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A Comparative Analysis of Cost Recovery and Taxation of Production Sharing Contracts in the Kurdistan Region with Nigeria and Azerbaijan

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ABSTRACT

The oil and gas industry is complicated, with significant investment characteristics and high operating risks, including investment failure and safety risks. This industry differs from others in that each company must complete a step-by-step process, starting with exploration, development, and production (exploitation) and ending with cost recovery, production, and taxation. Prospective investors must understand the risk levels associated with each of these points. Since 2007, the Kurdistan Region's oil and gas sector has grown rapidly, and this period has been dubbed as "Kurdistan's Golden Age." As a new oil-exporting region, the income from oil is of great importance in the development of the country. Presently, several oil and gas exploration and production companies operate in the Kurdistan Region, attracting a growing number of investors. However, the purpose of this study is to better understand what Production Sharing Contracts (PSC) are, including related terms, Cost Recovery, tax processes, and areas that must be addressed in a PSC; as well as to discuss aspects of interest to tax administration, such as the Kurdistan region's Oil PSC's cost recovery issue, and to make comparisons with other developing countries such as Nigeria and Azerbaijan.The findings suggest that Kurdistan region PSC appears to be more favorable to International Oil Company (IOC) in comparison to Nigeria and Azerbaijan. As a result, a plan should be put in place to address the issues that would arise as a result of cost recovery and taxation in PSCs. The methodology included desk research, which included a review of published literature. Based on the comparative assessment, the paper reached possible conclusions regarding oil cost recovery and fiscal regimes for the respective countries, and made some recommendations for upcoming oil contracts in Kurdistan Region of Iraq (KRI).

Key Words: Iraqi Kurdistan Region and Oil contracts, Taxation, Cost Recovery, Production Sharing contracts,

Introduction

The Production Sharing Contract (PSC) is a unique petroleum agreement that many developing countries have followed in the exploration and production of their petroleum resources because it guarantees the state's sovereign right over these resources while also meeting their economic needs by supplying capital and technology for their production.The host government or one of its departments, such as the national oil company, has historically represented the state (National Oil Company). The government assumes little or no risk in the development of its petroleum resource under this arrangement[1].The primary goals of using a PSC are to attract international oil companies and bring foreign capital into oil producing countries, as well as to benefit from modern technology that would otherwise not be available in oil producing countries for oil operations, as in the case of KRI.[2]

PSCs were first introduced in Indonesia in 1966 under which the state, as the owner of mineral resources, employs a IOCs to provide technical and financial support for exploration and production activities[3].If commercial quantities of oil and gas are discovered, the IOCs receives an entitlement to a defined share of the oil produced as compensation for the risk taken and services provided, such as cost recovery and percentage of share. The state, on the other hand, retains ownership of the petroleum produced, subject only to the contractor's right to a portion of the output.[4] Therefore, PSC can be distinguished from other forms of contracts in two ways. To begin with, the IOC bears the entire exploration risk, and the company is not compensated if no oil is found. Second, the government owns both the resource and the installations. In its most basic form, a PSC has four main characteristics. The government receives a royalty on gross production from the international partner. After deducting the royalty, the IOC is entitled to a pre-determined percentage of output for cost recovery, such as 40% in the case of KRI. The remainder of the production, known as benefit oil, is then split evenly between the government and IOC (for instance 65 percent for the government and 35 percent for the IOC). The contractor would then pay income tax on its benefit oil share.[5] Consequently, international oil companies do, in practice, face the greatest risk in production sharing contracts, but at the same time oil contracts are more favourable for them, because these contracts provide a framework for a maximum level of cost recovery and oil production.

In recent years, the Kurdistan Region of Iraq (KRI) has been one of the most active areas for onshore oil and gas exploration. The KRI has signed over 50 PSCs with international oil companies (IOCs) to date, demonstrating that it is one of the world's youngest region with significant natural resource reserves, especially oil and gas. As a result, the Kurdistan parliament passed Oil and Gas Law No. 28 in 2007, adopting PSC as the preferred form of oil contract to use when contracting with IOCs. KRI

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[1] Ogunleye, T. A. (2015). A Legal Analysis of Production Sharing Contract Arrangements in the Nigerian Petroleum Industry. Journal of Energy Technologies and Policy, p. 1-5.

