

OP-ED/DOCUMENTS

Iraq National Oil Company, An Historical And Political Perspective

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Iraq's Council of Ministers approved in early August a draft law creating, or re-creating, Iraq National Oil Company (INOC), sending waves of nostalgia among old timers for the national oil company originally created in the early 1960s as a counter balance to international oil companies holding long term concessions over Iraq. The merits of the company to be created were quickly compared and contrasted against the old company, which admittedly brought in the short-lived golden era of Iraq's oil, before it was dismantled in 1987, following which Iraq's oil sector plunged into the dark days of wars and sanctions.

Unlike other draft laws and in particular the oil and gas law, which has provoked controversy over its contents and the timing of its endorsement by the cabinet in 2007 - which meant it was subject to the balance of power of the moment within Iraqi politics - the INOC draft law had no objectors, albeit some critics who wished to see the new national oil company a replica of the old one. However, national oil companies are the product of the political eras they are born in and nowhere is this more relevant than in Iraq, where the history of INOC can be divided into three distinct phases, clearly marked by the adoption of laws that denoted major turning points in the history of the oil sector itself. Understanding the political context which shaped each era of the history of the Iraqi oil sector helps to understand why the new INOC will not be a replica of the old one and will inevitably reflect the Iraq of today or perhaps that of tomorrow. The three distinct phases were influenced and shaped by Iraq's domestic and regional politics, starting with the emergence and then the consolidation of INOC between 1964 and 1976. This was followed by a change of momentum dictated by the domestic politics of Iraq that created an uneasy relationship between INOC and the Ministry of Oil during 1976-87. With the dismantling of INOC in 1987 came the final phase, still characterizing the current state of affairs in Iraq, where politics dominated the oil sector, putting it at its mercy.

The Emergence Of A Strong INOC, 1964-76

The early 1960s witnessed the culmination of an era of conflict and recriminations between the Middle East producing countries and international oil companies and the emergence of a new breed of oil states in the Middle East, attempting to take control of how their resources are produced, managed and accounted for, and even more importantly, who has the title to what is beneath the ground. It was a period of rejection of the unfair relationship between states and companies and the willingness of the former to take concrete steps to rectify that relationship. This era was preceded by two major events with regional implications: Iran taking an unprecedented step of nationalizing the first assets of foreign oil companies in the region in 1951 and setting up the National Iranian Oil Company (NIOC), and the creation of OPEC at a Baghdad meeting in 1960.

Law 11 creating the first Iraqi national oil company was adopted by the Iraqi state in August 1964 during the presidency of 'Abd al-Salam Arif, one of the leaders of the 1958 coup that toppled the monarchy and ushered in reformist policies, and right on the heels of the adoption of Law 80 in December 1961 by the Sovereignty Council and under the premiership of Abd al-Karim Qasim, another leader of the 1958 coup.¹ Law 80, a watershed in the history of the relationship between concession holders and oil countries, was issued to define the area of investment of the oil companies which amounted to the nationalization of all areas of Iraq outside the operation areas of the foreign companies. The long Annex 2 to Law 80 retraces the history of the long qualms Iraq had with the companies over the levels of investments and production as well as Iraq's

share in the companies and the profits, and the protracted negotiations that preceded the legislation of the law.

Not surprisingly, the state company that Law 11 sought to create was shaped by the necessities of that era. The limited attributes awarded to the first Iraqi national oil company of its kind reflected the inexperience of those in power. Still, the 18-article law carries the template which served in the creation of the second and more sophisticated version of INOC in 1967, which itself became the template for the 2009 INOC draft law.

Seeking to create an integrated company that exploits the vast areas returned to the state by Law 80 and builds an oil industry that manages the resources from the well to the market, INOC was set up with 100% state capital of ID25mn "in line with the principle of the state sovereignty over its mineral resources."² Due to the "vast capital needed or to marketing or technical requirements,"³ it was allowed to call on "other national or foreign capital either through borrowing or partnership or other means of cooperation with organizations and institutions involved in oil investments."⁴

Furthermore, the annex to Law 11, explaining the compelling reasons behind the legislation, stressed the need to award INOC "financial and administrative independence to allow it to carry out its ever increasing responsibilities efficiently in order to achieve the objectives behind its creation."⁵ For that reason, all decisions made by its board of directors were considered effective immediately, except for those related to "higher oil policy" such as partnerships with other companies, the establishment of subsidiaries and the procurement of loans, which require approvals by the cabinet.

