

U.S. LABOR AGAINST THE WAR



May 1, 2007

Open Letter to the Members of the Out-of-Iraq Congressional Caucus

Subject: *Why is there an oil privatization provision in the Supplemental Funding Bill and H.R. 508?*

The compromise Supplemental Funding Bill [H.R. 1591] recently approved by both houses of Congress calls upon the President to make and report determinations regarding several “benchmarks” as a measure of satisfactory progress in Iraq (Chapter 9). Among them is whether Iraq has enacted “a broadly accepted hydro-carbon law that equitably shares oil revenues among all Iraqis.” (Sec. 1904(a)(2) and 1904(f)). Failure on the part of the President to certify to Congress that the Iraqis have done so would, under this Act, result in 50 percent of the appropriated funds being withheld.

Although H.R. 1591 makes no explicit reference to it, inclusion of this provision for all practical purposes puts the Congressional stamp of approval on privatization of the vast majority of Iraq’s undeveloped oil reserves – recently determined to be twice as large as previously thought, putting Iraq ahead of Iran with the world’s second largest oil reserves. Why do we claim this provision is an endorsement of privatization? Who could be opposed to ‘equitable’ distribution of the revenues generated by Iraq’s national treasure?

To find the answer to these questions, one needs to examine the actual hydro-carbon law under consideration by the Iraqi parliament, and understand the genesis of that law. This oil law is not the product of a deliberative process by Iraqis within the Iraq. It was not conceived by Iraqis at all. It was imposed upon the Iraqi Council of Ministers by the Bush administration with cooperation from the International Monetary Fund[†] with instructions to submit it to the Iraqi parliament for approval. The law had its origins in a report prepared by a group of oil industry executives and consultants provided to the Bush administration before the invasion of Iraq.[‡] The recommendations of that report provided the essential features for the law that was developed at the behest of the Bush administration and delivered to the Iraqis.[§]

* “Iraq may hold twice as much oil,” Ed Crooks, The Financial Times, April 19th, 2007

† “Iraq’s hydrocarbon law - in whose interests?,” by Ewa Jasiewicz, Platform, available at <http://www.niqash.org/content.php?contentTypeID=171&id=1816>

‡ Greg Palast reports, “In 2005, after a two-year battle with the State and Defense Departments, they released to my team at BBC Newsnight the “Options for a Sustainable Iraqi Oil Industry.” Now, you might think our government shouldn’t be writing a plan for another nation’s oil. Well, our government didn’t write it, despite the State Department seal on the cover. In fact, we discovered that the 323-page plan was drafted in Houston by oil industry executives and consultants.” From: “It’s STILL the oil: Secret Condi Meeting on Oil Before Invasion,” March 18, 2007 at <http://www.uslaboragainstar.org/article.php?id=13042>

Antonia Juhasz writes, “For it is an absolute fallacy that the Bush administration had no post-invasion plan for Iraq. The administration had a very clear economic plan that has contributed significantly to the disastrous results of the war. The plan was prepared at least two months prior to the war by the U.S. consultancy firm, BearingPoint, Inc., which then received a \$250 million contract to remake Iraq’s economic infrastructure. L. Paul Bremer III—the head of the U.S. occupation government of Iraq, the Coalition Provisional Authority (CPA)—followed BearingPoint’s plan to the letter. From May 6, 2003 until June 28, 2004, Bremer implemented his “100 Orders” with the force of law, all but a handful of which remain in place today. As the preamble to many of the orders state, they are intended to ‘transition [Iraq] from a ... centrally planned economy to a market economy’ virtually overnight and by U.S. fiat.” From: “The Spoils of War,” In These Times, January 15, 2007

Oil Change International reveals, “BearingPoint, a Virginia based contractor is being paid \$240m for its work in Iraq, winning an initial contract from the US Agency for International Development (USAid) within weeks of the fall of Saddam Hussein in 2003. A BearingPoint employee, based in the US embassy in Baghdad, was hired to advise the Iraqi Ministry of Oil on drawing up a new hydrocarbon law.

“BearingPoint employees gave \$117,000 to the 2000 and 2004 Bush election campaigns, more than any other Iraq contractor.