[2] Zebaria, D. F. Oil Production Sharing Contracts (PSCS) With a Focus on Iraqi Kurdistan Region Oil Contracts. Page 1246.

[3] Saidu, S. (2014). A comparative analysis of production sharing contracts of selected developing countries: Nigeria, Indonesia, Malaysia and Equatorial Guinea. Journal of Finance and Accounting pp. 34-40.

[4] Kirsten Bindemann (1999) 'Production-Sharing Agreements: An Economic Analysis'<https://www.oxfordenergy.org/wpcms/wp-content/uploads/2010/11/WPM25-ProductionSharingAgreementsAnEconomicAnalysis-KBindemann-1999.pdf > accessed on 22/4/2021

[5] Nathan Meehan (2015) 'Types of International Petroleum Fiscal Regimes: Production Sharing Contracts'<https://www.linkedin.com/pulse/types-international-petroleum-fiscal-regimes-sharing-contracts> accessed on 22/4/2021

is currently ranked 8th in terms of gas reserves and 13th in terms of oil reserves among the world's most prominent oil countries and presently produces about 500, 000 oil barrels per day.[6]

Economic analysis of PSC Cost Recovery and Associated Issues

Recovering Crude oil requires surveying the area first then test wells are drilled and after that whole infrastructure has to be set up for production. Therefore, this process requires energy, labour and more importantly appropriate funds[7]. So,in order for an oil company to be profitable, it must sell the oil at a price higher than these costs and in commercial quantities, which refers to the amount of crude oil that can theoretically be extracted at a rate that is financially feasible at the current price of oil. This involves oil reserves that are both producible and non-producible[8].The procedure is referred to as "Cost Recovery."Cost recovery as a concept has proven to be successful, with no major setbacks necessitating a redesign or even a full departure in the past. Although, some scholars have argued that cost recovery is bad for the government, various parties have proposed a complete overhaul of the system, and attempts have been made to establish a new type of petroleum contract that does not include cost recovery but adheres to the old laws that state that all natural resources belong to the state[9].Hence, as developing countries in the oil field, KRI, Nigeria, and Azerbaijan have adopted similar cost-recovery rules and regulations in their PSC contracts.

Nevertheless, most of the time international oil companies do not get their expenses spent on oil operations in cash, but rather percentage of oil production according to lineage limited and shares in the contract. In line with the bellow, percentage from KRI's PSC and other country's PSCs, international oil companies get different percentages from oil production in return for their expenses on oil operations are different from one contract to another and the disparity of shares.[10]For example, Article 25 of the Kurdistan PSCs, Cost provisions in which states that, the Contractor shall at all times be entitled to recover all Petroleum Costs incurred under this Contract, of up to (45 percent) of available Crude Oil (which, for the avoidance of doubt, shall apply regardless of the gravity of the oil) and available Associated Natural Gas, produced and saved within any Calendar Year.

In addition, the Kurdistan RegionOil and Gas LawNo. 22 of 2007, Article 37 paragraph 6 specified that cost recovery from a portion of output after deduction of the Royalty is limited to a maximum of forty-five percent (45%) for Crude Oil and sixty percent (60%) for Natural Gas.) Production sharing from remaining production after Royalty and permissible cost recovery, based on a formula that considers total sales and cumulative petroleum costs and provides the Contractor with relatively

[6]Dahlia Zamel (2019) 'Oil and gas exploration and production in Iraqi Kurdistan'<https://www.lexology.com/library/detail.aspx?g=b0ca4c40-96c3-4e4b-816a-874faa596cf3> accessed on 20/4/2021

[7] Shafiai, S. H., & Gohari, A. (2020). Conventional and electrical EOR review: the development trend of ultrasonic application in EOR. Journal of Petroleum Exploration and Production Technology. pages 1-3.

