Tariq Shafiq

By Ruba Husari

Tariq Shafiq is one of the founding fathers, former director, vice chairman and executive director of Iraq National Oil Company (INOC) founded in 1964. He was also a veteran of its predecessor, Iraq Petroleum Company (IPC) where he served in various technical capacities since 1954, including as head of petroleum engineering. In this candid interview with IOF editor Ruba Husari, he gives his expert take on the different versions of the Oil & Gas Law (Hydrocarbon Law) which he co-authored the first version in 2006, his interpretation of the disputes between Baghdad and Ebril and his vision of what the new INOC should look like.

Q: The Oil & Gas Law (OGL) was drafted originally to regulate foreign investments in exploration and development. Now that Iraq has awarded more than 12 upstream contracts and Kurdistan region also awarded its own 40-plus contracts, is there still a need for such a law?

A: Of course there is a need for an OGL because it regulates whatever has happened. It sets out the powers and authorities of the executive to implement these contracts. But on the other hand this is something that no one expected and I believe at the present time neither the Kurds nor Baghdad want to have an OGL. They are not serious about having a law after they endorsed all the contracts without the benefit of plan and policy as set out in the original draft of the OGL. At this stage I don't see how they can be serious about having a law. After all, they had already booked the bulk of the reserves, the north with some 45 blocks contracted, and Baghdad has already 12-14 contracts plus the exploration blocks that they are going to awarded under round 4.

Q: Is this the only role of the OGL, just to regulate the agreements? And can it regulate them after the fact?

A: Presumably there is going to be regulations that go into the details of doing things. The law would still guide other aspects of the execution such as how to insure proper accounting; how to audit; how to go through the process of execution and monitoring operation on the ground; how to purchase and procure. These are subjects that are still regulated by the law. The main purpose of the law, however, remains to establish a clear basis for the conduct of upstream petroleum operations. There are aspects of transparency, procurement, and transfer of technology that still need to be guided by a law as well. It remains that the most important purpose of the law was what policy and plans you were going to follow. But here they have already taken the initiative and finished with it.

Q: Why do you think then the issue of the OGL has been revived again now?

A: It depends on which party we are talking about. If it's the Oil & Energy Committee in Parliament, I think the game there is to insure that the future role of the provinces and regions is going to be enlarged to the taste of KRG in the direction of weakening the power of the federal

government and enlarging the power of the regions and provinces. That is the essence of the exercise. Of course the KRG already has these contracts and it is enforcing them by hook or by crook. If the KRG can suspend exports – as it was suggested lately and as they have done in the past – because they feel they have been let down, and if they are so powerful that they can do this, then they will insure that any law enacted goes their way. The suggested draft ensures that all they had done will be approved and legalized without amendments. The proposed draft seems to suggest that there would be a committee of three made up of the two oil ministers and the head of the (parliamentary) Committee, whose opinions are now very clear, to approve whatever contracts have been done by the KRG. It seems to me it's going to be tit-for-tat, or scratch my back and I scratch yours. Baghdad would want to approve their own, and Kurdistan their own, both by-passing Parliament, and everyone will be happy at the end approving the lot.

Q: Is it impossible to reconcile the regional interest with the national interest? How do you convince all the parties that the national interest would satisfy the regional interest as well?

A: Neither party seems to care about the national interest. Since the occupation, Iraq has been placed on the track of diluting the most vital notion of nationhood. Kurdistan has its own ways and now the provinces look at Kurdistan and say why can't we have the same. From the very start, if you look at the constitution and the accepted interpretation of the parties, it was to insure that the central government's role ought to be weakened and the regional power strengthened. I fear this could and would lead to Iraq being turned into separate regions or entities. It seems as if that is the basic objective from the very start. What surprises me is that no party seems to care to revise the constitution as per planned. The same goes for the position of the ministry of oil (MoO), which up to this date, has not stood firm on a legal interpretation of the constitution that preserve the federal power over the power of the regions and provinces. The MoO has not adopted, to this date, any powerful argument in favor of the federal powers what so ever and it seems to me that the time for this has passed.