The objective behind the creation of the first version of INOC, as defined by the legislation, was to exercise all aspects of the oil industry, inside and outside of Iraq, in all its phases including exploration, production, transport, refining, storage, distribution and marketing of all hydrocarbons, their products and by-products, as well as the manufacturing of equipment. The state company could create subsidiaries on its own or in partnerships or it could join established companies. It could contract other companies to carry out work on its behalf under all forms of cooperation, it stated.

The structure of that early version consisted of a nine-member board of directors. In addition to the chairman and his deputy, three of the members were to be appointed by the cabinet among state officials and six full time members also by the cabinet on the recommendation of the minister of oil. The appointments were to be confirmed by state decree. It was the cabinet which would choose one of the six members to act as chairman of the board but it was the director-general who officially represented the company. His appointment was also mandated by state decree.

In a clear distinction of the hierarchy - or lack of - between INOC and the oil ministry, the law refers the state company to the oil minister in the course of carrying out the oil policy defined by the state, while at the same time refers any disagreement between the oil minister and the company back to the cabinet for resolution.

INOC - Version Two

The second version of INOC was created in 1967 with the legislation of Law 123, which annulled Law 11 of 1964 and re-established the Iraqi state oil company during the presidency of 'Abd al-Rahman Arif. The justifications of the new legislation as explained under "the compelling reasons" attached to the text of the law were the expanding responsibilities of INOC following the adoption of Law 97 of 1967, which entrusted the company with the "exploitation of oil and hydrocarbons in the areas it [Law 97] designated which included most of the Iraqi territories including the territorial waters, its continental shelf and Iraqi interests in the neutral zone."⁶ A second justification was that Law 97 stated that any partnership agreement with other companies to invest in the areas assigned to it should be legislated into law, while banning at the same time any investment in those areas under concession agreements. A third justification referred to the need to build the Iraqi manpower (with all it entails from education to training to defining salaries and benefits) in order to create an industrial base with the oil industry as its backbone.

What Law 97 did was give INOC a monopoly over all areas where the foreign companies are not producing and banned the award of any areas in the future - permitted under Law 80 - where INOC started work or where oil was discovered, to those companies. Furthermore it imposed restrictions on any future partnerships between INOC and other companies including any future claims by any company of ownership of any below-the-ground oil or hydrocarbons by making it state ownership.⁷

The variations in the new INOC law on the old legislation included a reintegration of the restrictions regarding future partnerships in Article 4 of Law 123, an assertion that all INOC's funds and those of its subsidiaries belong to state (Article 2-4) and that INOC's capital could be increased up to ID150mn with cabinet approval (Article 5-2).

It further limited the required cabinet approval for domestic loans to those above ID3mn where the term exceeds three years, while foreign borrowing still required cabinet approval. Total loans were limited to up to four times the company's capital (Article 6).

An interesting novelty in Law 123 - the concept of which was integrated in the 2009 INOC draft law - has to do with the finances of the company. Article 7 stated that once operating expenditures, amortizations, staff reserve fund allocations and pensions are deducted, INOC's remaining profit would go towards the unpaid capital until the full capital has been paid. After five years of achieving net profit, 50% will be dedicated to paying the capital back to the government, increasing to 75% once all capital has been paid back with the remainder serving as reserve to the company until it equals four times its capital. Subsequently, all profit goes to the government.