[8]Cronquist, C. (2001). *Estimation and classification of reserves of crude oil, natural gas and condensate* Richardson, TX: Society of Petroleum Engineers. Pages 28-31

[9] Unnamed (2008) PSC Cost Recovery – Demystified ! <https://pscforum.wordpress.com/2008/07/28/psc-cost-recovery-demystified/> accessed on 17/5/2021

[10] Daniel, P. (2002, October). Petroleum revenue management: an overview. In ESMAP] Workshop on Petroleum Revenue Management.

good profits'.[11]Whereas some countrieslike, Azerbaijan and Nigeria, have a significantly lower cost recovery rate in their production sharing agreements. For example, Nigeria offered foreign oil companies 30% to 40% of production in return for their costs. The Nigerian National Petroleum Corporation (NNPC) and Ashland Oil Company, for instance, signed a PSC in 1973 allocating "cost oil" at 40% of total oil output. The remaining supply is known as benefit oil, and it accounts for 45 percent of the remaining 60 percent after subtracting the cost and tax oil. The resources will be split 65 percent between the NNPC and Ashland. They also plan to reduce it to 25% and shift the distribution of remaining output between the government and the company from 60% to 40% to 85% to 15%[12].

Another good example is from Azerbaijan’s PSC,under section 11.2 of Cost Recovery, in which states that the Contractor is entitled to the following reimbursement of Petroleum Costs: I All operating costs must be recovered before moving on to total Production. (ii) After deducting Crude Oil needed to recover Contractor's Operating Costs, all Capital Costs shall be recovered from a maximum of fifty percent (50%) of Crude Oil left out of Total Production this is mean including “Capital Cost Recovery Petroleum" and that also has to comply with international accounting standards[13]. Therefore, from above observation one can argue it is necessary for the Kurdistan region to reconsider the idea of cost recovery at this time[14].To begin with, allowing up to 45-50 percent from the initial stage of production and sixty percent (60%) for Natural Gas to be taken by foreign oil companies in exchange for their crude oil production cost, is excessive[15]; when compared to nations like Nigeria and Azerbaijan. So, when the cost of oil is high and the price is low, as it is today, it causes financial issues and shortages in nations that rely heavily on oil sales, such as KRI, which is experiencing financial issues in addition to all oil sales.Second, the expenditures of those IOCs should be regulated by an executive committee, which should not allow them to waste money on useless goods or imports of products that are widely available on the market at the expense of oil recovery or imported expenses.

Finally, the committee should have the authority to review and balance price differences in other available states or near the importing country for goods that are imported in order to comply with the standard cost price of any manufactured items, or even reject any expenditure that is not normally

[11] Oil and Gas Law of the Kurdistan Region – Iraq Law No. (22) – 2007 available at >http://gjpi.org/wp-content/uploads/2009/04/oil-and-gas-070708090735.pdf< accessed on 25/5/2021

[12] Wigwe-Chizindu, V. (2019). Joint venture and production sharing contracts in less developed countries–a critical legal analysis. Page 214

[13] Agreement On The Joint Development And Production Sharing For The Azeri And Chirag Fields And The Deep Water Portion Of The Gunashli Field In The Azerbaijan Sector Of The Caspian Sea Among The State Oil Company Of The Azerbaijan Republic And Amoco Caspian Sea Petroleum Limited Bp Exploration (Caspian Sea) Limited Delta Nimir Khazar Limited Den Norske Stats Oljeselskap A.S Lukoil Joint Stock Company Mcdermott Azerbaijan, Inc. Pennzoil Caspian Corporation Ramco Hazar Energy Limited Turkiye Petrolleri A.O. Unocal Khazar, Ltd available at <http://files.hssk.gov.az/psa/doc_acg_psa_en.pdf> accessed on 25/05/2021

[14]Gilbert, R., & Perl, A. (2010). Transport revolutions: moving people and freight without oil. New Society Publishers. Pp12-26

[15] Oil and Gas Law of the Kurdistan Region – Iraq Law No. (22) – 2007 available at >http://gjpi.org/wp-content/uploads/2009/04/oil-and-gas-070708090735.pdf< accessed on 25/5/2021

considered to be cost-recoverable, such as experts' personal pleasure or entertainment that is not normally considered to be cost-recoverable. As a result, the committee should be skilled investigators who can go over the case in detail and come up with a solution.

