

*Chatham House
Middle East Energy
Conference - Feb 4-5, 2008*



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Natural Resources Minister
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THE KURDISTAN REGIONAL GOVERNMENT (KRG) IS:

**LEADING THE WAY IN IRAQ'S RECOVERY
BY EXERCISING ITS CONSTITUTIONAL RIGHTS
THAT WILL BECOME A MODEL FOR ALL OF IRAQ**

*an authoritative Legal Opinion
is accompanying this presentation
by Professor James Crawford SC, FBA, LLD*

**Titled : The Authority of the
Kurdistan Regional Government over Oil and Gas
under the Constitution of Iraq**

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Natural Resources Minister
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OIL & GAS UNDER THE NEW CONSTITUTION OF IRAQ

the Constitution is irreversible – its implementation can achieve

**FAIRNESS & JUSTICE THAT WILL
LEAD TO IRAQ'S UNITY AND SECURITY**

OIL & GAS UNDER THE
CONSTITUTION OF IRAQ



FAIRNESS & JUSTICE WILL
LEAD TO UNITY & SECURITY

OIL & GAS UNDER THE NEW CONSTITUTION

INDEPENDENT AUTHORITATIVE LEGAL OPINION

THE PENDING FEDERAL DRAFT OIL LAW ISSUES

KRG'S MODEL CONTRACT AND EFFORTS

CONCLUSIONS

OIL & GAS UNDER THE
CONSTITUTION OF IRAQ



FAIRNESS & JUSTICE WILL
LEAD TO UNITY & SECURITY

THE NEW
CONSTITUTION OF IRAQ
ENDORSES A FEDERALIST SYSTEM

WHICH MEANS
POWER & WEALTH SHARING &
NOT CENTRAL PLANNING & CONTROL

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article 13

first

This Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception.

second

No law that contradicts this Constitution shall be enacted. Any text in any regional constitutions or any other legal text that contradicts this Constitution shall be considered void.

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article 112

first

The federal government, with the producing governorates and regional governments, shall undertake the management of **oil and gas extracted from** present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country.....

second

The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment.

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article 115

All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions & governorates that are not organized in a region. With regard to other powers shared between the federal government & the regional government, priority shall be given to the law of the regions & governorates not organized in a region in case of dispute.

article 121

Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region.

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article 141

Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of Kurdistan, including unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region, provided that they do not contradict with the Constitution court decisions and contracts, shall be considered valid.



article 126

fourth

Articles of the Constitution may not be amended if such amendment takes away from the powers of the regions that are not within the exclusive powers of the federal authorities, except by the approval of the legislative authority of the concerned region and the approval of the majority of its citizens in a general referendum.

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**The Authority of the
Kurdistan Regional Government over Oil and Gas
under the Constitution of Iraq**

Prof. James Crawford SC, FBA, LLD

The Kurdistan Region Oil and Gas Law is consistent with the Constitution of Iraq and is effective to govern the development of oil and gas in the Kurdistan Region. In the continuing absence of agreement pursuant to Article 112, Second, on the “necessary strategic policies”, the KRG is entitled to manage its oil and gas resources, and should do so openly in a manner which gives effect to the principles set out in that Article.

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Existing contracts entered into by the KRG for oil and gas exploration and exploitation since 1992 are valid unless they conflict with the Constitution. Pending agreement between the KRG and the federal government on strategic policies, the authority of the KRG to authorise the conclusion and implementation of new contracts is unqualified.

When such policies are agreed, they will need to take account of existing legal commitments binding at that time.

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Referring to the Federal Draft Law:

“The careful balance struck by Articles 110-115 of the Constitution is to a significant extent ignored by the proposed Law. In these circumstances it is difficult to see how an investor could rely on the proposed Law to protect investments”.

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Article 112, First, regulates oil and gas “extracted from present fields”. It gives the federal government management powers in relation to that oil and gas, subject to three important qualifications. First, the management is to be undertaken “with the producing governorates and regional governments”, which I take to mean jointly and in cooperation with those governorates or governments or at least with their approval. Secondly, the joint management appears to be limited to oil and gas after it has been extracted, on which basis the management of the extraction and production process itself falls outside the federal joint management power. Joint federal power in respect of such oil and gas will be limited, presumably, to processing, transportation and export. Thirdly, revenues from present fields must be distributed in a fair manner, as stipulated in the Article.



