

Iraq and European Union Energy Cooperation: A New Important Milestone

Introduction

In June, 2013 Iraq and the European Union-EU signed financial agreement pertaining to establishing the Iraq-EU Energy Centre in Iraq. This came as a result of concerted efforts and many formal cooperation modalities that have been negotiated and concluded during the last few years.

As I was the team-leader of the EU study for this Centre I would argue in this intervention that the establishment of the Centre would constitute vital milestone for productive, effective, long lasting and mutually beneficial cooperation between Iraq and the EU, and would argue further that both sides should do their utmost to expedite the process of establishing the Centre and the start of its functioning. From financial aspects the EU contribution to the Centre has insignificant value compared with Iraq's annual budgets; nevertheless the two parties should not allow politicization, on either side, to derail this vital cooperation project.

This brief contribution focuses on the energy cooperation between Iraq and the EU, and does not address the bilateral energy cooperation between Iraq and each member states of the EU.

EU- Iraq Cooperation Modalities

The EU and Iraq have agreed on a set of strategic objectives, especially in the field of energy that were addressed and outlined in many bilateral cooperation instruments between them. In a descending order of their signing dates these cooperation instruments are: the Financial Agreement establishing the Energy Centre (FAEC-2013); The Partnership and Cooperation Agreement (PCA-2012); the Joint Declaration (JD-2011, 26th May 2011), and the Memorandum of Understanding on a Strategic Partnership in Energy (MoU/SPE -2010). Beside the above the European Commission, Italy and Sweden adopted their first Joint Strategy Paper and National Indicative Programme for Iraq for the period 2011-2013 (JSP-2010). JSP builds in particular upon the two year integrated assistance package for 2009/2010, focusing on institution building in the fields of governance, rule of law and basic services. Though the JSP makes no reference to energy matters, it asserts including Iraq, as from 2010, in the newly extended Instrument for Cooperation with Industrialised Countries ('ICI+'). This facility is non-development oriented assistance with the aim of complementing development activities. All sectors may be covered, but particular relevance was accorded to those of strategic importance for the EU, such as energy security.

The Partnership and Cooperation Agreement- PCA May 2012

The negotiation on PCA lasted nearly seven years, originally focusing on "Trade and Cooperation" when the negotiation was launched in November 2006. During the seventh round the status of the agreement was upgraded to a more comprehensive Partnership and Cooperation Agreement (PCA). On 13 November 2009, both parties successfully finalized negotiating its text, and its signing was envisaged before the end of 2010. That did not materialize until 11 May 2012 when Iraq and EU had finally signed it in Baghdad.

In substance, the PCA establishes comprehensive legal framework for enhancing ties and cooperation in a wide range of areas from political matters and trade in key areas such as energy and services.

The objective of PCA is also to support Iraq's own vital reform and development efforts and facilitating its integration into the wider international economy. The Agreement will be the main vehicle for EU's support to Iraq and further enhancement of EU-Iraq relations, provides for annual Ministerial meetings, and the creation of a Cooperation Council and Parliamentary Cooperation Committee. PCA has a term of 10 years with automatic annual renewal. In fact PCA marks the first ever contractual relation between the EU and Iraq.

The PCA, which was signed also by all EU member states and Iraq, is a lengthy agreement with 5 chapters comprising 124 articles, many annexes and appendices extended over 130 pages.

With regards to energy PCA focuses on the following cooperation matters

1. Enhance cooperation in the energy sector in respect of the principles of free, competitive and open energy markets with the aim to:

- (a) Enhancing energy security while ensuring environmental sustainability and promoting economic growth;
- (b) Developing institutional, legislative and regulatory frameworks in the energy sector, to ensure efficient energy market functioning and promoting energy investments;
- (c) Developing and promoting partnerships between companies in the Union and Iraq in the field of exploration, production, processing, transportation, distribution and services in the energy sector;
- (d) Developing a regular and effective energy dialogue between the Parties and in the regional context, including through the Euro-Arab Mashreq Gas Market and other relevant regional initiatives.

2. To this end, the Parties agree to promote mutually beneficial contacts with a view to:

- (a) Supporting the development of appropriate energy policy, its regulatory framework and infrastructure in Iraq, founded on principles of environmental sustainability, sound management of energy resources and on free, competitive and open market;
- (b) Cooperating towards improving administrative and legal capabilities and towards establishing stable and transparent legal framework conditions to stimulate economic activity and international energy investments in Iraq;
- (c) Fostering technical cooperation for the exploration and field development of the Iraqi oil and natural gas reserves, as well as for the development and modernization of the oil and gas infrastructure, including transport and transit networks to the Mashreq region, other relevant regional initiatives and towards the market in the Union;
- (d) Improving the reliability of the electricity supply system in Iraq;
- (e) Enhancing cooperation to improve energy security and to combat climate change, through the promotion of renewable energy sources, energy efficiency and reduction of gas-flaring;
- (f) Facilitating the exchange of know-how and the transfer of technology, best practices as well as training professionals;

- (g) Promoting Iraq's participation in the process of regional integration of the energy markets.

