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Iraq at a crossroads: Implications of the new government
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The Energy Question: Hydrocarbons & Disputed Territories

Remarks by

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1. The challenges related to managing Iraq's hydrocarbons resources and its disputed territories have a number of issues in common and are linked at several levels.
 - a. They are both among the longest standing and most divisive problems consecutive Iraqi governments have had to grapple with.
 - b. While there are basic frameworks and procedures in place on how to resolve them, they have either not been invoked (e.g., Article 140) or are disputed in their application and interpretation (Federal Hydrocarbons Law; powers of regions vs. powers of federal government).
 - c. Significant hydrocarbons resources are located in the disputed territories, especially in Kirkuk, which in turn is the most severely contested territory—between Baghdad and Erbil, and among the three main communities living there (Kurds, Arabs, and Turkomen). Oil and gas reserves are also relatively significant around the area of Mosul, another potential flashpoint in the Arab-Kurdish territorial disputes in Iraq. In turn, Iraq is dependent on the exploitation of these resources to contribute to increasing revenue from oil and gas exports: crude oil export revenues alone accounted for over two-thirds of GDP in 2009.
 - d. At a regional level, Turkey is an important player in relation to both challenges: it takes a keen interest in all developments related to Turkomen and Kurds in Iraq, albeit for obviously different reasons, it has a major stake in the exploitation of Iraq's hydrocarbon resources, and it is one of the most important (potential) export routes for oil and gas from northern Iraq (including the KRG and Kirkuk) to international markets.
 - e. There have repeatedly been attempts to upset security and stability in the disputed territories, particularly in Kirkuk and increasingly also in Mosul. The volatility of the security situation there, the tense relations between the different communities, and the expectation that Kirkuk could prove the spark to bring Iraq as a whole to an explosion into renewed large-scale violence make it an attractive target.
2. The new government, being a coalition of all the major (and minor) political players in Iraq, reflects these divisions and will have a very difficult time to establish and implement any consensus on these two questions. Several factors need to be considered:
 - a. The position of the Kurds as a whole has been politically weakened—'internally' through the decline of the PUK and the rise of Goran (Change) and its withdrawal from the Kurdistan List in the Council of Representatives; 'externally' through the participation of Sunnis in the election—with fewer seats in the CoR than previously.
 - b. Maliki's position as Prime Minister is to some extent stronger as he has prevailed over Alawi in forming a coalition, but his coalition government is more tenuous because it is so incredibly diverse, with three 'coalitions in the coalition' at its centre—the Kurdistan List (weakened by the withdrawal of Goran), Alawi's Iraqiyya and Maliki's State of Law Coalition both of which are also highly volatile. The breadth of the coalition, however, also gives Maliki some room for manoeuvre as he does not depend on every last vote of every party in the coalition.
 - c. The completion of US withdrawal of combat troops by the end of the summer is unlikely to have a major effect immediately on the political volatility of the government. However, in the longer term it changes the political playing field because of the absence of a credible

neutral force to intervene effectively in potential flare-ups of local violence in some of the flashpoints in the disputed territories.

- d. The success of the KRG attracting substantial investment into its oil and gas industry, including significantly from second-tier US-based Marathon Oil, has strengthened the KRG's position in the hydrocarbons question. Most contracts with foreign investors are structured as Public-Private Partnerships requiring private-sector partners to take on a major share in improving oil and gas infrastructure alongside exploration and exploitation. This, in turn, will contribute to increasing profitability of operations and the share that the KRG can contribute to overall Iraqi revenue generated from oil and gas. Thus, KRG bargaining power in negotiations over the hydrocarbons law and any interim arrangements until its passage is significant.
 - e. The connections between disputed territories and hydrocarbons, and the lack (of implementation) of relevant legislation continue to maintain a legal and regulative vacuum. This serves the interests of various sides as long as they all accept the status quo as feasible and beneficial, but will create immediate and serious problems if one of the major player defects from such an implicit consensus, including for foreign investors.
 - f. At the same time, however, further procrastination on implementation of Article 140 will weaken KRG claims to Kirkuk. Even though a further delay in implementation may give more room for implementing 'normalisation' it will also consolidate the situation on the ground, especially the more and more united opposition of Turkmen and Arabs against integration of Kirkuk into the KRG. Thus, continuation of the status quo further shifts bargaining power away from Kurds—on both the hydrocarbons law and disputed territories.
3. In light of these complex domestic and regional dynamics, a number of scenarios are possible, including:
- a. The Kurds openly and credibly push for implementation for Article 140. The first obstacle and potential crisis would be carrying out a census in Kirkuk and the inevitable legal wrangling to follow. Even if this hurdle would be taken, it is difficult to see how Arabs in the current coalition could accept the holding of a referendum and its inevitable results. Even if the government, probably reduced in its majority, would survive, the referendum would be a major focal point for violence and quite likely broader regional instability, engulfing most likely Syria and Turkey. Strong resistance from Arabs, would leave the Kurds little option but to leave the current coalition, which would weaken their political power in Iraq as a whole further and possibly also led to further internal fractionalisation.
 - b. Arabs openly and credibly push for abandoning Article 140 or clearly stall on its implementation. This would similarly put Kurds into an untenable position in the current government, but it would also increase Maliki's dependence on Iraqiya, rather than giving him the option of 'playing' his main coalition partners. If such a Shi'a—Sunni alliance came to pass, it would significantly strengthen centralisers, but otherwise make for a rather unstable government, including by potentially reinvigorating demands by Alawi for the premiership.
 - c. The status quo continues, the parties muddle through, each accepting this as the least worst situation, possibly with some tweaking at the edges (for example, on the legality of existing exploitation contracts, an implementation schedule for finalising the federal hydrocarbons law, and a timetable on Article 140).
4. Scenario (c), at present and for the foreseeable future, seems the most plausible. It does not resolve any of the big questions, but it avoids 'solutions' that are worse than the problems they are targeted at. In the long run, the main parties will need to find a compromise and they will need to sell it to their constituents. As this is going to be a rather lengthy process with several uncertainties and pitfalls, it will equally require careful, constructive and joint management of the status quo. In other words, not resolving any of these issues must not be mistaken for not managing them.