Draft oil law history

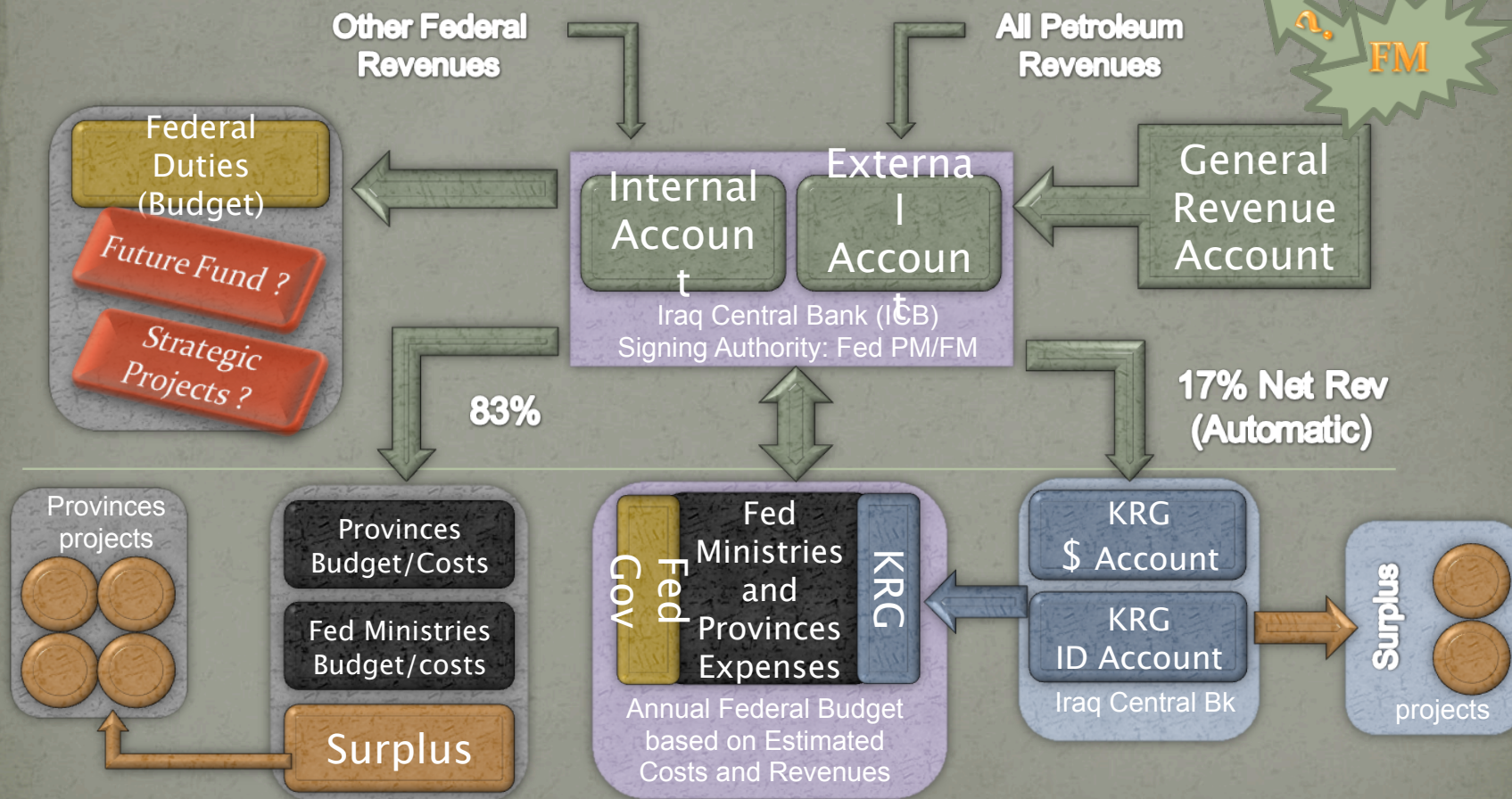
- EARLY JULY 06: KRG PREPARED 1ST DRAFT FEDERAL LAW
- MID-AUGUST 06: KRG PUBLISHED 1ST DRAFT KRG LAW
- LATE AUGUST 06: DR. MALIKI FORMED THE “FOGC”
- MID-DECEMBER 06: 1ST DRAFT AGREED WITH PM
- MID-JANUARY 07: “MOO” CHANGED THE AGREED DRAFT
- MID-FEBRUARY 07: THE PREVIOUS DRAFT RE-INSTATED
- MID-APRIL 07: “MOO” UNILATERALLY INTRODUCED ANNEXES
- MID-JUNE 07: SHURA COUNCIL/MOO CHANGED THE TEXT
- EARLY JULY 07: SHURA COUNCIL ALTERED REV SHARING TEXT
- 6 AUGUST 07: KRG PASSED ITS REGIONAL LAW
- SEPTEMBER 07: KRG BEGAN ISSUING NEW CONTRACTS

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Revenue Sharing Law (Inter-Governmental Commission)



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Federal Oil & Gas Law – issues to be solved

Fed Council of Ministers

- Decide on all Fed Policies & **Supervise** the overall Pet Ops
- advise Parliament on enacting and amending laws
- guarantee **consultation with** (participation of) KRG according to Constitution

Designated Authority

Ministry of Oil

KRG

INOC

compliance to guidelines

Approvals

Fed Oil & Gas Council – FOGC

- PM & other Ministers
- Heads of ICB, INOC, SOMO
- KRG & Reps of prod. provinces
- Independent appointees & Others