Q: Do you think it's their role to do that?

A: Of course they should have done that. Going back in history to when we were asked to draft the law, we did ask for an interpretation but clearly there was none. Finally we found a legal study by Joseph C. Bell, Hogan & Hartson LLP, and Professor Cheryl Saunders. This study addressed Iraq constitutional issues relating to the division of authority between the federal government and the regions and governorates. It is done by this well known legal group un-commissioned by any party, unlike KRG's commissioned legal interpretation. The independent legal interpretation we used differ radically from the accepted popular interpretation of the KRG whereby the latter considers that where there is a conflict between the laws of the central authority and the local authority, then the local authority overrules. This is a fallacy in accordance with Joseph Bell. Because that interpretation applies to the issues under joint authorities of the federal and provincial entities covered in Article 114 of the constitution. Oil and gas does not fall under Article 114. So even on that, the interpretation by Joseph Bell was that the regions and provinces have no jurisdiction to develop of oil and gas in isolation from an overall agreed policy initiated by the federal authority, in participation or consultation with the region or provinces. So really there has been great negligence by the MoO not to emphasize their

legal powers even under the existing weak and foggy constitution. I have strongly advised that the MoO should have a team to inform the public on the oil issues.

Q: You and your two other colleagues (Farouk al-Kassem and Thamir al-Ghadban) prepared the first draft of an OGL in 2006 as insiders of the oil industry and based on your experiences. However, that draft went through the "political kitchen" and came out as the Feb 2007 draft endorsed by the council of ministers at the time. How do the two drafts, the one prepared by the experts and that favored by the politicians, differ?

A: Let me say that the unwritten word between me and Dr Hussain al-Shahristani, the oil minister at the time, was that once we presented him with the draft it was going to be submitted to Parliament for approval. DR Shahristani himself told me when he received that draft that he was going to push it through for approval by Parliament. Even when I brought up the issue of the other parties and his political partners, he was confident they will approve it. But instead of that it went to the ministerial committee which corrupted the decision-making process, from being a professional check and balanced attitude to a politicized approach to the decision making, among many other ill founded changes

Q: How did they do that?

A: The set up of the decision-making process was going to be through a decision- making Commission of professionals supported by a Think Tank advisory team with hands on experience in the oil industry and of varied geographical background. And, we took care of the integration between the regions and provinces and the central authority by allowing that one third of the representatives in the Think Tank to be from the regions. We had planned as well that the operating companies would be owned by the parent INOC and the operating companies could be owned up to 50% by the province or region, who would have had directors of their own who would have been directors in INOC. As such, you are then professionally integrating professional opinion instead of giving the decision making to such entities as ministers and the regional authorities, which is really a mixed bag of either politicians or party members who have interest in executing their own proposal, or who would be submitting proposal and deciding on it from within. This is no way of insuring transparency or credibility. So they really corrupted the decision-making process from a professional approach to a politicized approach whereby self interest or politics dictate.

Q: It seems to me when you look at the Feb 2007 draft and the controversies that ensued and then the two most recent drafts – the MoO draft and the Oil & Energy Committee draft which adopts the Kurdish view – that the conflict that came to be embodied by the two personalities of Hussein al-Shahristani and Ashti Hawrami, is fundamentally about competition between two different concepts of what type of state Iraq should be. Do you agree?

A: Clearly you are putting your finger on the most crucial issue. Was the constitution built in such a way to insure that instead of a united and strong federal Iraq, you give so much power to the individual units of the regions and provinces, to the point that the federal state cannot really rule? If we go back to the CPA (Coalition Provisional Authority) and the way they organized

