الفصل الأول

التعريف

المادة الأولى:

يقصد بالمصطلحات الآتية المعاني المبينة إزاءها لأغراض هذا القانون.

أولاً: الحكومة الاتحادية : حكومة جمهورية العراق الاتحادية.

ثانياً: الدستور: دستور جمهورية العراق الاتحادي لسنة ٢٠٠٥.

ثالثاً: الاقليم: اقليم كردستان - العراق.

رابعاً: البرلمان: برلمان كردستان - العراق.

خامساً: مجلس الوزراء: مجلس وزراء الاقليم.

سادساً: واردات النفط والغاز: واردات الحكومة الاتحادية المستحصلة من العمليات النفطية ومن ضمنها مبيعات النفط والغاز والريع والعائدات الأخرى للعقود النفطية المبرمة مع الشركات الأجنبية والمحلية من قبل الحكومة الاتحادية أو حكومة الاقليم.

سابعاً: جداول النفقات: جداول مبالغ النفقات الحاكمة والسيادية المرفقة بقوانين الموازنة العامة السنوية الاتحادية منذ سنة ٢٠٠٤.

ثامناً: يقصد بالمصطلحات الآتية المعاني الواردة ازاءها في المادة الأولى من قانون النفط والغاز لاقليم كردستان العراق رقم ٢٢ لسنة ٢٠٠٧: (النفط، النفط الخام، الغاز، الغاز الطبيعي، حقل النفط، الحقل الحالي، الحقل المستقبلي، العمليات النفطية)

الفصل الثاني أهداف القانون

المادة الثانية:

يهدف هذا القانون الى:

أولاً: رسم آليات قانونية لتحديد واستحصال الحقوق المالية المستحقة للاقليم ضمن الواردات الاتحادية، وتدرج ضمن الموازنة العامة للاقليم.

ثانياً: تمكين الاقليم من استحصال مستحقاته المالية من واردات النفط والغاز عيناً أو نقداً حسب الدستور.

ثالثاً: استحصال مستحقات الاقليم من المنح والمساعدات والقروض الدولية المقدمة الى الحكومة الاتحادية وذلك استناداً الى البند أولاً من المادة (١٠٦) من الدستور.

رابعاً: استحصال حصة الاقليم من أية موارد أخرى أو التعويضات المستحصلة من قبل الحكومة الاتحادية.

خامساً: توفير الآليات اللازمة لاستحصال مستحقات الاقليم من الموازنة الاتحادية أخذاً بنظر الاعتبار المبالغ المتراكمة غير المدفوعة كالنفقات السيادية والحاكمة والمدرجة ضمن الموازنة الاتحادية منذ سنة ٢٠٠٤.

سادساً: استحصال التعويضات المستحقة للاقليم عن الأضرار الناتجة عن الممارسات المجحفة من قبل النظام السابق من خلال القمع الجماعي والابادة الجماعية وعمليات الأنفال وسياسة الأرض المحروقة حسب البند أولاً من المادة (١١٢) من الدستور.

سابعاً: تحقيق العدالة في توزيع الموارد الاتحادية ضماناً لوحدة شعب العراق ودولته الاتحادية منسجماً مع المادة الأولى من الدستور.

الفصل الثالث الحقوق المالية للاقليم

المادة الثالثة:

للاقليم الحق في:

أولاً: حصة عادلة من واردات النفط والغاز المستخرج في عموم العراق على أن تتناسب مع التوزيع السكاني فيه استناداً الى كل من المادة (١١١) والبند أولاً من المادة (١١٢) من الدستور.

ثانياً: حصة عادلة من جميع الإيرادات الأخرى المستحصلة اتحادياً والمنح والمساعدات والقروض الدولية لتتمكن حكومة الاقليم من القيام باعبائها ومسؤولياتها استناداً الى البند ثالثاً من المادة (١٢١) من الدستور.

ثالثاً: حصة اضافية من واردات النفط والغاز لتعويضه عن الأضرار الناتجة عن ممارسات النظام السابق استناداً الى البند أولاً من المادة (١١٢) من الدستور.