“The process of drafting the oil law has been particularly troubling. The timeline of which entities have seen the draft when suggests that Iraqi interests are not being considered first and foremost:

- Draft shown to US government and major oil companies – July 06
- Draft shown to the International Monetary Fund September 06
- Draft shown to Iraqi Parliament: February 07”

From: “The Iraq Oil Law” at <http://priceofoil.org/thepriceofoil/war-terror/iraqi-oil-law/>

§ “...Against this smoldering vista of general disintegration, a small group of Iraqi politicians spent a year secretly drafting the new hydrocarbons law. Weighing in from the outside was the US consulting firm BearingPoint, as well as the American and British embassies, and the US energy secretary, Samuel Bodman, who supposedly showed early versions of the draft law to several major petroleum firms. To add further pressure, the IMF has made passage of a liberalizing hydrocarbons law a condition for canceling about 6 percent of Iraq’s outstanding debt.” From: “Who will get the oil?,” Christian Parenti, The Nation, March 17, 2007

That law, if adopted as proposed, will enable foreign corporations to secure control over 2/3 of Iraq's oil reserves for 30 years or more, during which time the lion's share (as much as 87.5 percent) of profits will go to those corporations. Thus H.R. 1591's laudible call for equitable sharing will effectively apply only to that portion of the revenues (12.5 percent) generated by tapping Iraq's vast reserves paid by foreign oil corporations in royalties to the government of Iraq after they take their generous cut.

Whatever good intentions may have motivated this proposition, the consequence of the adoption of the only oil law actually under consideration will be to permit exactly the opposite – the wholesale hijacking of control over Iraqi oil by international oil corporations, led by those in the U.S. who inspired that very law and whose representatives will hold seats on the Iraqi Oil and Gas Council, the body created by that law to issue contracts for the development of Iraq's vast untapped reserves.

Since it may be possible that the authors of these provisions were not familiar with the details of the proposed hydro-carbon law, below we provide a brief outline of some of its major features. The entire law is available for download at <http://www.box.net/public/ehdzt13d71>.

- The law is intended to apply to the exploration, discovery, development and extraction of as yet undeveloped oil reserves – estimated to be at least two-thirds of Iraqi oil. It specifically excludes the refining, industrial utilization, distribution and marketing of petroleum products. (Art. 2) (With the revelation that Iraq's untapped reserves may be twice as large as previously believed, the potential bounty to those who secure the exploration rights has grown to truly gargantuan proportions.[†])
- It creates a Federal Oil and Gas Council, which among its ranks will include “executive managers of important related petroleum companies...,” thereby placing on the body that will let contracts agents of the very corporations who stand to profit from those contracts. (Art. 5-C5)
- The Council has among its responsibilities: (Art. 5-C)
 - to assist the Council of Ministers in creating policies, plans and legislation governing the exploration and production of petroleum;
 - to develop, review and change exploration and production contracts that authorize the exploitation of oil resources;
 - to decide the special instructions for negotiations pertaining to granting of rights or signing development and production contracts, and setting qualification criteria for companies in the contract bidding and award process.
- The law provides for a bureau of “independent consultants” that will include both Iraqi and foreign “experts” in exploration and production operations and petroleum contracts, chosen by a consensus of the Council to assist the Council in reviewing exploration and production contracts and development plans. (Art. 5-C6)
- The law recognizes the Iraqi National Oil Company (wholly owned by the Iraqi government) as continuing to manage and operate existing producing oil fields and the oil and gas pipeline network (but with regard to the pipeline network, for no longer than two years after which this responsibility could be put assigned to another company). (Art. 6) The state oil company would at most have jurisdiction over no more than 17 of the 80 known oil fields (and none of the as yet undiscovered fields, unless it were the successful bidder). It is entitled to compete against the international oil cartel for the right to explore and develop new oil fields. (Art. 6-B3)
- The law directs the Oil Ministry to create a new department responsible for overseeing the bidding process and negotiation of contracts for exploration and production rights, and requires that this department must operate to increase productivity and maximize profits. (Art. 7)
- Granting of licenses will be by competitive bidding based on model contracts developed by the Ministry of Oil. Among its guiding objectives are appropriate return and reasonable incentives to investors. (Art. 9-B) The terms of these

* On April 30, 2007, Reps. Woosley, Waters and Lee released a letter sent to Speaker Pelosi in which they propose a variant of the terms set forth in H.R. 1591 which says, “...prior to open debate and enactment by the Iraqi parliament of new petroleum law, prohibit U.S. companies from entering into long-term production sharing agreements.”