First of all, I think it is too much to grant the right to recover 50 percent of cost recovery when we have many other countries close by that allow much less to be recovered as cost recovery. For example, production sharing contracts signed by Qatar and Oman, in exchange for their expenses, gave 40 percent of production to international oil companies, while Egypt gave between 30 percent and 40 percent to international oil companies.Thirdly, the main goals of using a production sharing contractistoattract international oil

companiesto bring foreign capitalinto oil producing countries and tobenefitfrom modern technology whichis not availablein oil producing countries for oil operations (Ernest& John, 2000, P.44

However,ifinternational oil companieshave explored the crude oil and do all other operations suchas production and marketing, international oil companieswillgettheir expensesandcostsbackin kind. Accordingly, international oil companiesreceivetheir expensesthatare spent on oil operation whenthereis a commercial exploration and not the contrary, sothereis no negotiation on the failureconferthiscontract.

Furthermore, most of the time international oil companies do not gettheirexpenses spent on oil operations incash, but some percentage of oil production accordingtolineagelimitedand sharesin the contract.

Inlinewith the above, the percentagewhich international oil companies getfrom oil production inreturnfortheirexpenses on oil operations aredifferentfrom one contractto another and the disparity of shares.Forinstance, production sharing contracts signed by QatarandOmangave 40% of the production to international oil companiesinreturnfortheir expenses,while Egypt gave between 30% to40%to international oil companies (Egypt Official newspaper, No 26, 1988).

An Overview ofKurdistan Region PSC Tax Provisions and its Implications

This section aims to provide readers with a greater understanding of KRI's PSC, tax strategies and difficulties relating to tax administration and tax-related issues that occur as a result of production sharing contracts by using examples from other developing countries such as Nigeria and

Azerbaijan.[16]During the previous 15 years, PSCs between the Kurdistan Regional Government (KRG) and international oil corporations (IOCs) have highlighted the KRG and Iraqi Federal Government's (IFG) relationship issues. The KRG has been able to sign 50 PSCs with IOCs during this time without involving or obtaining permission from the central government. However, for the sake of this study, the author will only focus on taxes implications rather than legality[17].

Tax exemption under the PSC is common for oil companies, whether it is a total or partial exemption, temporary or permanent exemption, under a special law or a legislation that regulates the oil industry[18].However, in some cases, the host countries exempt companies from all or some of the taxes in order to encourage foreign investment for them and for other reasons.Whereby the temporary exemption is exemption from taxes for a limited period of time, and with the end of that period the exemption ends and the company's income returns to being subject to tax, and it is called holiday tax, while the permanent exemption is the absolute exemption, whether it is restricted or without restriction, if the permanent exemption was without restriction, then this means that the investor is not subject to any type of tax, but if the exemption is under restriction, the investor is subject to exemption in a certain type of tax without this exemption extending to other types of taxes[19].

Imposing taxes on oil companies and Restrictions

At present, the Ministry of Natural Resources (MNR) does not impose any restrictions on the exploration, development and production of hydrocarbons (cost and profit oil) in the KRI. As per the PSC, the Contractor shall be entitled to receive and exportsfreely any available petroleum (cost and profit oil) to which it is entitled under the agreement[20]. Except as expressly provided in Article 30 and article 31, without prejudice to the exemptions expressly for in each contractor entity and any subcontractor shall, for the entire duration of this contract, be exempt from all other taxes, duties, levies, charges, withholdings and impositions generally applicable in the Kurdistan region, as a result of its activities under this contract. the government shall indemnify each contractor entity upon demand against any liability to pay any taxes, duties, levies, charges, impositions or withholdings assessed or imposed upon such entity which relate to any of the exemptions granted by the government under this article 31.[21]

Furthermore, each Contractor company and any Subcontractor shall be exempt from any other taxes, charges, levies, and assessments for the whole length of this Contract, as mentioned particularly in this Article 31, and without prejudice to the exemptions specifically provided for in Article 30 and in

[16] Chapter, X. X. (2020). Committee of Experts on International Cooperation in Tax Matters Twentieth session.