رابعاً: المشاركة الفعلية في تشكيل وعضوية الهيئة العامة لمراقبة وتخصيص الواردات الاتحادية من خلال تمثيله فيها بخبراء وممثلين عنه بموجب أحكام المادة (١٠٦) من الدستور.

خامساً: مطالبة الحكومة الاتحادية بانجاز التشريعات التي تجسد شراكته الفعلية في ادارة الدولة ومؤسساتها استناداً لحكم المادة (١٠٥) من الدستور ودرء الضرر عن حقوق الاقليم المالية والاقتصادية وتشريع قانون توزيع واردات النفط والغاز استناداً الى الفقرة أولاً من المادة (١١٢) من الدستور لتعجيل التنمية في الاقليم والمحافظات.

سادساً: المشاركة الفعلية مع الحكومة الاتحادية لتسويق النفط والغاز المنتج من الحقول الحالية، وأن يقوم بدوره الحصري في ادارة الحقول المستقبلية في الاقليم من ضمنها تسويق النفط والغاز المنتج منها، والتي حُرم منها الاقليم بسبب رفض الحكومة الاتحادية وتقاعسها عن اداء دورها الايجابي في رسم السياسات الاستراتيجية اللازمة لتطوير ثروة النفط والغاز والمشار إليها في البند ثانياً من المادة (١١٢) من الدستور.

سابعاً: أن تخصص له حصة عادلة من النفط والغاز الخام والمنتجات النفطية المعدة للاستهلاك في عموم العراق على أن تتناسب مع التوزيع السكاني فيه والاخذ بنظر الاعتبار الظروف الخاصة للاقليم وازالة مظاهر التمييز.

الفصل الرابع

أسس تحديد الحقوق المالية للاقليم

المادة الرابعة:

أولاً: تكون نسبة (١٧%) سبعة عشر من المائة المعتمدة في قوانين الموازنة الاتحادية أساساً لتحديد حصة الاقليم من مجموع النفقات التشغيلية ونفقات المشاريع الاستثمارية للموازنة العامة السنوية الاتحادية لحين اجراء إحصاء سكاني عام في العراق، ويكون للاقليم نفس النسبة مما يأتي:

أ- إجمالي واردات الموازنة العامة الاتحادية من ضمنها الواردات الناجمة عن تصدير النفط الخام.

ب- إجمالي النفط الخام المكرر والمعد للاستهلاك في عموم العراق من ضمنها النفط الخام اللازم لتشغيل محطات توليد الكهرباء.

ج- إجمالي النفقات الحاكمة وتخصيصات إعمار وتنمية مشاريع محافظات الاقليم والزيادات المتحققة في الإيرادات عن صادرات النفط الخام المصدر وتخصيصات النفقات السيادية للهيئات الاقليمية والمماثلة للهيئات الاتحادية المتكونة من (رئاسة الاقليم ، البرلمان، مجلس الوزراء، رئاسة مجلس الوزراء، مكتب نائب رئيس الوزراء، حرس الاقليم (التيشمروطة)، مجلس حماية الامن الوطني، هيئة حقوق الانسان، هيئة النزاهة، الجنسية والحدود، وجهاز الامن.

ثانياً: على وزارات المالية والاقتصاد والتخطيط والثروات الطبيعية في الاقليم احتساب المستحقات المشار اليها في (أ، ب، ج) من الفقرة اولاً من هذه المادة بالتنسيق مع الجهات المعنية الأخرى في الاقليم.

ثالثاً:

أ- إضافة الى حصة محافظات الاقليم من بترودولار عن النفط الخام المصدر من الاقليم منذ ٢٠٠٩، يستحق الاقليم دولار عن بترودولار عن كل برميل نفط خام (١٥٠) متر مكعب غاز منتج ومكرر أو معدّ للاستهلاك في محافظات الاقليم، على أن تحتسب هذه المستحقات من قبل وزارة الثروات الطبيعية حسب المعايير المعتمدة من قبل الحكومة الاتحادية.