themselves and the provisional government that ensued, it was not based on a nationhood concept but on ethnic and sectarian principles. This was transmitted into the TAL (Transitional Administrative Law) where again the design was a weak federal government and strong entities, with powers in the hand of politicians to regulate not only their local affairs, but national affairs of the federal jurisdiction as well. Once we got to this stage, then the constitution was full of this encroachment where you and I start wondering who is going to rule: the federal state or ethno-sectarian parties and regions? Well, if we take the delegated power to Kurdistan and their practices, we can see that it's going to be a separate entity, and once you grant such entity to be so powerful, then the others would follow suit. Everybody should have been aware of this from the beginning. The Kurds had an interpretation of the constitution such that they can make decisions almost completely separately from the center. After all, oil is, in their view, not necessarily a national asset, but localized asset owned by the individual areas. The fear was clear that if they did that, why can't Basrah who owns about 60% of Iraq's oil do the same. In fact Basrah tried to become a region for that reason. In fact, because the central government has become too weak to manage and insure basic services to the people, it has encouraged the individual provinces to say you are not capable of providing basic services and needs, we can see Kurdistan has done very well, we can do the same. I'm afraid that today there is a trend of separating Iraq into small units that is very strong. The trend is too frighteningly strong, where the sense of nationhood is lost, that they will go their separate ways.

Q: Is this why we ended up with a Federal Oil and Gas Council (FOGC) in the Feb 2007 draft and the two most recent ones that are based on it, shaped along ethnic and regional lines instead of the Commission you proposed in the original 2006 draft?

A: Clearly the Kurds were strong enough to dictate policy in that direction, so that they can rule as if they are a confederate state and not part of a federation which is in fact a one Iraq. Clearly they were strong enough to suggest the type of oil and gas council that would permit them decisions that should have been in the national hand. If we go into the specifics, they managed to negotiate their own contracts, they managed to implement the contracts themselves, and they managed to approve the most important technical issue which is the oil or gas development plans, themselves. Those issues that we know that even in a liberal state such as Norway for example, are issues within the state's and parliament's jurisdiction to approve. It seems to me there are some important technical issues that have been totally ignored in the two proposed laws, either out of ignorance or out of plans but I assume possibly both, so that, as in the tit-for-tat Feb 2007 draft, they give the approval of the development plans of oil fields to the region. This is a very dangerous thing because then you would not have uniformity or national standard to implement contracts. The Kurds just went their way because they are the stronger party. The behavior of the other political or sectarian parties in Iraq seems to be based on either self or sectarian interest as if nationhood is non-existent. This is a fact that we ought to recognize and it is a very disappointing fact.

Q: Isn't it a contradiction in the situation that exists today that the Kurds, as you say, have their own contracts and approve their own development plans and make their own decisions, while at the same time they are party to any decision made in Baghdad that affects other provinces? In other words, a Kurdish MP has a say in what happens in an oil field in Basrah, but a Basrah MP has no say in how fields are developed in Kurdistan

because these are decided by Kurdistan's parliament and government, even though what happens there is bound to affect how much revenues are coming in and how much is shared among the provinces.

A: The principle is clear: what's mine is mine, and what's yours I share with you. Or also, we are all equal but some are more equal than others. That's simply because they are strong enough to do that. That's a fact and many decision makers in Iraq I spoke to feel the Kurds are playing a double role and they should not do that. That is, we decide on the affairs of the whole nation but you cannot interfere in our own. They all recognize this and they know that perhaps it is in the interest of Iraq as a whole that the Kurds go their way and be a completely separate state. But they are too scared to raise their voice and announce their feelings. Many of those politicians say we are better off without the Kurds on account of this attitude, but none of them dare raise his voice or announce his intention, simply because they have become the powerful party. They have a more powerful army than the federal army, and they have the support of the US.

Q: On a different level, we see from the text of the drafts that there is also a competition or conflict between those pulling for more power for the council of ministers, and those pushing for the council of representatives or parliament to have the ultimate powers, especially where the FOGC is concerned. How should the powers be split and who should be the reference for the FOGC?

