Statement on Oil & Gas Policy by the Kurdistan Regional Government

THU, 17 JAN 2013 16:54 | KRG.org

The Kurdistan Regional Government is proud of the achievements of its oil and gas industry since the fall of the former regime in 2003.

It expects the federal government of Iraq to be proud of them, too.

Since oil exports from the Region started in 2009, billions of dollars have flowed into Iraq's treasury from fields in Kurdistan that have been explored, discovered and developed under the KRG's modern, progressive and investor-friendly petroleum regime.

All this has been achieved by attracting world-class companies to the Region with minimal financial risk to the Iraqi state.
One would think that federal officials in Baghdad would embrace the progress made in the Kurdistan Region and value the contribution to the nation's wealth.

One would think that federal officials would recognize the use of the Regions' natural gas to provide electricity to its people and those of hard-pressed neighbouring provinces.

One would think that federal authorities would applaud the KRGs plans to create a northern energy corridor for Iraq, whereby up to 3 million barrels a day could soon be flowing through the north of Iraq to Turkey and international markets beyond, and the revenues are shared by all Iraqis.

It is disappointing, therefore, to learn that the federal oil minister in Baghdad has taken it upon himself to air to an international news agency a number of hostile political opinions about the KRG and its prudent and constitutionally sound management of the natural resources that lie within the territory it administers.

In a series of ill-judged remarks to Reuters, the federal minister of oil:

- threatens to cut the KRG's share of the federal budget;
- threatens companies active in Kurdistan for pursuing their legal right under the PSCs to market the oil and gas that they have discovered;
- threatens other companies for exercising their legal right to explore for oil and gas;
- appears to incite violence in the disputed territories;
- accuses the KRG of oil "smuggling" and "trafficking".

In addition, he reveals details of an illegal and unconstitutional plan to allegedly allow BP to enhance the recovery of some of the depleted fields in Kirkuk (a disputed territory under Article 140) without consulting and obtaining approval of the other parties to the dispute.

COOPERATION NOT CONFRONTATION

Iraq's citizens are simply tired of this sort of language of threat and intimidation, which in the cynical pursuit of narrow political agendas serves only to create division and strife.

The minister does not even speak for the whole federal government. Such remarks reflect a lack of respect for the Constitution of Iraq and also for the people of Kurdistan. They represent a degree of panic and desperation. It would appear the overriding philosophy is that if your own policies have failed, lash out and blame others.

Good governance and the delivery of essential services are what should matter to the state's senior officials, not the accumulation of power for powers' sake.

Citizens of Iraq know all too well the dangers of allowing the country's abundant oil and gas resources, and its revenues, to fall under the control of a handful of misguided people in Baghdad.

The country will only thrive on a diet of cooperation and coordination, not on confrontation. That is what the basic law of the land, the Constitution, demands.

LEGAL ISSUES

In terms of oil and gas management, the KRG firmly believes in, and abides by, the letter and spirit of Iraq's permanent, federal Constitution, which was ratified by the majority of Iraqi people in a nationwide referendum in 2005.

The federal Constitution gives primacy to regional law except in areas listed under the exclusive powers of the federal authorities. Oil and gas are not listed under the exclusive powers of the federal government.

All oil contracts in the Region fall within the KRG oil and gas law, debated and passed by the Kurdistan parliament in 2007 and fully in line with the relevant provisions of the permanent Constitution.

The Constitution not only outlines the current and future roles for federal and regional powers in the management of Iraq's oil and gas, it endorses past authorities as well.

There were oil and gas contracts with the KRG entered into before 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.
Under the Constitution, all non-producing fields (at the time of its writing) fall under the sole power of the regions and governorates and therefore contracts were signed between the KRG and the IOCs.

Neither the federal government nor the federal oil minister is a party to these contracts, so the Minister has no jurisdiction to take any legal action against PSC holders.

The Production Sharing Contracts in the Kurdistan Region have been a great success for Iraq. They have meant that an estimated 45 billion barrels of oil and 3-6 tcm of gas can be added to Iraq's total reserve figures.

KIRKUK LICENSES

The alleged agreement with BP on a plan to reverse the decline of oilfields of Kirkuk is another unconstitutional and illegal move announced by the minister. According to Article 112 of the Constitution:

The federal government, <u>with the producing governorates and regional governments</u>, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner… and this shall be regulated by a law.

The term "present fields" refers to fields already under production at the date of the Constitution (October 2005). Kirkuk is one such field.