Independent specialists appointed by all FOGC members

Formulate Fed Policies as follows in

consultation with

the Designated Authority

- model contracts, guidelines for negotiations & amendments
- set prod levels and allocations to producing areas
- guidelines for selecting contractors & sale of their holdings

Authorities

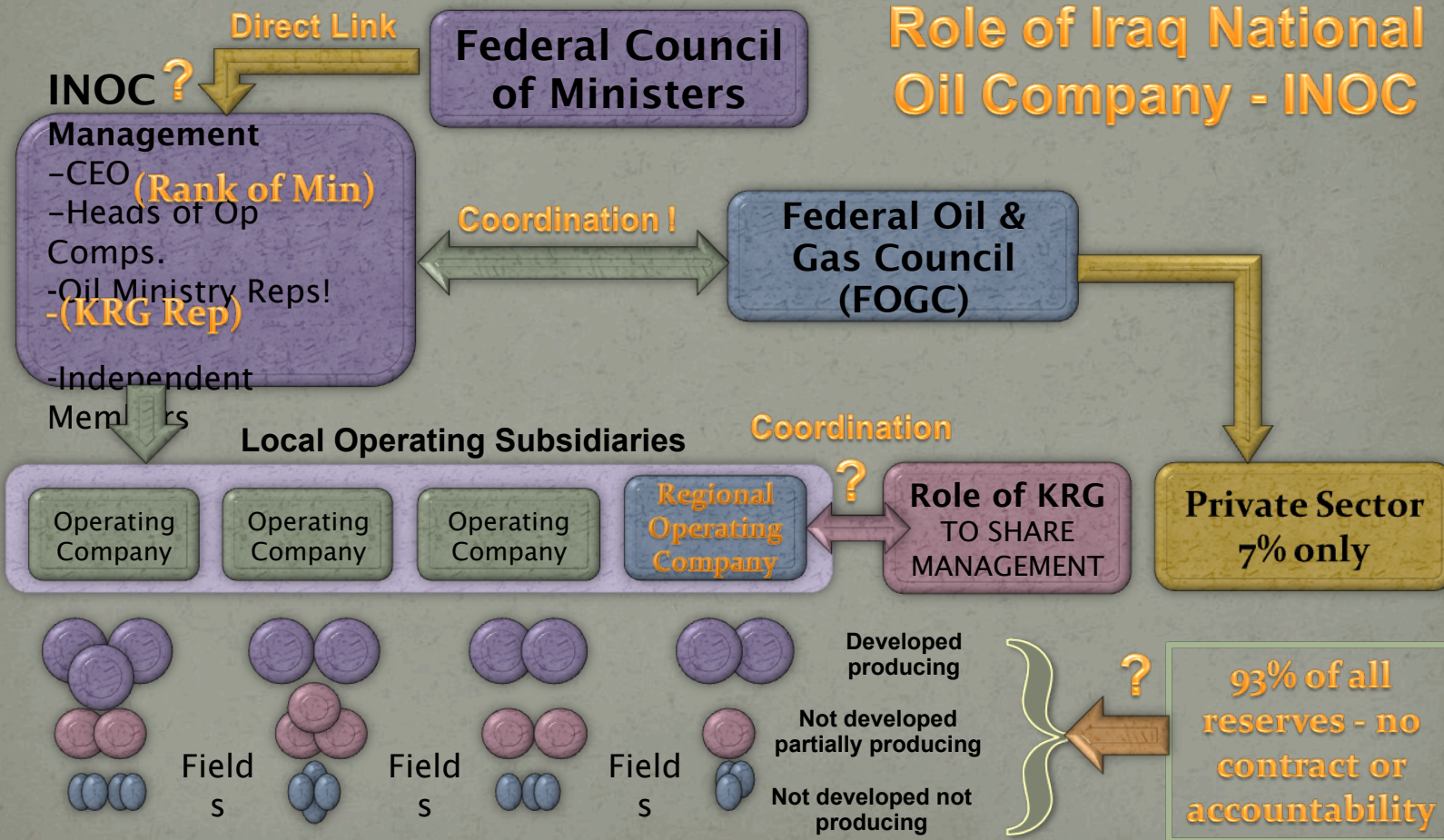
- Negotiating & Contracting according to FOGC guidelines
- Supervision of Contractors and operations

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Role of Iraq National Oil Company - INOC





Iraq Oil Reserves Distribution

Proven Reserves

**North 25 Billion Barrels
Centre 20 Billion Barrels
South 70 Billion Barrels
115 Total Proven**

Potential Reserves

**North 20 Billion Barrels
Centre 25 Billion Barrels
South 40 Billion Barrels
85 Additional Likely**

Distribution of Reserves

North	45	22.5%
Centre	45	22.5%
South	110	55.0%

- 1. These are in line with population distribution**
- 2. Constitution requires revenues to be shared according to demographic distribution**
- 3. So, fears about some areas not having a fair share of oil or revenue are unfounded**
- 4. Some have not yet been able to come to terms with the fact that their sole control of the country has ended and they must now share the oil wealth with others**