[17] Florian Amereller and Dahlia Zamel Amereller (2020) 'The Oil and Gas Law Review: Iraqi Kurdistan'< https://thelawreviews.co.uk/title/the-oil-and-gas-law-review/iraqi-kurdistan >accessed on 30/5/2021

[18] Kadirgolam, B. (2020). An investigation into the oil and gas contractual and legal relationship between the Kurdistan Regional Government (KRG) and the Iraq Federal Government (IFG) (Doctoral dissertation).

[19] Zolt, E. M. (2015). Tax Incentives: Protecting the tax base. UN. <https://www.un.org/esa/ffd/wp-content/uploads/2015/04/2015TIBP_PaperZolt.pdf> accessed on 28/5/2021

[20] Florian Amereller and Dahlia Zamel (2020) 'The Oil and Gas Law Review: Iraqi Kurdistan'<https://thelawreviews.co.uk/title/the-oil-and-gas-law-review/iraqi-kurdistan> accessed on 29/5/2021

[21] Oil and Gas Law of the Kurdistan Region – Iraq Law No. (22) – 2007 (Article 30)

this Article 31[22]. While, on the other hand, the Oil and Gas Law of the Kurdistan Region No. 22 of 2007 stipulated that oil companies must pay the necessary taxes in first paragraph.The Kurdistan legislator has identified six types of tax that must be paid under Article 40 , where it states a Contractor, Authorized Person or other person associated with petroleumoperations is liable for any applicable taxes of the Regional Government, including:

1) surface tax;

2) personal income tax;

3) corporate income tax;

4) customs duties and any other similar taxes;

5) windfall profits or additional profits tax; and

6) any other tax, levy or charge expressly included in its Petroleum Contract, according to paragraph three of the same article, companies are obligated to pay the imposed taxes that were specified in the first paragraph of Article (40), which are the only taxes by the regional government that apply to oil operations, meaning that companies and everyone involved in oil operations are obligated to pay the incoming taxes unless exempted by the special law. Meanwhile, in the Kurdistan Region, there is only a draft tax law for oil companies for the year 2012, but the tax rate imposed therein was not specified, and also the Oil and Gas Law of the Kurdistan Region did not explicitly refer to Law No. 20 of 2011 of Income Tax Law or the law No. (26)for the year 2007 in the Kurdistan Region to determine the rate of tax imposed on companies in which the tax rate was set at (15%) on all profits of companies operating in the Kurdistan Region.It would have been beneficial if the minimum income tax rate was determined in a progressive manner as production increased, and this percentage was levied on both the licensee and the main contractor, though the latter may clarify what was stated in clause (first) of paragraph (5) of Article 5. (5). 40) from the Kurdistan Region's oil and gas law, which mentions a windfall benefit tax or additional profit tax as a progressive tax whose percentage rises with increased production, since increased production means better income, and the contractor gains additional profits, making it possible to impose a tax on it[23].

With regard to the Kurdistan Region, the authority responsible for exempting oil companies operating in the Kurdistan Region is the legislative authority, such as (Kurdistan Parliament), as it was stated in second Paragraph of Article (40) of the Kurdistan Region Oil and Gas Law that oil companies are exempted from taxes by a special law that is, according to the regular law issued by the legislative authority, but it did not specify the party that proposes to exempt an oil company from taxes, and researcher believe that this position is criticized, and it was preferable to specify the party that proposes exempting oil companies from taxes, and the Council Regional Oil and Gas is could be the department to be entrusted with this task.Thus,the tax exemption may needs to be reconsidered in

[22] Ibid (Article 30)