ب- تعاد الايرادات المتحققة فعلاً في المنافذ الحدودية لمحافظات الاقليم وتخصص حصراً لتأهيل واعادة اعمار المنافذ الحدودية التابعة لكل محافظة.

ج- يختص مجلس الوزراء وبمصادقة البرلمان بتحديد كيفية التعامل مع الواردات المستحصلة من قبل الاقليم وذلك حسب أحكام هذا القانون.

رابعاً: على مجلس الوزراء تشكيل لجنة وزارية لغرض تقدير التعويضات المستحقة طبقاً للفقرة (ثالثاً) من المادة الثالثة من هذا القانون بمبالغ نقدية أو ما يقابلها عيناً من النفط الخام من الاقليم على أن تسدد التعويضات المقدره بأقساط سنوية لمدة لا تتجاوز (٥) سنوات من تأريخ نفاذ هذا القانون.

المادة الخامسة:

على الوزارات والجهات المشار اليها في المادة الرابعة من هذا القانون اكمال مهامها خلال مدة لا تزيد على (٦٠) ستين يوماً من تأريخ نفاذ هذا القانون، وتقديم تقاريرها النهائية الى مجلس الوزراء للمصادقة عليها خلال مدة لا تتجاوز (٣٠) ثلاثون يوماً من تأريخ وصولها الى المجلس.

الفصل الخامس

اجراءات استحصال الحقوق المالية للاقليم

المادة السادسة:

اولاً: على مجلس الوزراء بعد تحديد وتخمين الحقوق المالية للاقليم بموجب أحكام هذا القانون مطالبة الحكومة الاتحادية بتسديد المستحقات المالية المقدره وفق القانون خلال مدة (٩٠) تسعون يوماً من تأريخ تبلغها بالمطالبة وقيامها بتسريع

قانون توزيع واردات النفط والغاز استناداً الى البند أولاً من المادة (١١٢) من الدستور.

ثانياً: في حالة عدم استلام حكومة الاقليم اشعاراً من الحكومة الاتحادية باستعدادها للتباحث حول مستحقات الاقليم خلال (٣٠) ثلاثين يوماً من تأريخ استلامها طلب الاقليم أو مضي (٩٠) تسعين يوماً من تأريخ بدء المباحثات دون التوصل الى اتفاق بين الطرفين أو رفض مطالب الاقليم ضمناً أو صراحةً أو السكوت عنها عندها على حكومة الاقليم اتخاذ ما تراه مناسباً من الاجراءات بموجب أحكام هذا القانون لاستحصال حقوقه المالية بما فيها انتاج وتصدير وبيع النفط الخام والغاز لتغطية كل المستحقات التي تمتع الحكومة الاتحادية عن إداؤها، سواء كان قبل نفاذ هذا القانون أو بعده وأعلام البرلمان بذلك.

المادة السابعة:

تلتزم حكومة الاقليم بالقرارات والاجراءات التي تتخذها وفق هذا القانون بأحكام قانون النفط والغاز رقم (٢٢) لسنة ٢٠٠٧ من ضمنها تعامله مع الوردات المستحصلة ويمارس مسؤولياته وفق المبادئ والمعايير الخاصة بمبادرة الشفافية في الصناعات الاستخراجية (EITI).

المادة الثامنة:

لا يعمل بأي نص قانوني أو قرار يتعارض وأحكام هذا القانون.

المادة التاسعة:

لوزير الثروات الطبيعية وبالتنسيق مع وزير المالية والاقتصاد اصدار التعليمات اللازمة لتسهيل تنفيذ أحكام هذا القانون.

المادة العاشرة:

على مجلس الوزراء والجهات ذات العلاقة تنفيذ أحكام هذا القانون.

المادة الحادية عشر:

ينفذ هذا القانون اعتباراً من تاريخ نشره في الجريدة الرسمية (وقائع كردستان).