A: The professional way is to have an executive who is skilled at understanding the oil industry and who has experts within to suggest policy and that policy and plans to be executed are endorsed nationally. That should have been built as part of the executive, i.e. the ministry of oil. But because of Iraq being split into regions and provinces, we thought it would be difficult to have a complete consensus between the federal ministry and the region and provinces, so we suggested an entity, the Council or Commission, which is professional and non political, to be an arbitrator in a sense and say where the MoO is right or where the MoO's proposed plans and policy need to be modified. That arbitrator professional team is aided by an independent Think Tank or advisors. We allowed for definite representation from the provinces and the region of one third, who are professionals with hands on experience in the oil and gas industry to ensure uniform practices throughout the country with positive participation of the region and provinces. We thought this is the right way of doing it. But Iraq as it is did not necessarily uphold national interest and invariably each party asks for a greater part of the cake their way. This is what has been happening throughout.

Q: When it comes to policy, there is a lot of confusion. The two texts differ over who draws up the policy. Who do you think should have this role, the MoO or the FOGC?

A: As far as I think, the proposed setup is not going to work at all, because the FOGC is a political entity made of too many players fit for a debating society, not decision- making managers. The political entities are of ethno-sectarian principles have little in common to bridge their differences to permit decisions be made in the national interest. If any decision is made, it's based on 'tawafuq' (accord) to suit 'al-muhassasa' (allotment). It will more likely than not go for that interest of this or that one. It's not necessarily the national interest that is going to be served. That decision-making process is corrupt. If you ask me whether the MoO ought to have all the

expertise and ability fit to make plans and policies, I would say yes it can and ought to. Anywhere else there would not necessarily have been any type of commission like the one being proposed. A government is normally formed with a stated plan and policy for its MoO which is equipped with experienced personnel to innovate, detail implement or monitor. But Iraq is a unique and strange case where things are not done necessarily the right way. So there has to be an entity to soften the situation whereby we say that: because the MoO is federal and other parties might feel their interest might be damaged, let's have another entity, like the proposed commission, which we thought would have worked if it was purely professional. Professionals have the sense to aim at the optimum solution, the optimum extraction of oil and the optimum economics, which is in the interest of all. And once it's in the interest of all, it is the type of game where it is in the interest of all the individuals. But it happens that Iraq today is not run by politicians who necessarily recognize that such unified plans and policy from the centre would meet national interest. Instead, each party serves its own interest. As a result we have a mixture that is not going to work. The evidence is the fact that we lived since 2006 without an agreed petroleum law. They've just been quibbling about it. We should have had, in the first place, the constitution modified, as stated in the constitution itself, to remove the fogginess and permit a petroleum law that is based on commonly accepted constitutional principles which uphold its overriding article that states that the oil and gas are the property of the nation. That was not done. We seem to be at loss when it comes to giving precedence to serving the national interest over party or self interest!

Q: Who should draw up the policy and who should approve it?

A: As it is now, it's supposed by the 2007 draft law or the present two conflicting proposed draft laws, that plans are suggested by the MoO but refined, replaced or approved by, the FOGC. But it's not going to work.

Q: Would it work if it was the MoO drawing up policy and the FOGC approving it?

A: The constitution requires MoO not alone, but in consultation with the region and provinces, to draw up plans and policy. That is the normal process. In our draft, it is the MoO which is given the authority to propose federal petroleum policy and legislation in consultation with the Provincial and Gubernatorial authorities. But today no one party has any faith in the other party. We have the entities fighting each other and occasionally they agree but on a tit-for-tat basis. We're not talking about homogenous parties whereby the national interest is the one that rules. So ideally it's the ministry's task to make policy within the boundaries of the agreed policy of that federal government. That's the norm.

Q: The different drafts also differ on the Independent Advisors Panel, their numbers, their votes,…etc. What was the logic behind having an Independent Advisors Panel?

A: At the time, we visualized that the 9 individuals in the Council (the FOGC) who are decision makers may not necessarily have full knowledge of the oil industry. So we said we will create an entity of knowledgeable people, not influenced by anything other than professional rules, to advise the decision makers. In fact, we set it in a way to do more than advise. We said they are going to have the right to give an advice on every issue and we said they should have the

obligation to write an annual report to be published for transparency and credibility sake. That way we thought we have a check and balance. But in the Feb 2007 draft it was decided that a political non professional entity (the FOGC) which is a mixture of regulator and entities to be regulated would rule, with the Think Tank demolished to the point where they said they ought to be elected for one year, with limited work scope, and they pass them only what they want to pass, and they don't publish what they advise on. So they were practically demolished. Now one draft of the two proposed drafts says they will give it three years and have three technocrats but they will only pass to them just what they feel they want to pass to them, denying the transparency of publication, and the check and balance is killed opening inroad to corruption.