[23] Haider Al Shamaa (2021) ‘Real estate, tax, employment law, intellectual property, trademarks and copyright’ <https://iraqbritainbusiness.org/doing-business-with-iraq/real-estate-tax-employment-law-intellectual-property-trade-marks-copyright> accessed on 28/5/2021

theKurdistan region, since the legislator established the principle of tax exemption for oil companies (the contractor may be exempted from taxes in the oil contract by law).[24]Returning to the content of the production-sharing contracts concluded by the KRG with the oil exploration companies, researcher conclude that the KRG decided to exempt the oil companies that contradicted with each other from all types of taxes except for the corporate income tax, personal income tax and social security contributions. As in the PSC contract of (Atrush) field concluded between the Kurdistan Regional Government and (Marathon) for the year 2010, the contractor and the subcontractor are exempt from **all taxes**, recovery and exportation, as it was stated that(1- All services, materials, equipment, goods, consumables and products imported into the Kurdistan region and other parts of Iraq by the contractor, that is, the contracting entity, its subsidiary companies, that is, the subcontractor ...., for use or consumption in free oil operations and is exempt from any and all taxes are refundable.As stated in paragraph (4) in Article (31) of the production-sharing contract between the regional government and (Marathon) Company for the year 2010, the contractor and the subcontractor are exempted from the withholding tax applied to any payments, and also in paragraphs (5, 6 and 7) in Article (31) From the same contract, the contractor (exploration companies) and their subsidiaries are exempted from additional profit tax, surface taxes, and windfall profits tax[25].As for the value-added tax (VAT), it is imposed on companies and is not refundable, but it is considered as the oil cost and the oil cost is recovered by the companies. So in the end the companies recover the value-added tax through the recovery of the oil cost, and that was mentioned in Paragraph (11) of Article (31) of the production-sharing contract between the regional government and the company (marathon) stating that any value-added tax, is not refundable by the contractor under the law. The value-added tax is considered as the cost of petroleum, and it must be charged according to the provisions of Articles 1 and 25 of PSC.

So according to the production-sharing contracts concluded, the contractor (exploration companies) are exempt from import and export taxes and the withholding tax applied additional profits, surface taxes and taxes, windfall profits. As for the subcontractor (service companies), it shall be exempt from import and export taxes and the withholding tax applied on any payments to it while according to the Oil and Gas Law in Paragraph (Second) of Article (40) exempts the contractor and not the subcontractor.But the question here is, based on what law did the Kurdistan Regional Government made a decision to exempt oil companies from production-sharing contracts? To respond to this question, because there is no law yet (as mentioned above, there is only a draft), one could argue that the regional government did not rely on any legal text to exempt oil companies from taxation, and the proof for this is that paragraph (2) of Article (40) of the Oil and Gas Law required relying on a special "law," and the obvious meaning of the word special "law" refers to a special "law" that exempts oil companies from taxation and issued by the legislative authority[26].

[24]Roshna Akram Saad (2011) ‘the contractual obligations of the oil and gas companies’ operation in Kurdistan Region of Iraq, comparative study. Pblushed at Salahaddin University Erbil. Page 104-8

[25] Paragraph (1) of Article (30) of the Kurdistan Production Sharing Contract (Atrush) concluded between the Kurdistan Regional Government and (Marathon) Company for the year 2010

[26] Ibid (21)

However, it is noticeable that this law has not been issued yet despite the conclusion of about (57) production-sharing contracts and the exemption of most of the companies that concluded these contracts with them. All what KRG have is a bill for taxes on oil companies at the Parliament of Kurdistan, and even if this law were issued and it was decided to exempt from taxes, because the provisions of this law do not apply to contracts concluded previously based on the principle of non-retroactivity of the law, according to the Iraqi constitution 2005, Article 19 the exceptions contained in the laws on this principle do not include the issue of taxes[27].Final point to be submitted is that the Oil Gas Law paragraph 2 only contractor exempted for certain tax not subcontractor while in the PSC exempted all and this is clear breach of the lawsince there is a conflict between the contracts concluded in the Kurdistan Region with the oil and gas law in imposing types of taxes on the subcontractor, while in the contracts concluded, the subcontractor is imposed an income tax, personal and social security contributions, but this matter remains subject to the issuance of a special law that regulates how, conditions and cases of exemption of oil companies from taxes, and this on the one hand, and on the other hand, as for imposing types of taxes on the contractor (exploration companies), according to the production-sharing contracts concluded, income tax, personal income tax and social security contributions are imposed on them only without other types, while according to the Oil and Gas Law, all types of taxes are imposed on them, and here there is contradiction between the two.

