



REVENUE WATCH

OCTOBER 18 2005

TO: THE SPEAKER OF THE NATIONAL ASSEMBLY AND ITS ESTEEMED MEMBERS AND
THE FUTURE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ITS MEMBERS

Open letter on the Oil and Gas wealth in the Draft Iraqi Constitution

Ladies and Gentlemen,

We all appreciate the importance of oil wealth for the Iraqi people as it is their main source income and their hope for development and growth. Experts in the oil sector understand the plurality of aspects of this industry including the political and practical. The practical aspects of this sector are diverse and include exploration, drilling, production, transportation ending with shipping and marketing. The sector also encompasses the refining and distribution of oil products.

An industry of such economic importance and technological complexity needs constitutional provisions which are commensurate with its importance. Unfortunately, careful reading of the constitution and especially paragraphs 108, 109 and 111 reveals a number of weaknesses which may have negative repercussions on the management and development of this wealth.

Following are the most important points:

1. The Federal Government, the regions and the producing provinces all partake in the management of oil and gas extracted from current fields. All also participate in the design of policies and strategy for the development of this sector. This overlap and duplication is not correct from managerial and legal perspectives. It would be in everyone's interest to separate these functions in a way which allows the centre to specialise in policy making and strategy and the regions to specialise in operations.
2. The draft assigns the management of new fields to the regions and producing provinces. The role of the central government in the production will be thus temporary depending on the lifespan of current fields. In the long term this means that the federal governments role will be limited to participating in the design of strategy for the sector. This is a marginal role compared to the regions.

3. This distribution of tasks and responsibilities will lead to the fragmentation of the sector which benefits by its nature from the pooling of economic and human resources and will make it unviable to re-establishing the national oil company. It will also cause to delay and impede legislative work and institution building necessary to develop the sector since it will make it difficult to put together a comprehensive oil law, rules, regulations and instructions which would be applicable throughout Iraq and which would govern contracting with private companies and multinationals.
4. The transfer of competences to the regions will weaken Iraq's bargaining position with states and companies since regions and provinces will be the weaker party compared to a central authority in control of the country's oil reserves and which has the technical, managerial and negotiating skills necessary for this exercise.
5. The lack of clarity, confusion and overlap in competencies and responsibilities may impede foreign investment and contracting with the private sector especially if it leads to disagreement between the parties or if fields are shared across regions.
6. The lack of clarity, confusion and the misallocation of competencies and responsibilities between the centre and the regions will also threaten the integrity of both federal and regional budgets and would reduce the ability of parliament and society to hold the executive to account opening the door for manipulation and abuse of resources. It will also weaken the central government and prevent it from carrying out its responsibilities contained in the second chapter of the constitution such as social security, health, education, defence, security and foreign affairs.

We the undersigned oil experts would like to propose the following remedies with the aim of preventing the weakening of the oil sector. The addition of a new paragraph to the draft constitution opens the way for amendments to some of its rulings. We would like to use this opportunity to replace paragraph 109 by an oil law which would be drafted by experts in this industry and would benefit from the experience of other oil producing countries. This law will be based on the principles of good governance and would have clear objective and responsibilities avoiding overlap in the division of rights and responsibilities. The proposed legislations will give the centre control over design of policies and plans, drafting of legislation and supervision of its implementation in addition to the signing of strategic agreements and contracts. The regions will be responsible for operational management and oil project implementation and there should be no overlap between these two roles.

We hope that through this proposal we can help serve the oil sector and Iraq in general. Allah is witness to our intentions.

Signatories from inside Iraq:

Kamil Mhaidi	Oil specialist	30 years oil extraction experience
Tarik Taher	Oil specialist	41 years oil extraction experience
Kamil Shabibi	Oil economics expert	25 years oil sector experience
Fuad Al-Kadhimi	Oil Expert	36 years oil sector experience
Shawqi Al-Khalisi	Oil Expert	39 years experience in oil refining
Hussain Kadhim	Oil Expert	37 years oil extraction experience
Kahtan Al-Anbaki	Oil Expert	39 years experience in refining and oil industries
Nazim Hamandi	Oil Specialist	40 experience in the oil sector
Nuri Al-Ani	Oil Expert	40 experience in the oil sector
Karim Al-Shammaa	Oil Expert	25 years experience in gas and distribution sectors

Signatories from outside Iraq:

Fasrouk Alqasim	Oil Consultant	48 years experience in technical and management issues at the national and international levels.
Yahia Said	University Lecturer	Expert in oil economics, University of London, Director Iraq Revenue Watch

Baghdad 18/10/2005

Published in the three main Iraqi dailies: New Alsabah, Azzaman, Al-Mutamar

Copyright © 2005 Open Society Institute. All rights reserved.

Anthony Richter, Associate Director, Open Society Institute

Julie McCarthy, Acting Director, Revenue Watch

Yahia Said, Director, Iraq Revenue Watch

Morgan Mandeville, Program Assistant, Revenue Watch

Iraq Revenue Watch monitors Iraq's oil industry to ensure that it is managed with the highest standards of transparency and that the benefits of national oil wealth flow to the people of Iraq. Iraq Revenue Watch complements existing Open Society Institute initiatives that monitor revenues produced by the extractive industries.

In many parts of the world, the lack of proper stewardship over oil resources has resulted in corruption, the continued impoverishment of populations, and abuses of political power. By prompting governments to tackle these problems early, the Open Society Institute hopes to help Iraq avoid this plight.

The Open Society Institute currently supports a recently launched initiative, Caspian Revenue Watch, which monitors the development of oil production in the Caspian basin. The goal is to promote transparency, accountability, and public oversight in the management of oil and natural gas revenues.

Iraq faces even greater challenges than the Caspian region. If Iraq is to become an open, democratic society it will need to develop transparent accountable institutions for ensuring honest management of oil revenues.

There is an urgent need for Iraq Revenue Watch given the current occupied status of the country. The Coalition Provisional Authority and the Iraqi Governing Council should establish rules that ensure complete transparency regarding Iraqi oil revenues. So doing will foster a stable, democratic Iraq, and will protect the Coalition Provisional Authority from charges of misappropriation during this period of trusteeship over Iraq's reconstruction.

The **Open Society Institute**, a private operating and grantmaking foundation based in New York City, implements a range of initiatives throughout the world to promote open society by shaping government policy and supporting education, media, public health, and human and women's rights, as well as social, legal, and economic reform.

For more information, contact:

Iraq Revenue Watch program

Open Society Institute

400 West 59th Street

New York, New York 10019

USA

E-mail: irw@sorosny.org

<http://www.iraqrevenuewatch.org/>

Designed by Jeanne Criscola | Criscola Design



OPEN SOCIETY INSTITUTE
Middle East and North Africa Initiatives
Central Eurasia Project