Q: So originally the idea was that they are independent from the FOGC?

A: Yes this had been the case. They work for the FOGC but they were allowed sufficient tenor not to fear dismissal and allowed to publish for the public to gain credibility and ascertain transparency. We were confident they will publish something sound because they don't have an ax to grind. But that idea was killed.

Q: A recurrent issue in the drafts of the politicians is the principle of consensus or majority of two-thirds for decisions. Do you think consensus is needed when you are making decisions related to the oil and gas sector?

A: If we are talking about a technical decision, it can be done in any way with consensus without a problem. In a board of directors, you don't take decisions by a majority. It's always consensus because it's a professional one. There is no fight. You always seek an enhanced or improved decision. The question of two thirds or simple majority doesn't even come up. In the case of the laws drawn up by politicians, it comes up in a strong way because if you seek two thirds majority, the minority party can certainly manage to have one third and have a veto right. In this case, a minority part from just a small party can veto everything. You are then being ruled by the minority. That's why it's still there. In a board of directors you agree what is the best way to make a successful venture. We all work towards the same objective in the common interest. Here the objective is completely lost. If the objective was the national interest, then you may bring a consultant you trust to advise you.

Q: But a majority vote is needed when you have conflicting interests?

A: They know there are conflicting interests because they created a politicized entity with potential conflicting interests from within. The parties there are not believers in the overriding objective, i.e the common national interest, which can best be defined by the federal power, being the representative of the whole nation. That's why you have will problems.

Q: So how do you get consensus?

A: You won't under the proposed laws. It's not going to work. The minority is going to rule. People are elected either because they are politicians (or they are Shiites, or Sunnis, or…etc.) who may not necessarily seek the national interest. They seek self interests, and as such there is no common objective.

Q: What's more important from your point of view, national control of oil as the MoO draft OGL put it, or national sovereignty as mentioned in the Kurdish-preferred draft?

A: I criticized the proposed draft that used 'sovereignty' and not 'control' where the latter is the more appropriate in respect of its specific needed use to control the decision making, as we have in the first original draft. When you say sovereign control, it does not necessarily mean control of that particular technical decision to be taken. As it is the case now in the service contracts, you are the respected sovereign but you are not the one who takes the decision. Control is control. You are the ultimate decision maker. However, sovereignty has been used by the party that does not believe there has to be sovereign control in the context of oil contracts. I would have preferred that they say control because then they mean technical control.

Q: When you worked on the professional draft of 2006, you said all fields, developed and undeveloped, should be under INOC's management, based on your interpretation of Article 112 of the Constitution. This was interpreted by the Kurds as putting 80-90% of Iraq's reserves under INOC's control provoking a controversy when the annexes to the Feb 2007 draft were made public. Why was it controversial since INOC in principle was supposed to be the national company representing all of Iraq, including Kurdistan?

A: Yes of course it is controversial. In fact, in one of my friendly chats with (minister of national resources in the KRG) Ashti Abdulla Hawrami, I asked him: what's your fear about INOC and the way it should be run. I said if I was asked to nominate two or three people to run the company, I would say you are one of them. So in fact, you, as a Kurd, could be the head of INOC. I would have no hesitation that a Kurd could do it provided he abides by the fact that it's a national interest to be served and not divided interests.