د. ارسلان بايز اسماعيل

رئيس برلمان كردستان - العراق

الأسباب الموجبة

حيث ان الدستور العراقي قد نص على حقوق الاقليم المالية سواء ما يستحقه من الواردات الاتحادية بما فيها النفط والغاز أو ما يستحقه من تعويضات لما فات الاقليم من منافع وما لحقه من أضرار جراء حرمانه من استحقاقاته من واردات الدولة العراقية لعقود من الزمن وما لحق مواطني الاقليم من خسائر في الأرواح والأموال جراء السياسات القمعية الجائرة للحكومات العراقية المتعاقبة وتنفيذها سياسة الأرض المحروقة لكوردستان والابادة الجماعية لشعبها، ولما نص عليه الدستور من صلاحيات للاقليم وما أناط به من اختصاصات ولضمان حقوق الاقليم ومستحقاته المالية، فقد شرع هذا القانون.

ملاحظة: صدر هذا القانون بقرار رقم (6) من قبل رئيس اقليم كوردستان.



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[-exports\)](#)



MINISTRY OF NATURAL RESOURCES | KURDISTAN REGIONAL GOVERNMENT
وهزارهتی سامانه سروشتیه کان | حکومه تی هه ریمی کوردستان

20 June 2014 - The Ministry of Natural Resources (MNR) of the Kurdistan Regional Government (KRG) is pleased to announce that the KRG's second sale of piped crude oil export via the port of Ceyhan was safely delivered to the buyers.

This second sale of oil from the Kurdistan Region, which also consisted of around one million barrels of crude oil, was safely transported by a tanker-ship chartered by MNR.

We are proud of this milestone achievement, which was accomplished despite almost three weeks of intimidation and baseless interferences from Baghdad against the tanker-ship owners and the related international traders and buyers.

We are also proud to announce that the third and fourth tanker-ships are now in Ceyhan for loading with Kurdistan Oil for other buyers.

THE KRG WISHES TO DECLARE AND CLARIFY ITS LEGAL AUTHORITY TO THE BENEFIT OF ALL

General

1. The KRG is acting fully within its authorities under the Constitution of the Republic of Iraq that entered into force in 2005 ("the Constitution"), and fully within Kurdistan Region law, to export and sell oil produced in the Kurdistan Region.
2. In interfering with the exports of oil from the Kurdistan Region, the federal government is acting grossly outside its limited authorities under the Constitution. Iraq's "Ministry of Oil" (MoO) and "State Oil Marketing Organisation" (SOMO) are not mentioned in the Constitution.
3. The export of oil from the Kurdistan Region is taking place by the KRG, under the authority of the Oil and Gas Law of the Kurdistan Region – Iraq (Law No. 22 – 2007) and the Kurdistan Region Financial Compensation Law No. (Law No. 5 – 2013).
4. Article 3 Paragraph Four of the Kurdistan Region Oil and Gas Law requires the KRG to "oversee and regulate all Petroleum Operations", which by definition (Article 1 Paragraph 18) includes the "export of Petroleum".
5. The Kurdistan Region Financial Compensation Law (Law No. 5 -2013) permits the KRG to retain the proceeds of sales of petroleum in circumstances where the federal government is not sharing revenues in accordance with the federal Constitution.

Iraq's federal constitution

6. The rights and responsibilities of the KRG and the federal government are determined by the Constitution.
7. The constitution describes a federal, decentralised system of government for Iraq in which sovereignty is shared between the federal government of Iraq, the Kurdistan Region (which is recognised in Article 117 of the Constitution) and the various provinces or "governorates" of Iraq. The decentralised nature of Iraq's federal system applies to oil and gas. The federal government, as a consequence, does not have exclusive authorities in respect of oil and gas.
8. The Constitution only grants the federal government a few, limited, exclusive powers (set out in Article 110), which does not extend to oil and gas and grants no exclusive powers over oil and gas to the federal government. The balance of all powers, including in respect of oil and gas, are either reserved to the regions (and in some cases the governorates) under Article 115 of the constitution, or shared with the regions (and in some cases, the governorates) under Articles 114 and 112 of the Constitution.
9. There are three provisions of the Constitution that are relevant to the regulation of exports, from Iraq, of oil and gas:

- (a) Article 110, on the exclusive authorities of the federal government;
- (b) Article 112, on the management of pre-2005 old producing oil and gas fields;
- (c) Article 115, on post-2005 new fields and on the relationship between the exclusive authorities of the federal government and the authorities of regions and governorates.