A provision also appears in their co-sponsored bill, H.R. 508, which prohibits any U.S. governmental entity, national or corporation to “enter into a contract for the development, production, or marketing of petroleum resources in Iraq.” But H.R. 508 sunsets that prohibition once the president certifies that Iraq has “established and is enforcing laws that provide for the regulation of activities of foreign governments and foreign nationals pursuant to contract for the development, production or marketing of petroleum resources in Iraq.” (Sec. 109) (No reference to “equitable sharing” is contained in proposals made to Speaker Pelosi or H.R. 508.)

† To get a sense of the potential value of these undeveloped reserves see “*Discussion on the Draft Iraqi Oil Law*” by Fouad Qasim Al-Ameer, Al-Ghad, which is available in translation at <http://www.uslaboragainstar.org/article.php?id=12988>.

model contracts have yet to be revealed. Awarded contracts will not be subject to review or approval by the parliament and cannot be contested within the Iraqi judicial system.

- In a law comprised of eight chapters and forty-three articles, the only reference to “equitable distribution” is a single sentence: “The government’s revenue, including the oil revenue, must be distributed through the federal budget in a fair and just way in adherence to the constitution.” (Art. 11-D) (The Iraqi constitution already requires fair sharing of oil revenues. This gratuitous gesture adds nothing to these assurances.)
- Article 13 establishes the length of contracts for the exploration and development of new oil fields, which under some circumstances could grant control to a foreign oil corporation for more than 30 years.
- Article 15 encourages but *does not require* corporations granted exploration contracts to “pursue cooperation and association with serious and qualified Iraqi private initiatives,” further eroding the jurisdiction and authority of the state oil company.
 - The law does require successful bidders to give preference to the purchase of Iraqi products and services, but only when they are competitive in price and comparable in quality and speed of delivery. (Art. 15-B)
 - Contract holders are required “to the maximum reasonable extent” to employ Iraqi citizens, provided they have appropriate qualifications, and requires they undertake training to prepare potential candidates. (Art. 15-C) Nothing in the law mandates hiring of Iraqis, however.
 - They are “to the greatest reasonable extent” expected to maximize training and technology transfer opportunities for Iraqis at all levels, including management. (Art. 15-D) Technology transfer is not required.
 - The law establishes the objective of promoting “the rapid growth of an Iraqi private sector capable of assisting and enhancing Petroleum Operations to the mutual benefit of said (contract) holders and the nation,” (Art. 15-E) an objective announced in the wake of the invasion, repeated frequently since by the Bush administration.
- The oil law allows foreigners who hold contracts to repatriate all of the profits and to transfer ownership shares. Nothing in the law requires any contract holder to reinvest of any portion of profits in Iraq. (Arts. 33-D and 35)
- Article 34 sets the royalty that contract holders must pay on petroleum produced at the rate of just 12.5 percent of gross production.
- Any disputes regarding these contracts, if unresolved through negotiation, are to be adjudicated, not within the Iraqi legal system, but through international arbitration. (Art. 41) Corporations will never have to face an Iraqi court or judge and are treated as having equal standing to Iraq as a sovereign state.
- Provincial governments are permitted to participate in the licensing process, bringing regional and sectarian divisions into the contract bidding and negotiating process and setting up opportunities for corporations to play provincial political interests against the central government. (Art. 5-F)

Whether one finds these terms to be fair and equitable, it is eminently clear that against the power and wealth of the international oil cartel, the under-capitalized, war-torn state oil company will be highly unlikely to prevail in bidding for contracts. It is further indisputable that the lion’s share of the wealth created by the exploration of Iraq’s undeveloped oil reserves will go to corporate contract holders, not the Iraqi people, thereby reducing any requirement for equitable distribution to a token gesture rather than a meaningful division of the national wealth generated by Iraq’s oil reserves, and depriving Iraqis of the resources they will need to rebuild their country and economy.