We earmarked all the fields to INOC in accordance with the legal interpretation of Joseph Bell's. The 'current producing fields' are defined as actual producing fields and any discovery whether developed or not, as derived from the geological definition of a field. Technically we don't call something a field unless it's a discovery whereby we judge it to produce oil. Prior to discovery it is called "anomaly". So when the constitution talks about "field", it does not differentiate between actually producing now or it will produce tomorrow. It's called field because it's having reserves and capable of producing regardless of whether producing at the time of the law is enacted or later. That is the correct interpretation. It was on that basis that we included all fields. We did not look at it from the point of view of sectorised Iraq, or from the point of view of a federal state, or localized strong or poor entities. It was simply legal and constitutional. Of course it makes sense to have a pivotal oil company which is a national one, because as long as Iraq depends for its budget on the income from oil, you don't want to be a slave of a cheque coming from a party whose interest is not necessarily identical to yours. A foreign company's interest is to serve its own shareholders while as a nation you go beyond the shareholders interest. The shareholders in this case are the whole nation and as such you want to make sure that your sovereignty is complete by depending on your own source for income and you do not go and wait, as in the concession era, for a cheque from the foreign entity. This is the natural course for planning an economy that is so dependent on oil. Once you are not totally depending on oil, you can then allow other entities to contribute to the economy. I cannot see a sovereign state depending on their cheque from the foreign entity, as is happening today with the Baghdad 14

contracts and Erbil's 40+ contracts. We are dependent today on a cheque coming from someone else who is the one who is investing, he is the one who is taking the risk and he is the one who is entitled to make decisions. His decision is not necessarily in conformity with ours. That's why we saw INOC representing the national interest. It works for the nation and its rules and regulations are governed the the national interest. So you optimize your extraction and you don't spend unnecessarily. You are not distracted by somebody outside the country telling you let's reduce the speed of production or let's enhance it for reasons other than necessarily the national interest. I'm not condemning the importance of the IOCs, I'm just saying that the fact that you are as a state dependent on that sole income, you want to make sure it is under your command.

Q: However, the proposed INOC draft law did not suggest integrating a Kurdistan regional oil company into it.

A: This need not be the case. INOC could have had a subsidiary in Erbil as much as Basrah. Erbil would have participated in the decision making because they would have been equal partner in operating an INOC affiliate company and make decisions from within. Iraq is lucky to have oil throughout the country so there would have been oil companies created in the provinces and regions and would have their representatives on the board of INOC. INOC is a commercial and technical arm. This is where we are wrong today having a ministry who plays both roles of decision maker and operator, both in Baghdad and Erbil. In fact I've said a long time ago, when Shahristani started to pursue oil field development, that this is fine but it should be for a short period of time. If it's for a long term, he would be committing the same mistake as Ashti Hawrami and I'm afraid this is what happened. Both were competing as if from different producing countries. Both are equally damaging, in this respect, the national interest. Both are guilty of damaging the better destiny of Iraq's oil industry.

Q: How do you guarantee that in such a situation there is no monopoly – which is one issue the Kurds worry about – and how do you make sure this national oil company is operating in an efficient way when it's responsible for so many fields at the same time?

A: We did not say that INOC will be the sole operator. We said there will be others. And we recognized that INOC was going to need know-how and the latest art of technology. As such it is going to hire services but on terms that should not deviate it from its very essence of existence. That is to say perhaps in the same way as now but using technical support from IOCs on short term management service contracts, employing engineering and service companies or entering new ventures to develop oil fields where it would have to compete. It would have to bid like any other party and earn its money. Nature is such that oil is finite. The present fields make up 115 billion barrels, and Iraq still has double that amount to be discovered through exploration. So you have one (the proven reserves) on the diminishing curve and the other (the prospective reserves) on the rising curve. That's a natural correcting factor.

Q: If INOC is created today and you already have 42 PSAs in Kurdistan and more than a dozen in the rest of Iraq, with more to come, how do you define its role in this situation in a way that preserves the sovereignty of Iraq over all the territory?

A: You want me to find a solution for a wrong situation. To be frank, I don't see a serious role for a future INOC under the present circumstances.

Q: Are you suggesting there is no need for INOC?

