

## TOP OF THE NEWS

### Iraq, Iraqi Kurdistan and Turkey: Dangerous Liaisons

#### Questions and Answers

**Question:** *What is the latest episode in the disputes over oil issues between the **Iraqi Oil Ministry** and the **Kurdistan Regional Government (KRG)**?*

**Answer:** On 23 May the Oil Ministry asked the **International Chamber of Commerce (ICC)** in Paris to set up an arbitration tribunal to examine and rule on the grievances of the **Republic of Iraq** vis-à-vis the government of the **Republic of Turkey** and the Turkish national oil company **Botas**. Iraq accuses these last two parties of having transported, stored and loaded crude oil from the **Iraqi Kurdistan region** onto an oil tanker without the Ministry's authorization.



**Q:** *Doesn't the Oil Ministry in Baghdad hold the KRG responsible?*

**A:** No. The arbitration procedure initiated on 23 May only cites the government of Turkey and Botas, since this company was acting on the instructions of the Turkish government. Of course, the underlying problem is the dispute between the Oil Ministry and the KRG.

**Q:** *Baghdad had criticized the agreements concluded between the KRG and Turkey in November 2013. Why did it wait until 23 May to initiate this procedure?*

**A:** The Oil Ministry explains that it sought to resolve the problems through dialogue after Botas started transporting crude from the Iraqi Kurdistan region without the federal government's approval at the end of 2013, but it did not receive any constructive response. Furthermore, when crude from Iraqi Kurdistan started to be loaded onto a tanker at **Ceyhan** on 21 May, this marked the first sale of crude from the region and thus meant that the KRG and Turkey had crossed another turning-point. In the Oil Ministry's view, this was an illegal sale. The cargo consists of over 1 million barrels of crude and the ship is bound for Europe.

**Q:** *Why did the KRG not accept this offer of dialogue?*

**A:** The KRG reiterated that it was exercising rights granted to Iraqi Kurdistan under the 2005 constitution but says it is prepared to negotiate with the Oil Ministry in good faith in order to reach an overall agreement on all their oil-related disputes. Each side claims to have good intentions, but the reality is more complex.

**Q:** *What is the Oil Ministry seeking to obtain through this arbitration procedure?*

**A:** The Ministry has asked the arbitration tribunal to order Turkey and Botas to halt the unauthorized transportation, storage and loading of Iraqi crude through the **Iraq-Turkey pipeline** and its associated facilities. In addition, Baghdad is claiming damages plus interest currently estimated at over \$250 million.

**Q:** *What are the legal grounds cited by the Oil Ministry for its accusations against Turkey and Botas?*

**A:** There are two. The first is the agreement on the Iraq-Turkey pipeline that links **Kirkuk** to **Ceyhan**. It was signed in 1973 and has been amended on several occasions since then. The Ministry explains that, under the terms of this agreement, Turkey and Botas undertook to reserve the capacity of the pipeline and its associated facilities for the sole use of the federal Oil Ministry. The second legal basis is the mutual friendship treaty between Iraq and Turkey, which was concluded in 1946. According to the Oil Ministry, it imposes an obligation on Ankara not to interfere in Iraq's internal affairs.

**Q:** *The oil produced in Iraq belongs to Iraq. Isn't this understood in every country of the world, or almost?*

**A:** The problem is that the Oil Ministry and the KRG have different interpretations of certain articles of Iraq's 2005 constitution. On the question of the management of oil fields, the constitution draws a distinction between fields that were in production when it was adopted and new fields. The KRG takes the view that articles 112 and 115 of the constitution give it an exclusive remit over fields that have entered production since 2005 and points out that the oil exported through the new pipeline linking the Iraqi Kurdistan region to Turkey comes solely from these new fields.

**Q:** *Who is going to benefit from the revenues derived from these sales of oil from Iraqi Kurdistan?*

**A:** The main beneficiary will be the KRG, but Erbil points out that it will share these oil revenues between the different communities that comprise Iraq. Furthermore, the KRG says that 5% of these revenues will be set aside for the payment of the reparations that Iraq has to give **Kuwait**. The revenues will be paid into an account opened in the name of the KRG at the **Hallbank** in Turkey.

**Q:** *Who can guarantee that the KRG will act transparently in this respect?*

**A:** The KRG says it has invited independent agencies to observe the procedures for the sale and export of crude from Iraqi Kurdistan. The federal **State Oil Marketing Organization** (SOMO) has also been invited.

It should be pointed out that this state agency responsible for the marketing of Iraq's hydrocarbons is attached to the federal Oil Ministry. The Ministry considers that SOMO has a monopoly on the export of hydrocarbons produced anywhere in Iraq, but as explained above, the KRG does not share this point of view. The KRG argues that there is no provision in the constitution that gives the Oil Ministry or SOMO exclusive powers over oil exploration, production and exportation in Iraqi Kurdistan.

**Q:** *Isn't it in the interests of the Oil Ministry and the KRG to reach an agreement in this dispute, which is poisoning relations between the KRG and the federal government in Baghdad?*

**A:** At an economic level, certainly, as this would enable Iraq to step up its oil production, exports and revenues and these are shared between the different communities that make up the country.

**Q:** *Why isn't this common interest leading the two sides to reach an understanding once and for all?*

**A:** There is economics, but there is also politics. Behind these oil issues there are major differences over the question of sovereignty and control. Furthermore, relations between the

Oil Ministry and the KRG, including at a personal level at the very top, have deteriorated to such an extent over time that any lasting progress is very difficult. The mistrust runs deep on both sides and this does not facilitate the task of problem solving. And, of course, no one wants to lose face.

**Q:** *The KRG talks a lot about the Oil Ministry in Baghdad, but it is part of Iraq's federal government, not an autonomous player.*

**A:** The KRG has been firing on the Oil Ministry with all guns for years and accuses it of misleading the federal government over these oil disputes with Iraqi Kurdistan.

**Q:** *What does the international oil industry think and say about these issues?*

**A:** Oil companies think a lot but say little, at least in public, which is typical behavior on their part when it comes to such political matters. They have to humor both sides, in fact, since some of them work in Iraqi Kurdistan and in southern Iraq. That is not the case of others at the moment, but you never know what might happen in the future. Many have voted with their feet, however. According to the KRG, it has concluded more than 50 production-sharing contracts for permits in Iraqi Kurdistan since it passed its own oil and gas legislation in 2007. The KRG points out that the foreign oil companies concerned come from 23 different countries. The Oil Ministry regards these contracts as illegal, since they were not submitted for its approval, and it has theoretically placed the signatories on a blacklist, which prevents them from operating elsewhere in Iraq.

**Q:** *What does the KRG think about the arbitration procedure initiated by the Oil Ministry?*

**A:** The KRG regards it as illegitimate, since it is not a party to the procedure whereas it involves the export of oil from Iraqi Kurdistan.

**Q:** *Will there never be a solution, therefore?*

**A:** As James Bond said, "*never say never again*". But the fact that these oil disputes between Erbil and Baghdad have been going on for years despite their considerable economic cost and the United States' efforts to bring the two sides together shows just how sensitive these subjects are.

Francis Perrin