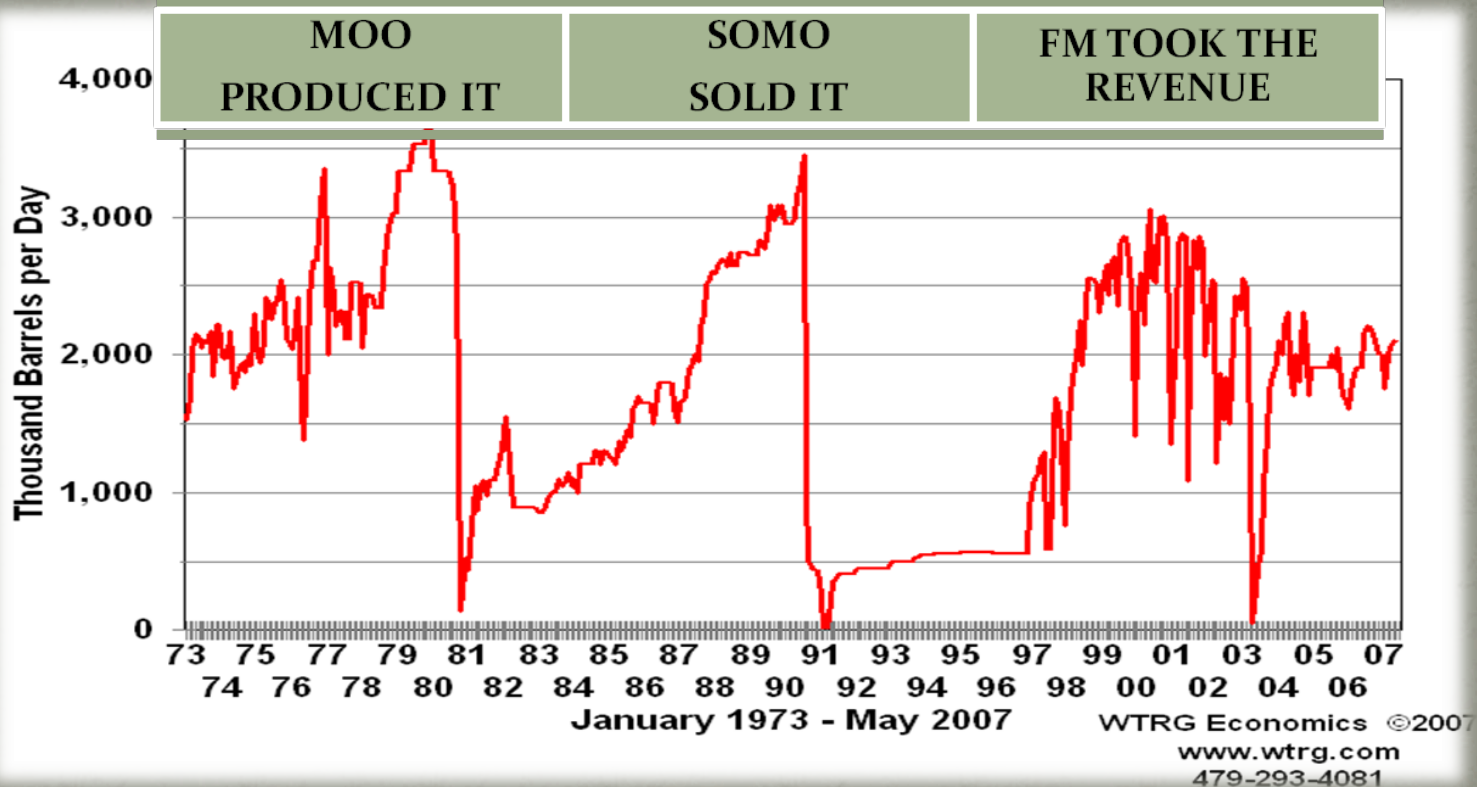
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Iraq oil history and the misuse revenues

SADDAM USED IT THE BENEFIT OF HIS SUPPORTERS AND
TO FUEL HIS WARS & GENOCIDES



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The way forward is to boost production
create a prosperous Democratic Federal Iraq