More importantly, the determinant factor in the power to be exercised by the new company was the structure and the authorities awarded to its board of directors. Article 11 of Law 123 restates that the company is to be managed by an administratively and financially independent board of directors, exercising all authorities and rights granted directly to the company or through its subsidiaries, agencies, other companies owned by it or affiliated with it or establishments attached to it. The internal powers attributed to INOC under Law 123 were vast. Approval of the cabinet when it comes to running the sector is only needed for the yearly program whose objective it said was to achieve the government policy for the development and expansion of oil investments to build the sector and its industries. However, approval of the cabinet was required for the establishment of subsidiaries and for partnerships with other companies in order to invest in its areas of operations. The law carries exactly the same article as in Law 11 defining a loose relationship between the board and the oil minister.

The new structure amalgamated the positions of chairman of the board with that of director of the company, putting all the executive authorities in the hands of the chairman. Other members of the board include a deputy chairman, two full time company directors, three external members,⁸ a deputy oil minister or a director general of the ministry and two reserve board members. Initially, the members of the board, including the chairman and his deputy, were to be appointed by the cabinet on the recommendation of the oil minister, and the appointment was to be confirmed by state decree defining the term of each. A subsequent amendment to Law 123 stated that that the chairman and his deputy will be appointed for five years, renewable for a further term, while the two full time directors were to be appointed for three years, also renewable for a further term.⁹ Stressing the "importance of INOC and its future scope," the amendment also legislated that the chairman will have a ministerial rank, with the associated benefits.

The INOC that was created in September 1967 by Law 123 was undoubtedly influenced by the international oil companies it sought to match or even compete with and eventually replace. The detailed and more structured legislation foresaw a national oil company that was to take over the reign as the generator of the state's wealth. Not only was INOC to be at the forefront of the even more nationalistic era that witnessed the takeover of the Ba'ath party in the following year, it was also being geared up to play an active role in partnerships with outsiders. The first of these took place in 1968 and 1969, with France's Erap and with companies of the former Soviet Union. When the nationalization of the Iraqi oil industry kicked in in 1972, everything was in place to allow INOC to take over the oil empire built by IPC until it reigned alone over the Iraqi upstream sector with the last of the nationalizations of IPC's companies completed in 1975.

INOC Vs Oil Ministry: The Uneasy Relationship, 1976-87

The year 1976 was a turning point for INOC and maybe the beginning of the end for the state company, though it would take just over 10 years before it was completely dismantled. The successor of the oil majors in Iraq was partly a victim of its own successes, partly - and yet again - a victim of the political era that ensued.

Law 101 of 1976 for the "Organization of the Oil Ministry" brought drastic changes to the structure and role of INOC as it was defined in 1964 and 1967. The major changes can be summarized as follows:

- INOC and its state establishments for refining, projects and product distribution were attached to the oil ministry and the oil minister became the chairman of the board of INOC, and the chairman of INOC became the number two on the board as deputy chairman of the board with authorities to be defined by the oil minister.
- In addition to the chairman of the board and his deputy, the board of INOC now included as members the two deputy ministers for planning and establishments, the deputy chairman of INOC, the heads of the establishments attached to INOC, the head of the General Establishment for Oil Projects and five experts appointed by the minister.
- All decisions of INOC's board were to be approved by the minister and all decisions the minister voted in favor of were considered endorsed and should be executed.
- Establishments that continue to be attached to INOC but reporting to the chairman [the oil minister] were: North State Establishment for Oil and Gas, South State Establishment for Oil and Gas, General Establishment for Exploration and Drilling, and State Establishment for the Marketing and Transport of Oil and Products.
- The law put the oil ministry in charge of the management of all aspects of the oil sector including exploration, drilling, production, refining, gas processing, transport and marketing of crude and gas, building of oil projects and imports destined for the sector.
- The ministry became in charge of planning for the sector with an additional role of supervising the execution of the plans after their approval.
- The law limited INOC's role to the exploration and production of oil and gas, domestic marketing of crude and international marketing of crude and products.
- The chairman of INOC and his deputy, the assistants to the deputy chairman, the heads of the state establishments and the directors of the enterprises and departments were all appointed by state decree.