The management of the Kirkuk field therefore must be undertaken by the federal authorities, the governorate, and because it is part of the process outlined under Article 140, the KRG.

Because none of this has happened, the federal oil minister cannot act unilaterally, and no wise company would make itself a party to such a dispute.

The federal oil minister makes threatening noises about violence in the disputed territories.

"SMUGGLING"

The minister also makes several insulting references to "smuggling" and "trafficking". We trust that this is not a slur against the people of Kurdistan.

The KRG respectfully suggests that the federal oil minister consults the dictionary. One of the primary definitions of "smuggle" is: "to convey (goods) clandestinely into (or out of) a country."

However, the trade in oil and gas across Iraq's borders occurs as a result of official regional government policy. There is nothing clandestine or underhand about it.

Under the September 13 agreement, co-signed by Minister Luaibi, the KRG is entitled to 17 percent of Iraq's refined products plus a further 17 percent of the crude oil in Iraq that is sent to burn in the power stations.

The people of Kurdistan and surrounding provinces are benefitting from the supply of products and power generated as a result of the KRG's results-driven energy policy.

Baghdad does not supply the Region with its entitlement to refined products, therefore the KRG trades quantities of crude and condensate and fuel oil in a barter arrangement for diesel, kerosene and benzene. This trade counts as part of the Region's 17 percent entitlement and is fully documented and accounted for. It provides real help to Iraq's citizens.

In any case, according to the federal Law of Anti-Smuggling of Oil and Oil products (No. 41 of 2008), "it is prohibited to carry oil and oil products by any land, marine or river means of transportation unless getting an official permission from the Ministry of Oil <u>or the relevant entity in the region</u>."

The "relevant entity" in this case is the Ministry of Natural Resources in Kurdistan, which issues export licenses and controls and documents the process in a manner consistent with the principles of the Extractive Industry Transparency Initiative (EITI).
The KRG will continue to legally and professionally export oil and products, in line with its rights under the Constitution.

BUDGET AND REVENUE ISSUES

After decades of oppression, dictatorship, and war, revenue sharing, power sharing and decentralization are the obvious keys to Iraq's future unity.

Thus, our regional government believes in the Constitution as it is, not as its opponents would wish it to be.

Article 111 of Iraq's constitution clearly states that oil and gas belong to "*all the people of Iraq in all the regions and governorates.*"

It does not state that the oil and gas belongs either to the federal Ministry of Oil or the illegal and unaccountable monopoly of the state oil marketing organization (SOMO), which was created by Saddam Hussein.

Nevertheless, the ownership of the oil and gas in Iraq is without prejudice to its management and to the distribution of its revenues.

And nowhere does the Constitution state that either the management or export of oil and gas from Iraq are the exclusive preserve of the federal authorities.

The KRG’s opponents know this, which is why their statements are often cynically designed to deceive and mislead the general public.

The threat to cut the KRG’s share of the federal budget therefore is not only senseless but empty.

The federal oil minister is stepping well beyond his remit in speaking about the federal budget, creating yet another smokescreen for the incompetency of his ministry and of the federal administration.

Had it not been for the federal government’s obstructionist policies, the Kurdistan Region could now be exporting 500,000 barrels per day or some $18 billion per year. That is more than enough to cover the KRG’s annual budget of around $10 billion and provide extra billions for the people of Iraq.

This is in addition to the wasteful, costly and environmentally damaging oil ministry policy of gas flaring which has cost Iraqis an estimated $10 billion in lost revenue every year since 2003.

The mismanagement of oil and gas resources by the federal authority and its lack of respect for the Constitution and the many agreements it has signed, has cost Iraq not just billions of dollars of potential revenue but also myriad opportunities for national reconciliation.

Iraq really cannot afford to sustain these losses for much longer.

The KRG remains committed to Iraq’s Constitution, and is organizing its oil and gas industry in a professional and modern way. It will thus continue to move unwaveringly forward and not allow itself be sidetracked by cheap and counterproductive attempts at political sabotage.

The KRG’s stability, its economic dynamism and investor-friendly policies, plus its patience and flexibility on the political front, have been crucial factors in shepherding Iraq through the turbulent waters since the removal of the dictatorship in 2003.

Kurdish leaders have tried to prevent Iraq from descending into sectarian conflicts, and have consistently avoided taking sides in any internal strife. Had it not been for their role, one can only guess what unknown fate would have beset the country.