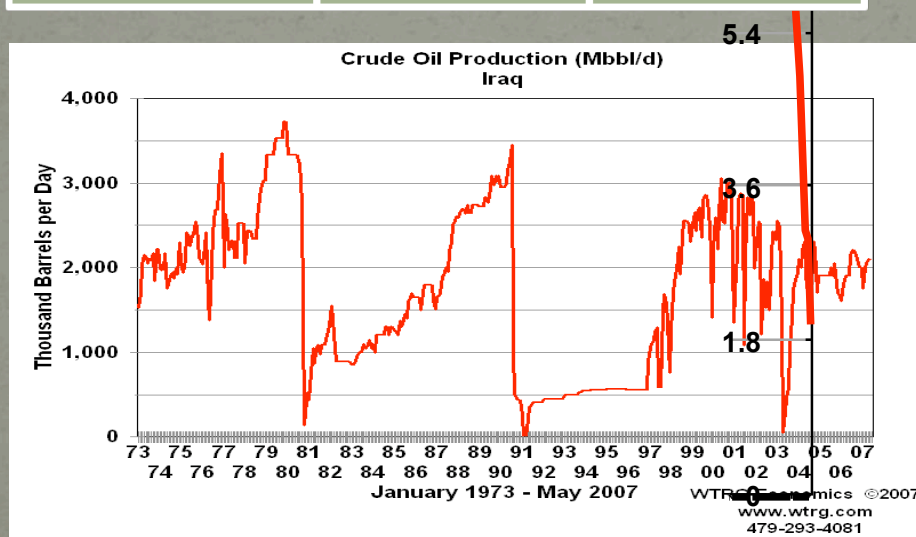
How?