Law 101 carried the early signs of things to come. In one paragraph under the "compelling reasons" in the annex attached to the text of the law promulgated by the head of the Revolutionary Command Council, then Ahmad Hasan al-Bakr, it was stated that the changes were recommended in the political report presented to the eighth regional congress of the Ba'ath party and in order to be in line with the new organizational structure of the state and its public sector. It further elicited that the new law was meant to strengthen the connections between the oil sector and other sectors of the economy and to "link the planning of its operations with the central planning of the state."¹⁰

Further laws and decrees followed intensifying the degree of centralization of the oil sector, adding more powers in the hands of the oil minister, who became the top manager of the oil sector, and gradually undermining the independence which INOC once enjoyed and in which it thrived. The most significant was Law 156 of 1979, putting an end to INOC's financial independence by requiring all revenues from the oil and gas sector to be transferred to the treasury and INOC allocated an annual budget based on the state's annual development plan.

In 1983, Decree 649 was issued by Saddam Husain as head of the Revolutionary Command Council, amending Law 101. The amendments included the re-affirmation of the oil minister as chairman of the board of INOC and the replacement of the position of deputy minister for planning with that of deputy minister for upstream, who also serves as chairman of INOC. It also streamlined the departments of planning and studies at the ministry into one department "studies, planning and follow-up", which also took over the planning department at INOC. Further shrinking the authorities and role of INOC, its administrative department was cancelled and its role relegated to the similar department at ministry headquarters.¹¹

On the ground, and in spite of politics encroaching gradually on its turf, INOC continued to achieve huge successes in the early years of this era, pushed by the momentum created by the wave of nationalizations of the 1970s. Working on several fronts to fill the gaps created by the departure of the international oil companies (exploration, building the production and export infrastructure, training and staffing of its

upstream and downstream subsidiaries), its first five-year plan (1976-80) marked its golden era, which saw its oil production capacity peak at a historic 3.8mn b/d in 1979. That peak was never repeated since.

Its second five-year plan (1979-83) was stifled by the eruption of the Iran-Iraq war, the loss of resources as oil exports through the Middle East Gulf were interrupted and funds were diverted from investment to the war effort and eventually - and maybe most importantly - due to the eroding powers of its management.

Though it was Decree 267 that declared INOC dead in 1987, the dismantling of the state company was done gradually through a series of decrees promulgated by Saddam Husain, which transformed the upstream and downstream subsidiaries it had created and managed until then into "administratively and financially independent" enterprises reporting to ministry headquarters.

These decrees included for example Decree 864 of 1 June 1980, creating a "Higher Technical Division for the Development of the Oil fields of Halfaya, Majnoon, Nahr 'Umar, West Qurna and East Baghdad", headed by the minister of oil. It was tasked with taking all necessary measures and granted vast authorities including a number of waivers from existing laws to develop those fields with the shortest delays possible.

Decree 535 of 15 April 1980 is another in this series, creating a semi-independent state enterprise for the central oil fields, thus replacing the INOC affiliate carrying out the same tasks with a similar administrative structure to that of INOC.

Oil At The Mercy Of Politics, 1987-2009

By the time Decree 267 on "Merging INOC with the Oil Ministry" was issued in April 1987, the state company was close to an empty shell of a company compared to the one established in 1964. It had a drilling and an exploration department, an administrative and a financial section, and three upstream state establishments for the north, south and the center, over which INOC headquarters had little authority.

The 1987 decree created the North Oil Company, South Oil Company and Oil Exploration Company, as well as a drilling division and a crude oil division at ministry headquarters. It stipulated that the oil minister will replace the board of directors of INOC wherever the latter is mentioned in all applicable legislations and regulations. Whereas the same law made all laws, regulations and decrees previously pertaining to INOC's operations applicable to the newly created companies, an amendment under Decree 79 issued in 1995 annulled that clause and stipulated that all legislations pertaining to INOC's operations will now be applicable to the oil ministry. As a result the upstream companies became lame subsidiaries of the ministry with no real powers. They became executors of decisions made at headquarters.

On the same day (26 April 1987) another Decree, 272, created a crude marketing division attached to the ministry of oil which was meant to replace the state establishment for marketing. The division would be under the supervision of a committee headed by the oil minister. It would be managed by an executive director holding the position of advisor. Furthermore the committee would include one representative (or more) of the presidential court as well as the governor of the central bank.