10. Any powers that the federal government may have in respect of the regulation of the export of petroleum from the Kurdistan Region are:

- (a) in the case of all contract areas in the Kurdistan Region, displaced by the KRG's reserved powers under Article 115; and
- (b) in the case of any other fields elsewhere *in Iraq*, shared powers which do not impair the KRG's right to regulate the export of petroleum or petroleum products from the Kurdistan Region.

11. Article 115 of the Constitution provides for the priority of Kurdistan Region law. Article 115 of the Constitution states that "all powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region". In these circumstances, the management of oil and gas extracted from fields in the Kurdistan Region is, according to the general principles of the Constitution, an exclusive power of the Kurdistan Region.

12. This means that the Kurdistan Region has an unfettered discretion:

- (a) to authorise, regulate, and manage the export of petroleum and petroleum products from the Kurdistan Region;
- (b) to build, own, regulate, and manage petroleum and product pipelines in the Kurdistan Region, including pipelines that connect to pipelines at an international border with the Kurdistan Region; and
- (c) to enter into agreements with foreign government authorities for the regulation and connection of international pipelines, for the sale of petroleum produced by the KRG, and for the transportation of petroleum and petroleum products owned by the KRG.

13. The federal government has no authority under the Constitution to limit the foregoing rights of the Kurdistan Region.

14. Any pre-2005 laws of Iraq in contradiction to the constitution are specifically rendered void under Article 130 of the Constitution. To the extent that the federal government is threatening potential buyers based on old laws that contradict the Constitution, the federal government is establishing the weakness of its authority and affirming the lack of express authority under the Constitution.

15. There are no relevant post-2005 laws of Iraq. Any proposed new law of Iraq will, pursuant to Article 13 of the Constitution, be void to the extent that it contradicts the Constitution. By contrast the KRG has organised its legal system consistent with the Constitution and enacted Law No 22 – 2007 and Law No. 5 – 2013 to invalidate the old Iraq law in the Kurdistan Region and to exercise the KRG's rights granted under the Constitution.

Federal "policy"

16. The exclusive federal power in respect of trade described in Article 110 First of the Constitution is limited to formulating “policy”. The federal government is granted no further authority in respect of oil and gas from the Kurdistan Region and there is no requirement for the Kurdistan Region to recognise policies of the federal government.

17. Nothing in the Constitution, or the drafting history of the Constitution, suggests that the federal power to formulate trade “policy” determined under Article 110 First carries with it any exclusive authority to enact related legislation or any exclusive authority to issue regulations or decrees in furtherance of any expression of policy of the federal government. The word “policy” was inserted specifically and purposely throughout Article 110 as a limitation of federal power. There is no provision in the Constitution that might provide the means to invalidate a law (as distinct from a policy) of the KRG on foreign sovereign trade on the grounds that the law is inconsistent with federal policy.

KRG’s rights in relation to present (pre-2005) and future (post-2005) fields

18. Article 112 governs the circumstances of “the management of oil and gas extracted from present fields”.

19. The expression “present fields” is given a precise meaning under Kurdistan Region law. Article 1 of the KRG Oil and Gas Law defines a present field (or “current field” in the terminology of the English translation of that law as published by the KRG) as “a Petroleum Field that has been in Commercial Production prior to 15 August 2005”. The meaning of “present fields” is not clear under Iraqi law outside the Kurdistan Region.

20. There is, today, no export production in the Kurdistan Region from “present fields”. All export production is from new fields (which the 2007 KRG Oil and Gas Law calls “future fields”). Further, all exports from the Kurdistan Region are, today, from two “future fields” with respect to which contracts were signed before the constitution entered into force.