So, when Congress enacts a law that conditions funding on adoption of a hydro-carbon law in Iraq, it may offer deference to the abstract principle of equal distribution, but in practice becomes complicit in a scheme for the unprecedented transfer of Iraqi national wealth to foreign multinational oil corporations, prominent amongst which are ExxonMobil, ChevronUnocal, ConocoPhillips, Shell and BP, and to the back-door indirect privatization of much of Iraq’s oil industry.

Greg Muittit of Platform, a British NGO, has done the most exhaustive study of the draft oil law. It is entitled “Crude Designs: The Rip-off of Iraq’s Oil Wealth” (http://www.carbonweb.org/documents/crude_designs_large.pdf). He finds that “at an oil price of \$40 per barrel,[†] Iraq stands to lose between \$74 billion and \$194 billion over the lifetime of the

* “Oil exploration costs are among the cheapest globally, with the current cost estimated at around 50c per barrel compared with the current retail price of about \$60 a barrel. Petroleum geologists have discovered 73 major fields and identified some 239 as having a high degree of certainty. Yet only 30 fields have been partially developed and only 12 are actually on stream. Undrilled structures and undeveloped fields could represent the largest untapped hydrocarbon resource anywhere in the world. While most other Middle East countries are fully exploiting their reserves, large parts of Iraq are still virgin.” From: “*The rape of Iraq’s oil*” by Michael Meacher, *The Guardian* (UK), March 22, 2007

[†] The price of a barrel of oil as of 5/1/07 was \$64, up from \$29 when George Bush first took office.

proposed contracts, from only the first 12 oilfields to be developed. . . . Under the likely terms of the contracts, oil company rates of return from investing in Iraq would range from 42% to 162%, far in excess of usual industry minimum target of around 12% return on investment.”

As this report observes, there are huge differences between the form of “production-sharing agreements”^{*} contemplated by the proposed oil law and the standard service contract which is common throughout the rest of the Middle East. Service contracts are project specific and limited in both scope and duration. Under them, control over oil resources and profits remain exclusively with the government. By contrast, under the production-sharing agreements proposed by this oil law, Iraq will not only yield operational control, they will also suffer substantial erosion of Iraq’s national sovereignty.

When the U.S. invaded Iraq, among the military’s first objectives was to secure the country’s oil assets, from the Ministry of Oil to oil fields and pipelines. While oil assets were rapidly and heavily guarded by our troops, the nation’s antiquities were being looted and its civilian infrastructure was laid waste. The message to Iraqis was unmistakable: “We’ve come for the oil.” Now after four years of denials by the Bush administration, the promotion of this hydro-carbon law gives fresh evidence to Iraqis that the destruction of the country, the slaughter and dislocation of its civilian population, and the division of the nation along ethnic and sectarian lines was the price they were compelled to pay so that the U.S. government would assure itself of an unimpeded flow of cheap oil and multinational oil corporations would be assured of an unending flow of oil profits. Just as importantly, the U.S. has been able to preempt any other nation from gaining preferred access to Iraqi oil. While Iraqis may have suffered, U.S. hegemony has been preserved and if the situation prevents the immediate development of Iraq’s oil potential, President Bush, Vice President Cheney, and their friends in the oil industry can draw satisfaction from the fact that this instability has driven up the price of oil, resulting in windfall profits for the oil industry, while blocking any other nation (read China) from establishing a privileged position in the region.[†]

As one might imagine, the Iraqi people are not going to allow the looting of the nation’s oil to follow the looting of its national heritage. If the Iraqi parliament succumbs to the pressure exerted by the Bush administration for passage of the hydro-carbon law, it will virtually assure popular resistance to the occupation will grow, that the number of foreign troops – those of the U.S. foremost amongst them – who become casualties to this policy of economic rape will most certainly also grow, and the country and region will remain in turmoil for years or even decades to come. The administration will have created the conditions that will pressure future presidents to continue to commit military forces to the occupation of Iraq in defense of claimed “vital U.S. national interests.” But in fact, the real interests they will be forced to fight and die for will be first and foremost those of the international oil cartel – of Chevron, ExxonMobil, ConocoPhillips, Shell, BP and other corporations that are the intended beneficiaries of these policies.