Needless to say, starting in the late 1980s and onwards, the oil sector was treated as a milking cow sustaining a political system in place, not as a vital economic sector providing the means of growth and development for the national economy. Exiting one war and entering into another, then stifled by international sanctions that followed, the oil industry stagnated. The major actor in that phase was the oil ministry, with one top executive, the minister, gathering all the powers in his hands, from oil policy planning to the management of the oil sector in all its aspects, upstream and downstream. As a result, with the shift in the center of power came a change of priorities. Following the era of the vibrant INOC of the late 1970s and early 1980s, running the show and pushing to build its capacities and break new ground including cooperation with foreign companies under service contracts or cooperation agreements, political control with political priorities took over in the management of the sector, including its development, its operational decisions, its budget and its spending. Political priorities also extended to the nature of negotiations with foreign oil companies, the type of agreements offered and the choice of the nationality of the partners. The top priority was insuring that production was maintained at maximum capacity - whenever that was possible, which was mainly in the latter phases of the oil-for-food program - in order to generate maximum revenues.

It is worth noting that the period which saw the demise of INOC in Iraq witnessed the consolidation and growth of regional state companies (Saudi Aramco, Kuwait Petroleum Corporation and Abu Dhabi National Oil Company) into state power houses and major players on the international oil scene with some extending their reach beyond their borders, upstream and downstream.

The Aftermath Of 2003

Recent attempts at restructuring the Iraqi oil sector and its institutions are inevitably conditioned by the politics of this era and consequently the outcome is bound to be a reflection of the political set-up prevailing in the country, just as the INOC of 1964 and of 1967 was a direct response to the needs and the emerging powers of that political era. The fact that the country is going through a transitional phase means that all bodies created under the current set-up will have a transitional character. The ultimate shape that the industry and its actors - oil ministry and INOC - will take will depend on the future shape of Iraq. That shape is not yet known in all its details.

The balance of power that prevailed in the aftermath of the collapse of the old political system in 2003 dictated that Iraq should be a federal state. The devolution from the center to the regions is a new experience for Iraq and unseen before in the region as a whole. As a result, new types of conflicts are emerging and contesting the different propositions for the management of the oil sector.

In the course of the political evolution Iraq has been undergoing over the past six years, no central government has emerged that is strong enough to impose its scheme for the restructuring of the oil sector. By the same token, no strong regions have appeared that offer a roadmap for how devolution should take place. The experience of the Kurdish northern region demonstrated the limitations of an independent regional oil policy in the face of the geographical and geopolitical realities on the ground.

What we have so far are political parties representing different interests (ethnic, religious, regional) engaged in a struggle over power. Within this context, every legislation proposed for the reorganization of the Iraqi oil sector during the current transitional era was subjected to conflicting propositions from forces representing those different interests.

The proposed oil and gas law, the oil ministry restructuring law, INOC law as well as the revenue sharing law, are meant to replace the legislations of the two major historic eras (1960s-70s and 1980s-90s) and put in place a new mechanism for managing and regulating the oil sector in order to achieve the objectives of the Iraq to be. It is a challenge to legislate laws that apply, not to the transitional Iraq of today, but to the yet-to-be-defined Iraq of tomorrow.¹²

What these laws cannot do is reproduce the previous set-ups because they do not apply to the new political era. The nationalism of the 1960s and 1970s, which viewed the western oil companies as the enemy, is not applicable to today's regional and international context. Nor is the politically centralized state of affairs of the 1980s and 1990s as it was propagated by the decrees of the Revolutionary Command Council.¹³ The current context in which the Iraqi oil industry and the new INOC would seek to integrate is one that is dominated by strong national oil companies, with a new sense of oil nationalism, seeking to achieve their national interests in cooperation with international oil companies.¹⁴