21. Because those two contracts were signed before 2005, they are specifically ratified by Article 141 of the constitution.

22. The federal government is not distributing revenues in accordance with the revenue sharing condition set out in Article 112. Therefore, any power of the federal government under Article 112 (in relation to even the pre-2005 present fields) would not apply. In those circumstances, any post-extraction oil and gas management of “present fields” in the Kurdistan Region must become an exclusive power of the KRG.

23. The management of oil and gas extracted from future fields is clearly not an exclusive power of the federal government enumerated under Article 110 of the Constitution, and is not identified as a shared power under Article 112. It follows that, in respect of future fields, the general principles of the Iraqi Constitution apply and the KRG has the exclusive right to manage those fields. The KRG has this right whether or not the contracts governing those fields are the subject of the ratification provision of Article 141 of the Constitution.

Failed federal attempts to constitutional amendments

24. After the Constitution entered into force in 2005, there were efforts made by the federal parliament to initiate a set of amendments to Article 110 of the Constitution, including paragraph First, so that the federal government’s policy-making powers would be legislative in nature, and to include authority on oil and gas.

25. Those efforts were documented in the 2007 record of deliberations of the parliament's Constitution Review Committee. Those efforts did not succeed. However, those efforts do constitute clear evidence that the federal government itself understands the limitations of its powers in respect of oil and gas under the constitution as set forth above.

KRG warning

26. To the extent third parties are intentionally assisting SOMO to prevent or discourage potential buyers of oil from the KRG, the KRG may take the view that those parties are assisting in an illegal and prosecutable conspiracy.

27. The unconstitutional and baseless monopolistic attempts by SOMO have no place in the new Iraq and SOMO's attempts, guided by some power grabbing individuals in Baghdad, are clearly putting the very unity of the country at risk.

28. Once again the KRG calls upon SOMO and SOMO's advisers and associates to stop their futile interferences with KRG's legitimate oil sales process. The KRG strongly advises Baghdad to authorise SOMO to accept KRG's invitation to join us in Ceyhan and work with us hand in hand to increase oil exports from all of Iraq and to maximise oil revenues to benefit of all of Iraq.

29. The KRG's objective has remained unchanged since the entry into force of the constitution and KRG's 2007 Oil and Gas Law. The KRG's objective is to maximise revenues for all of Iraq, and for the KRG to directly receive its full 17% constitutional entitlement from Iraq's overall oil revenue, without cuts, disruptions or controls by Baghdad.

30. The reader may also consult the attached reference for completeness.

Attachments

Attached to this statement are the following:


(a) **the Iraqi Constitution** (/images/pdfs/Iraqi_Constitution.pdf);


(b) **the KRG Oil and Gas Law of 2007** (/images/pdfs/Kurdistan_Oil_and_Gas_Law_English_2007.pdf);

(c) **the KRG Financial Compensation Law of 2013** (/images/pdfs/KRG_Financial_Compensation_Law_No%205_2013_English_Translation.pdf);

(d) **the legal opinion of Professor James Crawford** (/images/pdfs/James_R_Crawford_Kurdistan_Oil_Legal_Opinion_English_2008.pdf) SC, FBA, LLD, Whewell Professor of International Law, University of Cambridge; and

(e) **the presentation made by the KRG Minister of Natural Resources** (/images/pdfs/Ashti%20Hawrami_presentation_CWC_conference_London_17_June_2014.pdf) at the CWC Iraq Petroleum Conference in London on 17 June 2014.

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The Supreme Federal Court rules against Iraqi Minister of Oil's request to prevent KRG oil exports

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27 June 2014 - Erbil, Kurdistan Region, Iraq (MNR.KRG.org) - Immediately after the KRG's first export shipment on the United Leadership vessel in Ceyhan Terminal, the Iraqi Federal Oil Minister (the "Minister") submitted a formal request to the Federal Supreme Court in Baghdad, (the "Court") asking the Court to rule against the KRG Ministry of Natural Resources and prevent it exporting oil out of the Kurdistan Region.