APPLY THE CONSTITUTION

Decentralize
Controls

Boost Oil
Production

Truly Share
Revenues



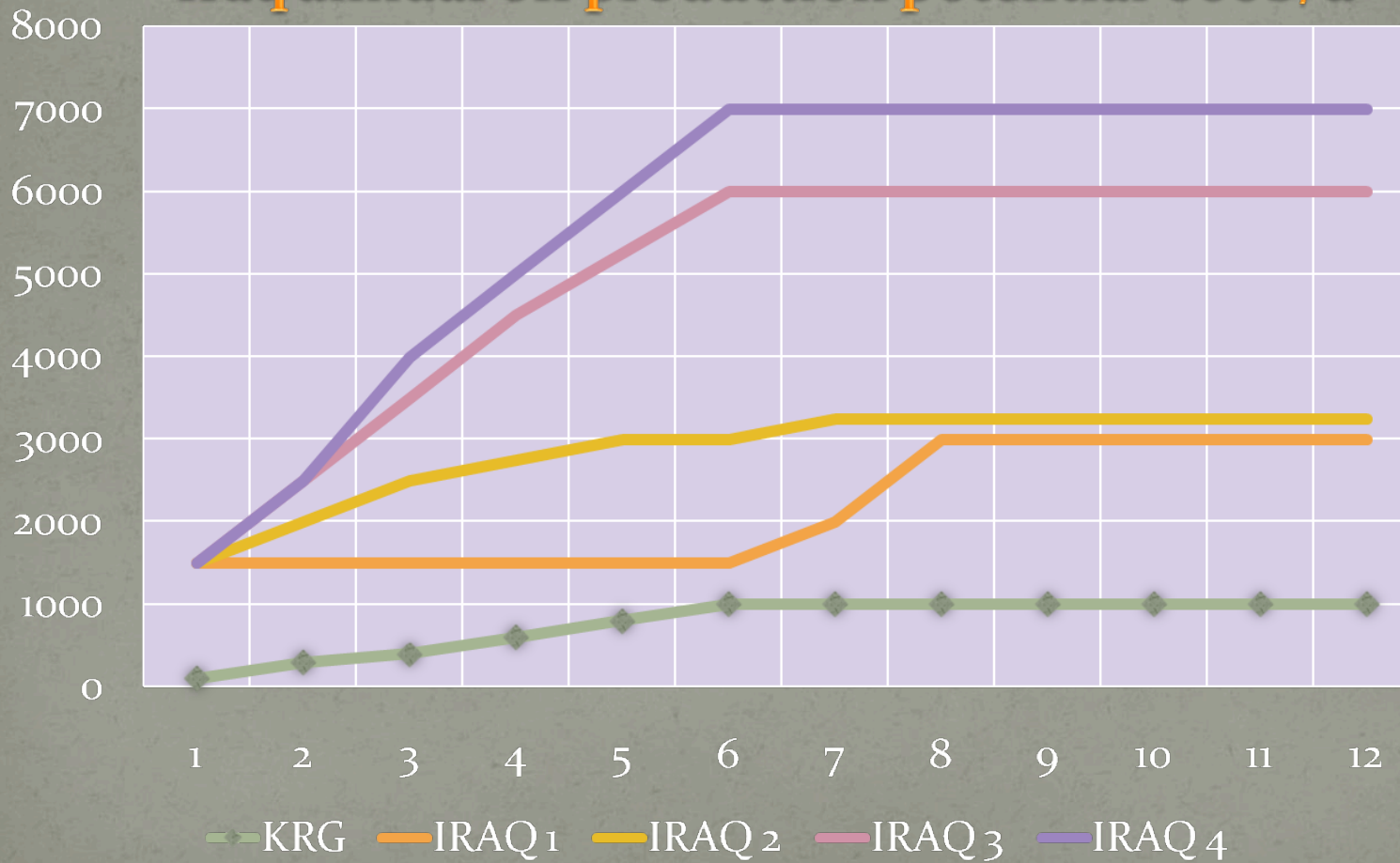
Future Production Potential

2006

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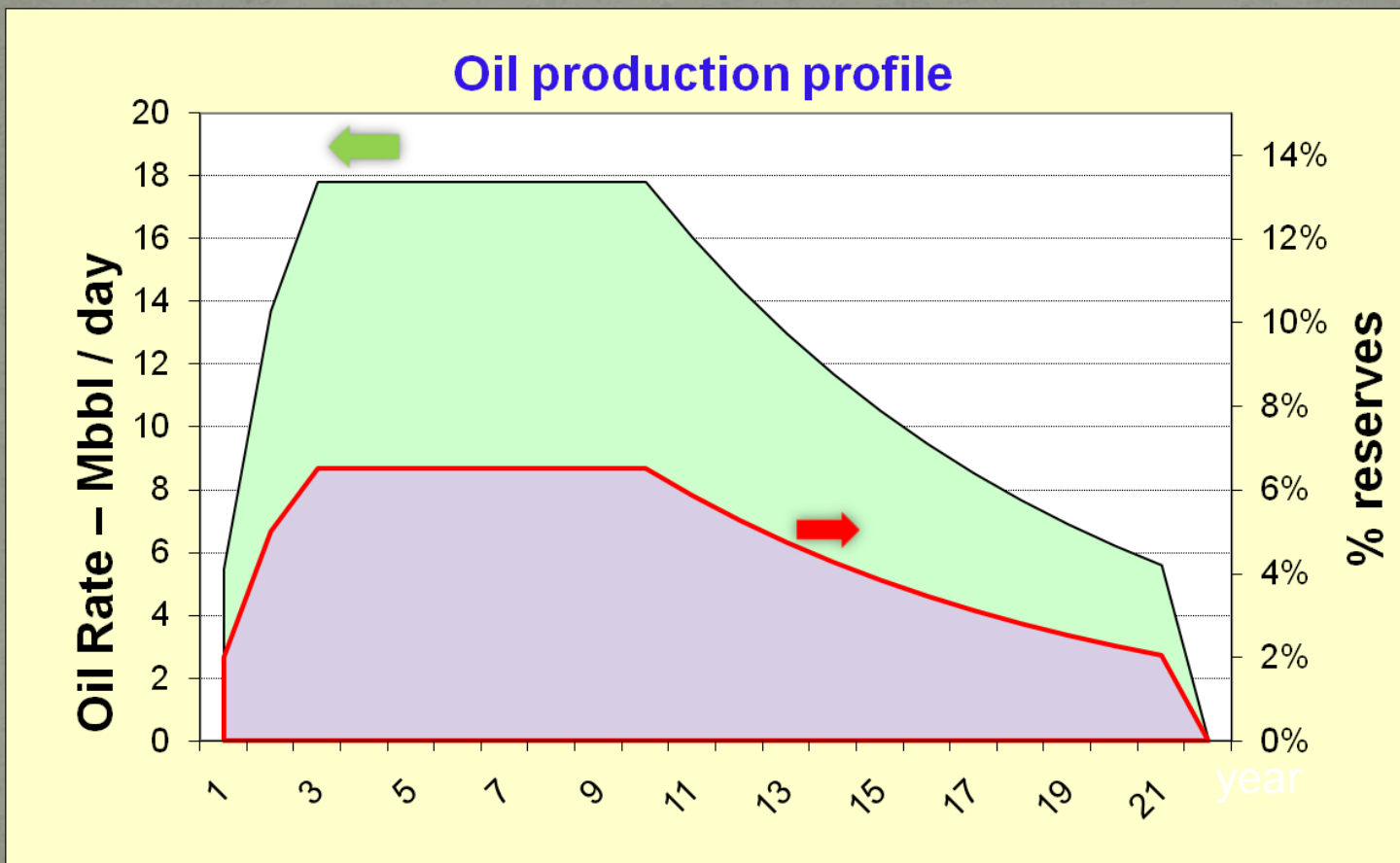