A: No Not at all. I'm trying to emphasize the difficulty because if there was going to be any joint venture, INOC was supposed to be the one that holds the government share. There is an argument today about whether we are creating an INOC that is in a way going to compete for the decision making with the MoO. They seem to have that thinking in the MoO. The MoO today not only makes plans and policies, but it executes them and makes all decisions on the implementation. They think they are going to have an INOC that is going to deprive them from that decision making so they become less important than they are now. They are at a loss: should we allow an INOC or should we not? Their own interest dictates, regretfully, that INOC should be part of the ministry, not an independent one, drawing us back to the dual conflicting roles of the regulator and commercial and technical operator. So there is a whole self motivating interest and it cannot be corrected by someone like Tariq Shafiq coming to advise them against their plans. It is going to be a messy situation. Somehow one prays that wisdom and national interest at the end, in time, would work out in a way that can lessen the damage that is taking place. I say the damage is done because the bulk of the discovered oil is already committed. So what is INOC going to do and what fields are they going to allocate to it? It's already done. In the north (Kurdistan) the potential blocks have already been contracted and the discovered fields in the country are already contracted. The proposed law still talks about allocating fields to INOC but I don't see which fields are there to allocate.

Q: Wouldn't an INOC inheriting the existing regional operating companies inherit the role of holder of government share as well?

A: I assume that's one solution where INOC then becomes the parent company and in a way manages. But manage what exactly? We have no shareholding in the present arrangement. The 25% is not a shareholding. There is a de-facto situation now whereby the role of the national oil company will never be the role that was visualized in our draft, which is to develop fields as an investor and decision maker. The existing contracts set the decision making process.

Q: Aren't the joint management committees managing on behalf of the MoO?

A: What we have is, from my point of view, a production sharing agreement where the state is the partner in that agreement and the decision making follows that sort of pattern. You have no share in what goes on. They said we don't need shares because we own the lot! The present contract is a fallacy of a service contract because we presumably continue to own the whole oil. But do we really? If we do, we should be able to make decisions. You cannot make the decisions if you have a party who has the knowledge and provide the capital, and you don't. In this case, you don't make decisions. They do.

Q: But you do own the oil whether underground or produced.

A: So what? That doesn't make you the boss. You relinquished that power for being the owner because you have borrowed capital and introduced an investor who has the right to make decisions. We can go even further in criticizing the present contracts because it was planned in such a way that you have such a big plan that requires dozens and hundreds of qualified Iraqi hands and minds that don't exist. The decision is that of the IOC. I asked a major oil company that has a major stake in Iraq now: how did you agree that the development plan needs to be approved within six months by the government, and what happens if they tell you it's no good. He answered me: who are they to tell us, we are the experts. That proved to be the case. We have gone into such a large development plan and we don't have the capabilities to manage, monitor or audit. The decision-making process is the same as in a PSA. If the state is the investor then whoever you bring doing service or providing technical services, the state remains making the decisions. But if you bring a party that puts the money and takes the risk, then it shares in the decision although you are the owner of the reserves. The state remained the owner of the reserves in the ground even in the case of concession agreements and no doubt in the PSAs. However, in the PSAs, similar to our service contracts, the ownership of the oil is transferred to a third party, be it the IOC or purchaser of the oil, past the terminal end. The PSAs pay remuneration – the profit oil – in kind and similarly our service contracts pay remuneration fees, in kind or cash but invariably in oil. IOCs prefer the PSA model where they practiced booking the crude oil. However, I would be most surprised if they aren't booking the crude in Iraq's type of long term service contract.

Q: If that is really the case, then what's wrong with Kurdistan's PSAs?

A: When I condemned the Kurdish PSA it was because it gives windfall profit, it's based on non-competitive bids, it's non-transparent and illegal, but not essentially because it's a PSA per se. However, I also did say in many conferences – in a general sense – that perhaps it's about time that the international oil industry accepts the fact that there are states that find it difficult to accept a role other than the sovereign, but it is in the global oil industry interest to accept the role of the agent or service contractor. In my opinion IOCs will hurt the global oil industry and international interest by not going into such other countries carrying out direct exploitation which might not be optimizing the oil reserve extraction where they need the latest know-how. Accepting the role of service providers of the latest know how is in everybody's interest. The oil industry has the ingenuity, as it proved in the past, to modify its role and it's about time to do just that.

The Interview