On 23rd June 2014, the Court convened a special meeting to address the Minister's request and, after examining the reasoning behind his request, the Court decided unanimously to reject the request of the Minister "for being contrary to the applicable legal contexts in Iraq."

It is worth noting here that the Minister's claims were based on his own interpretation of constitutional provisions to claim that the oil and gas affairs fall within the exclusive powers of the federal government. In so claiming, the Minister was relying on the centralized laws enacted prior to 2003, thus ignoring the fact that current constitutional provisions do not incorporate any oil and gas matters within Article 110, which defines the exclusive powers of the federal government.

With this Court decision, the Kurdistan Regional Government has another important clarification of its acquired rights as stated in the Constitution. The Court ruling was taken by a unanimous decision of all its members, and it explicitly rejected the request made by the Minister. Such a decision by the highest court in the land is binding on the Minister and cannot be challenged in any way.

This is a clear victory for justice and for upholding KRG's rights, despite the Iraqi Federal Oil Ministry 's interferences and unjustifiable interventions. This decision clearly demonstrates that the Federal Oil ministry and its marketing arm (SOMO) will also fail in all their reckless efforts on the international level.

This judicial decision by the Supreme Federal Court must be respected, and now we call upon the Federal Oil Ministry, SOMO and all their helpers to abandon their illegal and unconstitutional interventions to prevent oil exports from the Kurdistan Region. They must also cease sending intimidating and threatening letters or making false claims to prospective traders and buyers of oil exported legally by the Kurdistan Regional Government for the benefit of the people of Kurdistan and Iraq. The signed [Iraq Supreme Federal Court decision \(/images/pdfs/Supreme_Court_Decision_Iraq_June_2014.pdf\)](#) in Arabic is available to read here.

Written by Vian Rahman Category: PRESS RELEASES (/index.php/en/press-releases) 📅 Published: 27 June 2014

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29 June 2014

- Erbil Kurdistan Region, Iraq (mnr.krg.org) - Following the decision of the Supreme Federal Court on June 24th to reject the Federal Oil Minister's request for an injunction to stop the Kurdistan Regional Government from legally exporting oil, the KRG has written to the Minister of Oil demanding he heed the court ruling and desist from any further interference in the business of KRG oil export. See the [original letter in Arabic](#)

[\(/images/pdfs/MNR letter to Iraq Federal Oil Minister 29June2014 Arabic.pdf\)](#) and the [English translation](#) [\(/images/pdfs/MNR%20letter to Iraq Federal Oil Minister English translation 29June2014.pdf\)](#).

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29 June 2014

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Translation of letter from KRG to Federal Oil Minister

Mr. Abdul Karim Luaibi Federal Minister of Oil Republic of Iraq - Baghdad

Your Excellency Minister of Oil,

I write on behalf of the Kurdistan Regional Government of Iraq (“KRG”) in relation to the actions taken by yourself and your Ministry that seek to interfere, directly and indirectly, with the KRG’s export of crude oil in accordance with the KRG’s rights, authorities and powers granted to it under the federal constitution and the laws of the Kurdistan Region.

I refer, in particular, to hostile efforts by your Ministry against the KRG and your attempted legal actions against the KRG in Iraqi courts and the threats made by a number of foreign law firms hired by your Ministry, acting on your instruction, against third parties contracted with the KRG and others who may wish to deal with the KRG in the future, apparently based on Ministry’s outlandish interpretation of the 2005 federal Constitution of Iraq, and old centralized laws that ceased to have any effect in Kurdistan Region once the KRG oil and gas law become effective in 2007.

These actions of your Ministry are clearly politically motivated, hostile, illegitimate, and without constitutional basis, and contrary to the fundamental interests of the people of Iraq. These actions of your Ministry are evidence of a deep contempt for the 2005 Constitution, the laws of Iraq, the laws of the Kurdistan Region, and international law.