It is worth mentioning that in 2004, a timid attempt was made at re-creating INOC when the prime minister of the interim council of ministers at the time, Ayad 'Allawi, announced "guidelines" for drafting an oil policy which were submitted to a supreme council for oil policy created in the same year. The proposal described the INOC it sought to create as an independent corporation, immune from political interference and direct ministerial control, but one that could eventually be partially privatized through the sale of equity. Mr Allawi at the time suggested providing INOC with emergency state funds, but said that as soon as practical, INOC should seek self-sufficiency by financing capital expenditure through commercial borrowing against future incremental production or partner funding in joint ventures. The proposal ran into controversy as soon as it was made public and died away as soon as a new government took over from 'Allawi's interim cabinet the following year.¹⁵

The 2009 INOC

The draft law for re-establishing INOC approved by the council of ministers in August 2009 - but yet to be reviewed and legislated by parliament - proposes to create a strong national oil company mirroring the 1967

INOC in the authorities and powers bestowed on it. However, it is inescapably the product of today's era with all its political deficiencies.

The new INOC, according to the text of the draft law (originally drafted in 2007), would be created to achieve a modern and technically and economically viable oil sector that realizes the ultimate in the exploitation, operation and development of the oil and gas wealth. For that purpose it, with its subsidiaries and affiliates, would "manage, develop and operate producing fields," as well as "develop, operate and manage discovered but undeveloped fields," allocated to it by the federal oil and gas council.¹⁶

Referring the allocation of fields to the federal oil and gas council instead of assigning all producing fields outright to INOC by law is obviously meant, at least in part, to avoid including the controversial producing fields in the Kurdish region under the auspices of the state company. In an ideal situation, a Kurdish operating company would be one of the subsidiaries of INOC together with North Oil Company and South Oil Company, but that suggestion would be a non-starter in the current political set-up. The concept of the federal oil and gas council itself is a product of the transitional political era, dominated by sectarian politics, and was meant to alleviate suspicions of the different stakeholders in the current political system.

The draft law allows INOC to "sign exploration, export and production contracts with the approval of the federal oil and gas council."¹⁷ Under this clause, INOC would be able to sign contracts with international oil companies to explore further in the fields allocated to it in the previous clause, while the stipulation of exporting oil would allow it to make payment to its contractors in kind. Furthermore, the draft carries another provision that gives INOC the possibility to "carry out exploration, development and production in areas beyond its areas of operation in accordance with the oil and gas law".¹⁸ This implies that it can extend its reach in areas beyond those assigned to it according to the annexes of the oil and gas law.¹⁹

The proposed state company would be independent of the oil ministry and is not treated as one of its establishments; neither are its subsidiaries. This is insured by attaching it directly to the cabinet and elevating its chairman to the rank of minister with a combined role of chairman of the board and chief executive. The move is an attempt at - theoretically - separating the political role played by the oil minister from that of the chairman of the state company who is expected to be an expert in the sector. That issue is expected to provoke friction as the oil ministry attempts to defend the legacy of the past and the turf associated with it. It is due to this precise reason - and as an interim compromise - that certain upstream state companies (Iraq Drilling Company and Oil Exploration Company) would initially remain attached to the ministry.

Members of INOC's board of directors include a senior deputy chairman with the rank of deputy minister, the heads of the subsidiaries, a representative from each of the ministries of finance and planning, and of the central bank in addition to two oil and gas experts from the oil ministry.

The board's decisions would require approval by the federal oil and gas council according to the draft law, though a time limit of 30 days beyond which all decision would be considered endorsed has been introduced to make sure operations are not paralyzed by political bargaining among council members.²⁰

An innovation on the previous INOC has been introduced in the new draft law, establishing the state oil company as a "holding company" with subsidiaries and affiliates attached to it. These would include the existing regional operating companies as well as any other companies INOC would establish to carry out the different tasks assigned to it or would participate in, including joint ventures with international oil companies, as a majority shareholder. The closest regional example of a holding company is that of Kuwait Petroleum Corporation (KPC), with its multiple upstream and downstream arms that operate all aspects of the Kuwaiti oil sector, both at home and abroad (except for crude and products marketing which is run by a marketing department within KPC). As such, INOC would be operating indirectly through its fully owned subsidiaries, whose operational structures would in this way be preserved, or its joint ventures.