Early this year, the 23,000 strong Iraqi Federation of Oil Unions held a conference on the threatened privatization of the oil industry. The union’s President Hassan Juma’a expressed the implacable opposition of the union to the privatization scheme contained in the hydro-carbon law. In his passionate address to 200 delegates attending the conference, President Juma’a said, “Among the objectives America wishes to achieve from the military occupation of Iraq, all the causes of which we do not want to return to, but simply to emphasize one central objective of the American political leaders who crossed oceans and wasted billions of dollars, that is Iraqi oil. Indeed we in the Federation of Oil Unions consider this the most important reason for this foul war.”

He declared, “If those calling for production-sharing agreements insist on acting against the will of Iraqis, we say to them that history will not forgive those who play recklessly with the wealth and destiny of a people and that the curse of heaven and the fury of Iraqis will not leave them. We strongly warn all the foreign companies and foreign capital in the form of American companies against coming into our lands under the guise of production-sharing agreements.” He added, “We do not oppose the introduction of new technology into the oil sector so as to increase

^{*} About Production-Sharing Agreements by Greg Muittit, <http://www.carbonweb.org/showitem.asp?article=58&parent=4&link=Y&gp=3>

[†] As another bonus, the U.S. invasion effectively scuttled Saddam Hussein’ declared intention to switch the sale of Iraqi oil from dollars to Euros. “*The Real Reasons Why Iran is the Next Target -The Emerging Euro-denominated International Oil Market*” by William Clark, GlobalResearch.ca, January 26th, 2006 (Might the fact that both Iran and Venezuela have expressed similar intentions help explain why they too are on George Bush’s short list of prime targets?)

production; we believe in that; but this must be done in a way that will safeguard the stature of the Iraqi state and its sovereignty over natural resources.” (<http://www.uslaboragainstawar.org/article.php?id=12947>)

In December, 2006, five major Iraqi labor federations, including the Federation of Oil Unions, met in Amman, Jordan. In the final declaration unanimously adopted by these unions (available at <http://www.uslaboragainstawar.org/article.php?id=12982>), they declared, “Iraqi public opinion strongly opposes the handing of authority and control over the oil to foreign companies, that aim to make big profits at the expense of the people. They aim to rob Iraq’s national wealth by virtue of unfair, long term oil contracts that undermine the sovereignty of the State and the dignity of the Iraqi people.”

These unions pledged, “We shall mobilize our workers and their families, and seek the assistance of civil society institutions in Iraq, and the Parliament that was elected by the people, to stand by us and assist us in obtaining the support and solidarity of the Arab and International Labor Unions.” *

We write to urge you to use your influence in drafting any legislative response to the president’s veto of H.R. 1591 to remove any provisions, like those cited above, that are tied to adoption of a hydro-carbon law in Iraq. U.S. corporations and those acting on their behalf should be barred from participating in any scheme that undermines Iraqi national sovereignty and that deprives the Iraqi people of the full benefit of their natural resources, so desperately needed to rebuild the country we have destroyed.

There could be no more fitting conclusion to this appeal than to repeat the words of Hassan Juma’a: *History will not forgive those who play recklessly with the wealth and destiny of the Iraqi people.*

The more than 150 unions, labor councils, state labor federations and other labor organizations affiliated with U.S. Labor Against the War stand with our sisters and brothers in Iraq’s embattled labor movement. We ask you to stand with us – to stand on the peoples’ side of history – to stand for peace with justice for the Iraqi and American peoples.

U.S. Labor Against the War has gathered a large number of articles and other resources about this issue and makes them available on our website at <http://www.uslaboragainstawar.org/article.php?list=type&type=10> and <http://www.uslaboragainstawar.org/article.php?list=type&type=77> .

Respectfully submitted for your consideration,

Kathy Black, Gene Bruskin, Maria Guillen, Fred Mason, Bob Muehlenkamp and Nancy Wohlforth
U.S. Labor Against War Co-Convenors



Michael Eisenscher, National Coordinator

* At the end of March, 2007, these same labor federations were joined by a delegation from the AFL-CIO led by President John Sweeney for a meeting in Amman with representatives of the World Bank and International Monetary Fund to confront those institutions over the terms of the “structural adjustment program” that conditioned financial assistance to Iraq on adoption of the oil law and privatization of the Iraqi economy. The final declaration of the Iraqi labor organizations is available at <http://www.uslaboragainstawar.org/article.php?=1&cache=0&id=13453>.