Evident from the above the PCA did not make specific reference to the Energy Centre, though most of the Centre's activities, as suggested by the Study (see below) are covered by the above mentioned provisions.

Memorandum of Understanding on Strategic Partnership in Energy

The MoU-SPE, signed on 18 January 2010, did not mention the Energy Centre in Iraq but it says "The two sides will endeavour to cooperate on technological, scientific and industrial energy issues and will promote the exchange of expertise and the establishment of appropriate structures for the training and education of young professionals in areas of modern science and technology related to the energy sector."

Moreover, this MoU has a rather weak legal premises for concrete actions since it asserts, "The present document records political intent alone and provides for no legal commitment." But this MoU calls for establishing "a joint energy working group,, to explore possibilities and modalities for the implementation of the priorities for cooperation set out" in the MoU.

The first meeting of the joint energy working group convened on May 2011, and one of its outcomes is the agreement on a new cooperation instrument- a joint declaration.

The Joint Declaration

The DJ, signed on 26 May 2011, confirms the commitment to "Initiate preparations for a regional Centre of Excellence for research and training on energy in Iraq". Accordingly, the establishment of this Centre could help in realizing the objectives and commitments mentioned in the said Joint Declaration.

Based on the text of the Joint Declaration four main attributes of the proposed center can be highlighted:

- 1- It is a Regional center to be located in Iraq, thus its activities should cover other countries in the region in addition to Iraq;
- 2- It should be a center of Excellence (a qualitative aspect of what the center should be);
- 3- It is for Research and Training (specific though wide areas of specialization);
- 4- It is for Energy (a sector wide perspective covering all energy forms and components including conventional and renewable forms of energy).

The above understanding of the center could be seen as farfetched very optimistic view. It nevertheless states what the center should be all about in order to ensure its sustainability and long lasting existence and functioning.

The EUIC Study

The European Commission prepared the specific Terms of Reference-ToR for "Formulation study for the EU-Iraq Centre for Economic Partnership and Business Cooperation (EUIC)" and funded the study.

The ToR introduced and emphasized the “business cooperation” aspects while diluting the “regional” and “excellence” aspects referred to in the Joint Declaration. The EU total financial contribution to the proposed Centre was estimated at 5.2 million Euros.

During the period January- July 2012 the study was done and it involved holding formal meetings with related officials, diplomats, business representatives, and international organizations. These meetings were held in Brussels, Amman, Baghdad and Erbil.

The *Identification Fiche* was prepared during the first phase of the study, while the Action Fiche was finalized in the second phase suggesting the establishment of the EU-Iraq Energy Centre- EUIEC.

The Action Fiche outlines the general and specific objectives of the EUIEC. The overall objective of the EUIEC is to promote and improve the business climate for EU businesses in Iraq. More specifically, the partnership aims to promote the mutual interests of EU and Iraq by facilitating business cooperation in the energy sector, including its auxiliary business. The specific objective is to establish a joint, EU-Iraq platform for energy related matters that would conduct and advise on applied research in the energy sector, organize demand-oriented training, contribute to a result-oriented energy debate between the EU and Iraq, and promote EU-Iraq business partnerships in the energy sector.

The *Action Fiche* suggests activities pertaining to the Centre over two phases. The first phase (18 months) deals with activities related to the formation of the Centre, while the second phase (48 months) deals with the business plan comprising the following main components:

Research Component: To undertake applied research that is identified, relevant and needed for the three subsectors of Energy;

Training Component: To provide market –oriented, demand- driven and adequate training to enhance competency of human resources and to reduce capacity and skill gaps;

Energy Debate Component: To encourage and promote Energy discussion and debate for better understanding of the related issues;

Business Cooperation Component: To enhance and strengthen business cooperation for the mutual benefits of EU and Iraqi business communities and interests.

The EU financial contribution is 5.3 million Euros during the indicative operational duration of the programme of 60 months, followed by a 24 months closure period, leading to total duration of the project of 84 months.

Based on the above mentioned study and the two fiches the Financial Agreement pertaining to establishing the Energy Centre was premised and then signed on June 2013.

THE WAY FORWARD

To move from the good intentions into actions for establishing the Energy Centre both parties, Iraq and the EU, have to take specific concrete steps.