INOC's financial muscle will be secured from its paid up capital and the profits it generates.²¹ Furthermore, it has been granted the authority to borrow within Iraq and abroad to finance its investments, provided that foreign loans are endorsed by the cabinet. In addition to its operating costs, INOC will be paid a profit share determined by the federal oil and gas council. The operating budget is determined jointly with the ministry of finance with the federal oil and gas council acting as arbiter in case of disagreement.

Part of the operating profit would go towards paying back its capital starting after the fifth profitable year at a rate of 50% until it has been exhausted, then at a rate of 75% until its reserve fund - built with the remaining 25% - is equal to four times its paid up capital.

Conclusion

Though INOC's 2009 draft law attempts to create a strong national oil company with capabilities that mirror those of its 1967 predecessor, it still suffers from limitations, internal restrictions and omissions that give it hybrid characteristics. Just like the political system within which the draft was created, it is based on a number of compromises. Furthermore, in the current political balance of power, its endorsement by parliament will also result in further compromises or it will end up being bogged down by the same conflicting interests that have so far prevented the legislation of a federal oil and gas law.

It is obvious that in order to create the ideal Iraqi national oil company, basic agreements on oil policy need to be in place. The most crucial of these is an agreement over the degree of centralization in managing Iraq's oil and gas resources, and more crucially, the border line of such centralization. The starting point is nowhere other than the 2005 constitution of Iraq and the contradictions and ambiguities without which it could not have been adopted then. Amending the constitution, though provided for since the time of its adoption, is a tall order for any of the existing (and willing) political powers especially where those ambiguities and contradictions regarding the ownership, control and management of the oil resources, are concerned. An INOC born out of the necessities of the current conjuncture and on the basis of the least controversial of the compromises possible, is bound to be a transitional institution born in a transitional system.

Notes

1. Law 80, 11 December 1961: "Designation of Investment Areas for Oil Companies."
2. Law 11, 2 August 1964: "Establishment of Iraqi National Oil Company." - Annex.
3. Ibid.
4. Ibid.
5. Ibid.
6. Law 123, 4 September 1967: "Establishment of the Iraqi National Oil Company."
7. Law 97, 6 August 1967: "Allocation of Investment Areas to the Iraqi National Oil Company."
8. Initially there were two external members in Law 123, but they were later increased to three in an amendment to Law 123 under Law 130 of 30 September 1967.
9. Law 130, 30 September 1967: "Amendment Law to Law Establishing Iraq National Oil Company."
10. Law 101, 30 August 1976: "Organization of the Oil Ministry."
11. Decree 649, 6 June 1983: "Decree Amending Law 101 of 1976 - Reorganization of the Oil Ministry."
12. The constitution of 2005, born in a transitional era, fails, by its omissions and vagueness, to fully define the future state and remains contested awaiting amendments.
13. Under the rule of Saddam Husain, all laws pertaining to the oil sector were legislated by decree issued by him personally as the president of the Revolutionary Command Council.
14. It is worth noting that the strongest demonstration of this cooperation between NOCs and IOCs took place in Baghdad at Iraq's first post-war bid round on 30 June 2009. China's CNPC, the most aggressive of all bidders, took part in consortia led by BP and Royal Dutch Shell. Malaysia's Petronas made joint bids with Exxon Mobil and Shell.
15. For details of Ayad 'Allawi's guidelines see <http://www.iraqoilforum.com>
16. Articles 4-1 and 4-2.
17. Article 4-3-a.
18. Article 4-3-c.
19. The four annexes to the oil and gas law list fields to be assigned to INOC, fields open to foreign companies and exploration blocks for which INOC can compete with foreign companies.
20. Amendments attached to the draft law sent to parliament in August proposed limiting the decisions requiring approval of the council to those emanating from high policy, according to Thamir al-Ghadban, one of the authors of the draft law, in "Clarification about INOC draft law" (<http://www.iraqoilforum.com>).
21. The original draft puts its paid capital at ID400bn (\$360mn) but a proposed amendment submitted to parliament recommends a higher figure (Ibid).