Legal Framework for Oil & Gas Taxation in Nigeria and Azerbaijan

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Petroleum is considered a national asset in Nigeria's constitution 1999, with ownership vested in the Federal Government to administer for the entire country[28]. Because petroleum is the country's economic foundation. However, upstream oil and gas taxes differ from other forms of taxation in Nigeria. For examples, Oiland Gas taxes in Nigeria, are governed by four main legislations that differ depending on the nature and scope of the companies. To begin, the Petroleum Profit Tax Act (PPTA) of 2004 imposes a tax on the profits of any corporation involved in petroleum operations during the accounting period at a specified rate. It's important to note that the PPTA does not cover

[27]Iraqi constitution 2005, Article 19

[28] Constitution of Nigeria Article 42. <https://www.concourt.am/armenian/legal_resources/world_constitutions/constit/nigeria/nigeri-e.htm > Accessed on 30/5/2021

all petroleum operations. Second, the Company Income Tax Act (CITA) of 2004 is utilized to tax oil and gas companies that engage in downstream operations, with the chargeable profit taxed at a rate of 30%. Third, under the Education Tax Act of 2004, this tax is levied at a fixed rate of two percent (2%) on all assessable revenues of all companies and it is paid in addition to corporate income tax. Finally, 2004 VAT (Value Added Tax), this is a tax on goods and services consumption. It can be thought of as a value-added tax levied during the manufacturing of products and services on vatable products and services, VAT is charged at a fixed rate of 7.5 percent[29].As for Azerbaijan'sProduction Sharing Agreement (PSA),the Contractor carrying out activity related to petroleum operations in Azerbaijan should pay a profit tax, according to Azerbaijan's PSA. The interest rate is flexible and ranges from 20% to 32%. All imports made in connection with PSAs are exempt from customs taxes and VAT under the Customs Duties under PSAs. The State Customs Committee of the Republic of Azerbaijan can provide a certificate of exemption from import/export customs to contractors, operational companies, and their subcontractors. However, in order to claim the exemption, a contractor, operating company, or subcontractor importing goods in connection to a PSA should submit copies of its VAT and customs duties exemption certificates to the customs authorities. Otherwise, Article12 of Taxation states that each Contractor party shall pay profit tax in respect of its Hydrocarbon Activities in accordance with the Law of the Azerbaijan Republic on Taxation on Profit andcertaintypes of Income of Legal Entities, dated 9th of November1991, as enacted, and as generally applicable and in force in the Azerbaijan Republic in1993, and as amended by the provisions of this Contract (the "Profit Tax"). It is acknowledged that Double Tax Treaties shall have effect to give relief from Taxes[30].It is a condition to Contractor Parties' obligations under this Contract that except for the Profit Tax obligation described in Article mentioned above, that the Contractor Parties shall not be subject to any existing or future Taxes of any nature whatsoever in respect of their Hydrocarbon Activities.For purposes of this Article 12, "Hydrocarbon Activities" shall be defined as all activities relating to Petroleum in the Azerbaijan Republic, whether such activities are performed in the Azerbaijan Republic or elsewhere. Furthermore, if a Contractor Party fails to file a final Profit Tax Return, it shall be liable for a penalty of one hundred and ten percent (110%) of the Profit Tax required to be paid with such Profit Tax return.Or if the amount of Profit Tax due as shown on the final profit tax return for a Calendar Year was understated due to fraud by the Contractor Party, it shall be liable for a penaltyof two hundred percent (200%) of the amount of the understatement.Nevertheless, the Azerbaijan Republic free of any Taxes and restrictions in their own name the following: all equipment, materials, machinery and tools, vehicles, spare parts, foodstuffs (subject to compliance with applicable regulationspertainingtotheimportoffoodstuffs),goodsandsuppliesnecessaryinContractor'sreasonable opinionfortheproperconductandachievementofthepetroleumoperations,provided,however,thatwith respect to the purchase thereof Contractor shall give preference to Azerbaijani suppliers in those cases in which such Azerbaijani suppliers are in all material respects competitive in price, quality

[29]Resolution Law Firm (2020) 'Nigeria: Oil And Gas Taxation In Nigeria' <https://www.mondaq.com/nigeria/sales-taxes-vat-gst/1004132/oil-and-gas-taxation-in-nigeria> Accessed on 30/05/2021