I would like here to draw your attention to the decision of the Supreme Federal Court dated 24 June 2014, dealing with your request to prevent and stop the export of crude oil by the KRG. This court took its decision unanimously and rejected your request. This Court decision requires you to ensure that your Ministry immediately desists from any further actions to directly or indirectly interfere with the KRG’s export of crude oil and withdraw all of its actions it has taken and to instruct your foreign legal advisors accordingly.

The actions of your Ministry have been unsuccessful so far and will be vigorously resisted by all legal means available to us everywhere. The actions of your Ministry have caused great financial loss and other damage to the KRG, to the people of the Kurdistan Region, and to the people of Iraq.

Finally, please confirm in writing by no later than 15 July 2014 that your Ministry has ceased all such interference, and that no such or similar interference will

resume in the future, and to indicate your willingness to enter into friendly discussion to outstanding matters prior to any more damage to Iraq both internally as well as internationally. Failing to do that, the KRG will bring civil and, where necessary, criminal proceedings against your Ministry and any person, foreign advisor, or any entity conspiring with your Ministry in any forum. These proceedings will be without prejudice to the KRG's substantial existing claims against the federal government with respect to which the federal government has taken no steps to redress.

Yours sincerely,

Ashti Hawrami

Minister of Natural Resources

Kurdistan Regional Government of Iraq



Legal notice by the Kurdistan Regional Government to all crude oil buyers from Iraq's Federal Oil Ministry and the State Oil Marketing Organization (SOMO)

Under Article 112 of the Iraqi Constitution, the Iraqi federal government is legally required to distribute oil and gas revenues from present fields "in a fair manner in proportion to the population distribution in all parts of the country."

Under Article 112, the KRG (Kurdistan Regional Government) is entitled to 17% of all proceeds from oil sales by the Federal Oil Ministry and the State Oil Marketing Organisation (SOMO) (or any other division of the Iraqi federal government).

The KRG has the right, in circumstances where the Iraqi federal government is not sharing revenues in accordance with the Iraqi Constitution, to take such action as the KRG considers appropriate to obtain all entitlements the Iraqi federal government is required to pay to the KRG under the Iraqi Constitution. This right is reflected in Kurdistan law.

Since at least 2005, the Federal Oil Ministry has failed to comply with its constitutional and legal duties to the KRG, including under Article 112. The Federal Oil Ministry and SOMO continue to sell and to seek to sell oil, gas and other petroleum products to third parties, and to retain the full proceeds of such sales, all in violation of the KRG's express constitutional and legal rights, and without the participation or approval of the KRG.

In these circumstances, and until further notice, Article 112 legally precludes the Federal Oil Ministry and SOMO (or any other division of the Iraqi federal government) from selling oil from Iraq without the approval of the Kurdistan Region, as a producing Region. Oil sales by the Federal Oil Ministry, SOMO, or any other division of the Iraqi federal government are therefore in violation of the Iraqi Constitution and international law, and may be outside the scope of their authority.

The KRG notifies all persons that have purchased or may purchase oil or gas from any division of the Iraqi federal government, including the Federal Oil Ministry or SOMO, that the KRG will consider such buyers and those who have facilitated shipments on their behalf or on behalf of SOMO as colluding in, supporting, or facilitating violations of the KRG's rights (including under the Iraqi Constitution and/or international law), unless such buyers pay the KRG 17% of the purchase price, reflecting the share to which the KRG is legally entitled.

Buyers who fail to make such payments to the KRG will be facilitating the Iraqi federal government's breach of the KRG's rights and passing to the Iraqi federal government monies that rightfully belong to the KRG. Such buyers will also run the risk of paying funds to the Iraqi federal government pursuant to arrangements that may be outside the authority of the Iraqi federal government under the Iraqi constitution.

The KRG will take such legal action against buyers of oil from the Federal Oil Ministry and SOMO (or any other division of the Iraqi federal government) as may be necessary to protect the KRG's constitutional and legal rights.