



Oil and Gas Institutional Issues

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Map of session

1. Design principles:

- Clear responsibility for policy making (which policies? who? how?)
- Clear responsibility for administration (which aspects? who? why/how?)

2. Fiscal and oil & gas institutions in the Iraqi context

- Joint management of oil & gas (article 111)
- Iraq's fiscal commission (article 105)
- Role of national oil company
- Need for inter-governmental policy coordination?

3. Key issues for discussion





Fiscal / oil & gas institutions in federal countries

- **Key institutions in most oil & gas-producing countries:**
 - legislatures / government ministries play key policy making roles
 - independent agencies may administer those policies
 - state oil companies manage state's commercial interests (and may also play certain policy and regulatory roles)
- **Institutions may exist at both federal and regional levels in federal countries – with resulting need to:**
 - determine respective roles and responsibilities
 - ensure harmonization and/or coordination





Responsibility for policy making – which policies?

- Overall resource management
 - e.g. pace of development
- Security of supply
- Structure of oil & gas market
 - e.g. domestic, export, distribution, role of state oil companies
- Oil & gas fiscal regimes
 - including incentives for investment
- Sharing of resulting revenues
- Environmental and safety standards





Responsibility for policy making – who?

- Policy making within each government – key roles for
 - legislature (in setting policy into law)
 - finance ministry (e.g. fiscal regimes)
 - energy / planning ministries (e.g. pace of development, technical /market regulation)
 - environment, trade and other ministries also
- In a well-functioning system:
 - legislature and ministries work together in the interests of government as a whole
 - key policies are established (by legislature) in laws and (by government or agencies) in published regulations





Responsibility for policy making – who?

- Where policies can be developed independently by different governments:
 - need to ensure no policy “gaps” (i.e. responsibility for all key issues assigned to one or more levels of government)
 - benefits of concurrency (i.e. where more than one government may exercise responsibility)
 - **but**: need for clear paramountcy (or rules) where the policies of different governments may conflict





Responsibility for policy making – how?

- Under joint decision-making (e.g. management of oil & gas under article 111):
 - need clear decision rules (e.g. consensus?, simple or weighted majority voting? etc.)
 - need to build trust and common understanding
- Particularly important to avoid “joint decision traps”:
 - need for timely decision-making in many key areas





Responsibility for policy making – how?

- Need for coordination among policy-makers acting independently to strike the right balance between:
 - benefits to citizens from more coherent policies
 - benefits to citizens of more timely policies (in the absence of coordination-related delays) and policies tailored to local needs
- **Effective coordination also requires:**
 - mechanisms for regular communication and consultations between policy makers
 - trust and common understanding of each other's interests





Responsibility for administration – which aspects?

- Technical regulation of industry practices
 - e.g. workplace safety, prevent depletion of reservoirs / pollution
- Economic regulation of individual industry players
 - e.g. pricing of monopoly pipeline services, enforcing export quotas
- Collecting and remitting oil & gas revenues





Responsibility for administration – who?

- Many governments separate administrative functions from policy making (and from policy makers)
- Use independent commissions of experts acting transparently and “at arm’s length” from government:
 - individuals with secure tenure
 - insulated in principle and practice from ministry interference
 - exercise minimal discretion: guided instead by clearly stated rules and principles
 - publicly answerable to stakeholders (including governments)
 - subject to transparent appeals, regular audits, etc.





Responsibility for administration – why / how?

- Minimize “leakages” to corruption / unduly favourable terms for private firms...
 - ... by separating (general) policy making from (case-specific) administration
- Secure confidence of the public and civil society...
 - ... through regular reporting and making oil & gas information as widely available as commercial confidences permit
- Facilitate administration by federal / regional agencies...
 - ... through sharing of *confidential* information (subject to requirement to preserve confidentiality)





Fiscal / oil & gas institutions in the Iraqi context

Joint management of oil & gas (article 111)

- Need to clarify:
 - structure of joint decision-making body
 - e.g. its membership and their links to governments
 - decision rules
 - which policies are to be made jointly (and which independently)
 - links to any independent agencies administering joint policies





Fiscal / oil & gas institutions in the Iraqi context

Iraq's fiscal commission (article 105)

- Need to clarify:
 - is it a joint policy-making body? or an administrative commission of independent experts?
 - relationship among its “experts” and government “representatives” membership, since bodies consisting of both don't work well





Fiscal / oil & gas institutions in the Iraqi context

Role of national oil company

- Inherent conflicts of interest make it difficult for national oil company to play policy making or regulatory roles:
 - the impact of its policy influence or regulatory decisions on its partners and competitors would inevitably colour its views
 - its self-regulation may also be inadequate
- However, government policies / laws can empower them
 - to hold the state's commercial stake in oil & gas developments
 - to make oil & gas investments and generate government revenues





Fiscal / oil & gas institutions in the Iraqi context

Need for inter-governmental policy coordination?

- **Coordination of independent fiscal / regulatory regimes**
 - to avoid unintentionally heavy taxation / regulation
 - to avoid regional “race to the bottom” (e.g. excessive fiscal competition, tendency to lax environmental regulation, etc.)
- **Coordination of revenue collection**
 - rely on federal collection until regional capacity in in place?
 - asymmetry (regional collection in some areas, federal in others)
can work also (ex.: Spain, Canada)
 - also need timely publication / sharing of information





Key issues for discussion

- **Policy making:**
 - should Iraq more clearly distinguish between institutions designed for policy making and those designed to administer policies?
 - in which areas should policy be made by the federal government? by regional governments? jointly?
 - in areas of joint decision-making (e.g. management of oil & gas under article 111), what should be the decision rules?
- **Administration of policy:**
 - to what extent should the administration of policy be delegated to independent commissions?





Key issues for discussion

- **Role of national oil company:**
 - should a national oil company be limited to serving as an instrument for managing Iraq's commercial interests in oil & gas (including as a vehicle for generating revenues)?
 - should it be prevented from playing either a policy-making role or a regulatory role?
- **Other institutional arrangements:**
 - How can Iraq facilitate *informal coordination* of federal / regional fiscal regimes, regulatory policies and revenue collection (i.e. in addition to *formally joint* decision-making in specific areas)?