[30] Agreement On The Exploration, Rehabilitation, Development And Production Sharing For The Block Including the Bahar Field And Gum-Deniz Field In The Azerbaijan Sector of the Caspian Sea Between the State Oil Company Of The Republic Of Azerbaijan, Bahar Energy Limited and Socar Oil Affiliat Baku 2009

and availability with those available from other sources[31].Notwithstanding private sales of imported goods by Contractor and/or its Sub-contractors and their employees in AzerbaijantoanypartywillbetaxableinaccordancewithAzerbaijanlegislation(subjecttoArticle12).[32]

Finally, when comparing the national laws and PSCs of the above-mentioned countries to the KRI's Oil and Gas law and PSC, it appears that they are significantly more comprehensive, and that their tax exemptions are clearly stated and in accordance with their national statutes. Accordingly, KRI may learn from both of the aforementioned states in terms of cost recovery and taxation. Although, the Kurdistan Regional Government by exempting oil companies from taxes was a source of dissatisfaction with many civil society organizations that are concerned with oil and energy affairs in the Kurdistan Region, and author support this approach because attracting foreign investment in the Kurdistan Region, yet it is necessary not at the expense of its own citizen. Therefore, it was necessary to carefully restudy the exemption of oil companies from taxes by taking into account the experiences of other developed and developing countries, as this could be a viable solution to the region's crisis.

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Conclusion

The purpose of this article was to compare fiscal regimes and how three oil-exporting countries manage their oil and gas resources using fiscal regime mechanisms. The three countries studied, namely Kurdistan Region of Iraq, Nigeria and Azerbaijan compared all adopt the Petroleum Sharing Contractual Fiscal system although with varying degrees of percentages across the classes of cost recovery and taxes. Overall, the study found that there are no standard limitations for implementing PSC Cost Recovery and tax administration in general, but that it is rather based on each country's policy and how it best serves their needs or the way attracts IOCs. As a result, petroleum fiscal regimes are dependent on resource facts that the IOC must examine if they wish to enter a country, and the country's attractiveness has a significant impact on the feasibility of the project and the IOC's project.Because countries compete for foreign investment to exploit their natural resources, they

[31]Zermeno Livas, M. R. (2008). Current and proposed non-oil tax system in Azerbaijan. *IMF Working Papers*. Pages 10-19

[32] Agreement on The Joint Development And Production Sharing for The Azeri And Chirag Fields And The Deep Water Portion Of The Gunashli Field In The Azerbaijan Sector Of The Caspian Sea Among The State Oil Company Of The Azerbaijan Republic And Amoco Caspian Sea Petroleum Limited Bp Exploration (Caspian Sea) Limited Delta Nimir Khazar Limited Den Norske Stats Oljeselskap A.S Lukoil Joint Stock Company Mcdermott Azerbaijan, Inc. Pennzoil Caspian Corporation Ramco Hazar Energy Limited Turkiye Petrolleri A.O. Unocal Khazar, Ltd. (2003) <http://files.hssk.gov.az/psa/doc_acg_psa_en.pdf> accessed 21/5/2021

compete with one another. To accomplish this, they must examine their position in the global economy, as well as their specific circumstance, boundary circumstances, concerns, and objectives. Therefore, it could be said that the Kurdistan Regional Government has been successful in attracting many IOCs by exempting oil companies from taxes, and the author supports this approach since attracting foreign investment in the Kurdistan Region is difficult and important, but in other hand, it must not be done at the expense of its own citizens, which is currently a source of dissatisfaction with many civil society organizations. This is because, while international oil corporations bear the highest risk in production sharing agreements, they typically benefit from them since they provide the foundation for optimal cost recovery and oil output.

Finally, after comparing the cost recovery and taxation provisions of production sharing contracts in the Kurdistan region with those in other states, the researchers came to the conclusion that the KRI's cost recovery and taxation provisions require reform based on analysis and experience from other resource-rich countries in establishing well-designed stabilization funds for oil and gas revenues in which the KRI can benefited from.

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