Type and Legal Base of the Centre

To begin with both sides have to agree on the type and legal terms pertaining to ownership and financing aspects of the Centre. Is it a joint venture and if so what is the participation interests of both side. As mentioned above, the EU contribution is confined to 5.3 million Euros. This amount is financially insignificant compared with the investment requirements to

establish such a Centre and the annual budgets to finance its activities. It is also insignificant to justify any substantive participation in the Centre.

Assuming both sides agree on the above vital issue, each has to take few steps forward. **Iraq** is required to take specific action on the legal, financial and managerial aspects as briefly reviewed below:

On the legal side:

- 1- The Parliament ratifies the PCA and enacts the related law. This has to be done in 2013. It is worth mentioning in this regards that the Cabinet approved PCA on 9 October 2012 and referred it to the Parliament for enactment. On 20 June 2013 PCA was tabled for the first reading according to the Parliamentary procedure. As on 8 October 2013 the law that would ratify PCA is still within the proposed laws' first reading list.

I strongly believe PCA legalization should be done within 2013 otherwise this could be delayed for at least one year from today. The parliamentary national election is scheduled for March 2014, and thus any serious work within the current parliament will be put on hold until the new parliament is seated. But from experience this might takes many months depending on the election outcomes;

- 2- The Government approves the Financial Agreement for the Energy Centre and refers the related draft law to the Parliament to enact the related law, if needs be. This again has to be done in 2013 for the same reasons mentioned above.

It is also worth mentioning this financial agreement for the Energy Centre is offspring of the Joint Declaration signed on 26 May 2011, which no information indicates its approval by the government or ratification by the parliament. On the other hand the earlier MoU on Strategic Partnership in Energy signed on 18 January 2010 was approved by the Iraqi government on 28 September 2010 and the parliament ratified it by Law 44 of 2012. In other wards it took Iraq a minimum two years to legalize the MoU on Strategic Partnership in Energy, and if this time lag is taken into consideration then the prospect of ratifying the financial agreement for the Energy Centre any time sooner is rather remote.

On the fiscal and financial planning aspects the government has to propose the required financial allocation to establish the Centre in the annual state budget laws. Whether such allocations should start from 2014 or beyond depends on the dates of approval and ratification of the Centre's MoU by the government and the parliament as discussed above.

On the managerial operational and preparedness matters the government should:

- 1- Nominate the Iraqi Team which should take active role in conducting the legal, technical and economic Feasibility Study for the Centre;

- 2- The Team should represent at least the three ministries that have direct role and relation to energy, namely: the Ministry of Oil, the Ministry of Electricity and the Ministry of Science and Technology;
- 3- The Iraqi Team should formulate their conceptual vision for this Centre including its structure, functions and governance system taking into consideration the role of this Centre within other similar centers in the country.

What should be emphasized here is that this Energy Centre is a cooperation enterprise with long term positive impacts on the Iraqi energy sector, which go beyond the term of any government. It, therefore, should be insulated from domestic political wrangling that has caused apparent stalemate within the Parliament deliberations in enacting important laws, and even beyond that! In this juncture it is worth referring to a letter dated 14 January 2013 signed by seven Iraqi parliamentarians addressed to the EU urging the EU not to sign the PCA!

The EU through the European Commission is required to do the following:

- 1- Prepare clear, realistic and coherent Terms of Reference for the assignment pertaining to the proposed Feasibility Study. The Terms of Reference should be confined to and reflect the contents and objectives of the Energy Centre. It is also advisable to solicit the opinion of the Iraqi side on the Terms of Reference for the Feasibility Study before announce it for recruitment purpose;
- 2- Provide the funding for the said Feasibility Study and enhance the oversight mechanism to maximize the value-for-money in conducting the Feasibility Study;
- 3- Ensure that the service provider (the consulting contracting company/firm) and the nominated expert(s) are well qualified, independent, knowledgeable of the Iraqi energy sector and they are supportive to this cooperation endeavor.

Here again what should be emphasized is that this Energy Centre is a cooperation enterprise with long term positive impacts for the EU and its members states. It, therefore, should be insulated from the negative political agenda of all involved individuals who might have direct and indirect involvement in the forthcoming steps pertaining to the Energy Centre, especially during the Feasibility Study.

Two further considerations should be kept in mind by the EC.

This Centre should, for the time being, incorporate the objectives of the Euro-Arab Mashreq Gas Market Centre, which was supported and established by the EU in Damascus few years ago but has been inactive since the outbreak of civil unrest in Syria and referred to in both the PCA (2013) and the MoU-SPE (2010).

Iraq, Iran and Yemen are among the countries covered by the (ICI+) referred to above. For obvious reasons Iran and Yemen currently are illegible, leaving Iraq as the only country in the MENA region to benefit from the facility, and thus should be set as a successful example in the utilization of the ICI+.

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8 October 2013