Iraq annual oil production potential oob/d





A typical KRG Oil Field Discovery Example





KRG EXPLORATION risk/reward model

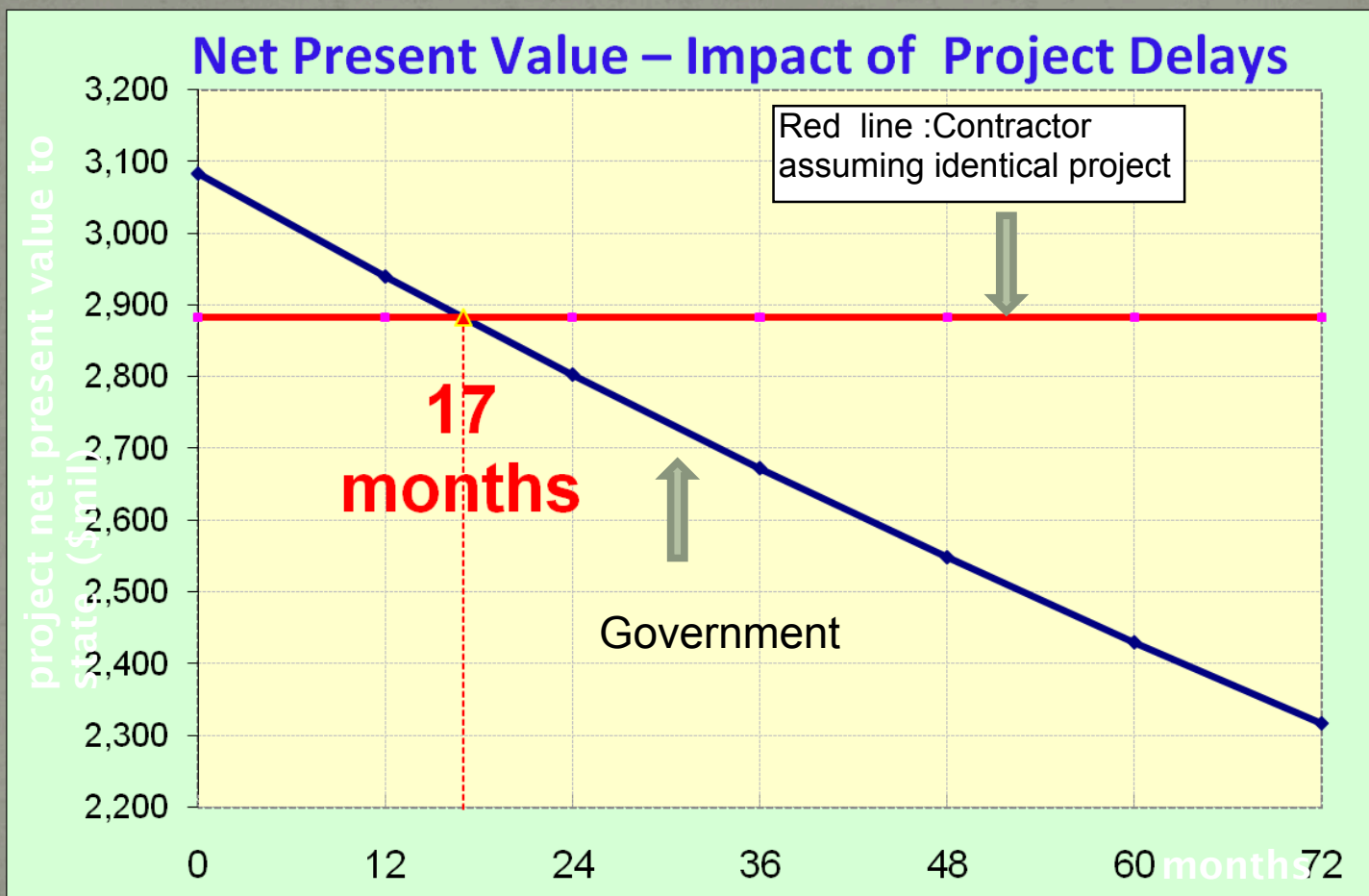
Project Assumptions			Economic assumptions		
Reserve Size	MMBBL	100	Oil price	\$/Bbl 2007	40
Peak production	MBOPD	20.0	Oil price escalation	%year	0.00%
Production years	years	27.0	Cost escalation	%year	2.50%
Exploration costs	\$MM	100	Discount rate	%year	10.00%
Exploration costs per barrel - "finding costs"	\$/bbl	1	Fiscal regime		
Exploration period	years	1	Royalty oil	%	10%
Development period	years	2	Royalty gas	%	10%
Production starts	years	2010	Cost recovery limit oil	%	40%
Development costs	\$/bbl reserves	2.00	R factor Tier 1	#	1
Further development costs	% devel capex	15%	R factor Tier 2	#	2
Initial development costs	\$MM	300	Contractor share of profit oil - Tier 1	%	30%
Development costs per barrel capacity	\$/bbl reserve	10.4	Contractor share for R factor more than 1 less than 2		formula
Pipeline/transportation costs	\$/bbl	1.5	Contractor share of profit oil - Tier 3	%	15%
Upstream operating costs	\$/bbl	2.0	KRG participation share	% equity	25%

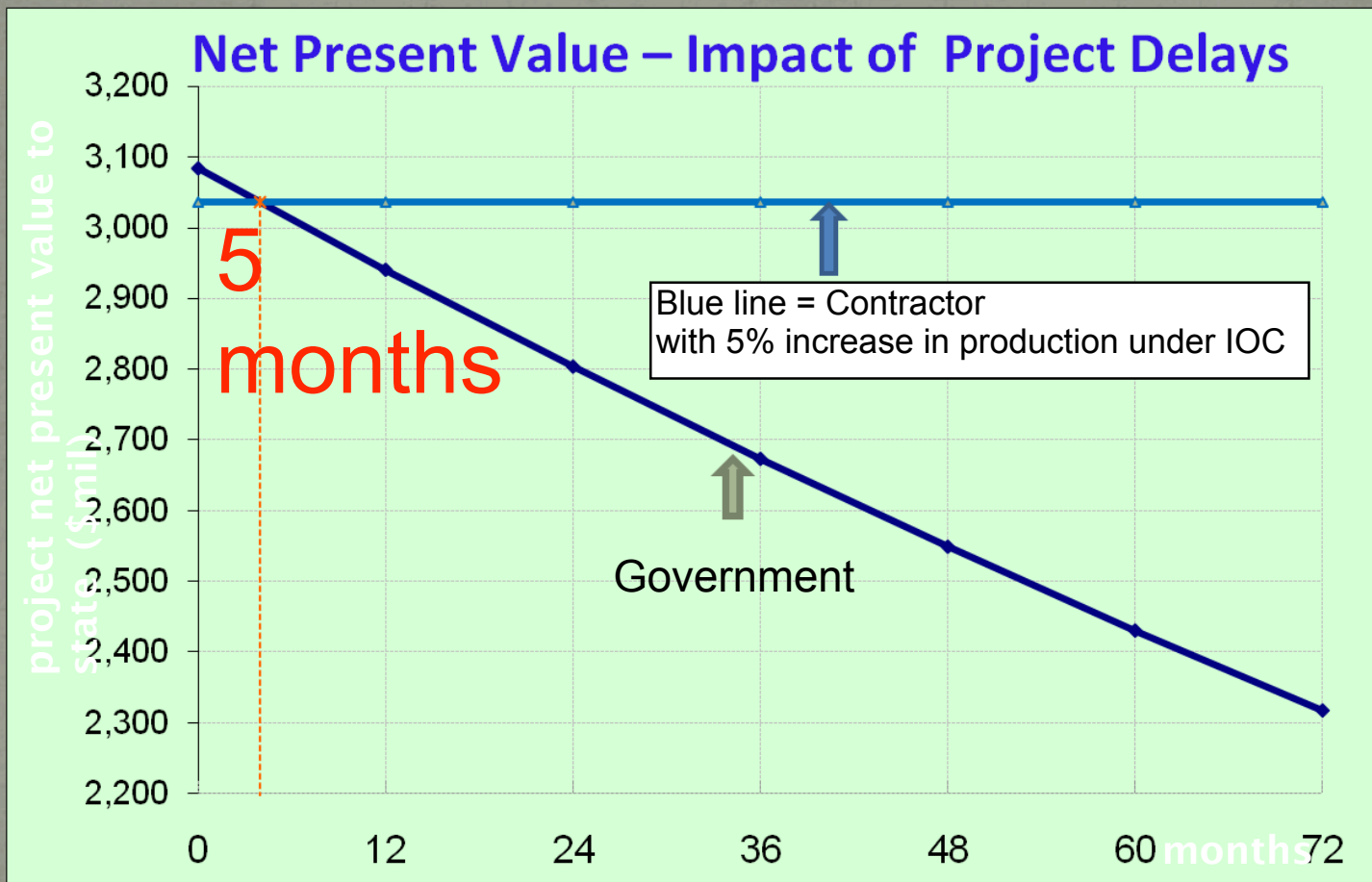


KRG EXPLORATION risk/reward model

Results 100 MMBBL Exploration Case

Pre tax project IRR	%	50%	
Contractor IRR, before state participation	%	22%	
Contractor IRR, after state participation	%	21%	
KRG participation IRR	%	26%	
		NPV ₀	NPV ₁₀
Pre tax project net cash flow (NCF)	\$MM	3,159	1,079
Royalty	\$MM	380	140
Government Profit oil	\$MM	2,318	784
Government NCF from participation	\$MM	147	45
Total Government	\$MM	2,844	969
Contractor NCF, before participation	\$MM	562	156
Contractor NCF, after participation	\$MM	415	110
		TRUE	TRUE
Total Government share	%	87%	90%
Contractor	%	13%	10%







conclusions

- The era of dictatorships and centralised controls has gone for good. The democratic federalism is the best way to keep the Iraq together – imposed alternatives will not work.
- Revenue Sharing Law and the Oil Law can play a key role in cementing this new reality, the sooner its implemented the better for all. KRG remain fully committed to these Laws.
- A federal oil law, if enacted according to Constitution will pave the way to attract

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conclusions

- **KRG is leading the way and acting as an “honest broker” to make it work for all, and for sure this will maintain the unity of the country.**
- **What we need is a message of hope for the future, those who are still living in the past should rethink their actions and not to try to destroy that future.**
- **Those who continue acting unconstitutionally, will not be allowed to spoil KRG’s achievements by deterring companies investing in Kurdistan.**

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FINALLY

**IMPLEMENTATION OF FEDERALISM IS THE
ONLY POSSIBLE PATH TO UNITY AND
STABILITY IN IRAQ**

**THAT MEANS >SHARING MANAGEMENT OF
OIL & GAS RESOURCES & >DISTRIBUTING
THEIR REVENUES ACCORDING TO THE
COUNTRY'S CONSTITUTION**

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