The study of the economic effects of smuggling goods in the country

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Abstract: Trafficking in the secret transfer of point to another is one thing that can be done a variety of different shapes and hidden arrangements. In terms of customs and other government collection, the purpose of trafficking, ferret goods from payment of taxes and duties And transfer and its sales are illegal and prohibited. It is strong in the Third World under the direction and management of global and of course the control and management aspects related to The political dimension of national security, economic and socio-cultural and is connected to the arrogant powers for the purpose of profit and plunder of national resources in developing countries and tapping the policy and The wide-spread movement have begun and in this way to steal the country's resources. No doubt smuggling economy- The production, investment, exports and employment have affected and their impact on it. The most important negative effect of smuggling, its impact on investment. In the meantime, some products organized and directed with the aim of attacking the values and ethical standards and are trafficked to the country in terms of cultural and increase the gap, wasting national resources, weakening efficiently, reducing hopes of national and public security to reduce the negative consequences of trafficking was political Iran shares borders with seven countries to have foreign (through land border) with different cultures and contrary to Iranian-Islamic culture has always been, Some special attention to economic and physical exploitation and also attracted the attention of others to Politically and culturally and hit the Islamic Republic of Iran was and is (like Turkey and Armenia Culturally and adherence to ethics in rank very low in comparison with the cultural communities affected by the rich culture of Islam). n this article smuggling economic effects on the country's economic system is reviewed and assessed. **The study of the economic effects of smuggling goods in the country.**

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Introduction:

Oil and Gas statutory provisions are the most complicated and most detailed parts of Iran's law by way of which the domestic and foreign investors lay down their participation and economical activities in Iran's oil and gas industry. Investment is one of the most important factors in developing the country's oil industry and, subsequently, the country's economical development. The new contract that has been recently designed by Iran's National Petroleum Company for its upstream sector has become known as IPC or "Iran's petroleum contract" and it includes the entire array of oil operations from exploration to excavation to development and exploitation and increase in oil production. In this succinct introduction, we investigate the fundamental difference between this contract and the various types of oil contracts that have been signed in the course of the history of oil industry and then we will deal with the effects that the implementation of these contracts will have on the structure of Iran's national petroleum company and the future of the country's oil industry. Then, the difference between this contract and the other buy-back contracts will be summarily presented and, finally, suggestions are made in line with the contracts' revisions and providing hints to the points that are left unnoticed in designing these oil contracts and eventually the introduction will be concluded. "The general conditions, structure and pattern of the upstream oil and gas contracts", recently passed by the board of ministers, is the only formal document to which references are made herein.

In an oil contract before IPC only the exploration and development were included, whereas the new government intends to assign foreign companies to oil production from the fields and this means delegating the entire oil production stages to foreign companies and, on the other hand, the other oil fields that are currently producing and being exploited will be conferred to foreign oil giants based on IPC and this is a warning sign.

Iran shares many reservoirs with its neighboring and surrounding countries, namely Iraq, Kuwait, Saudi Arabia, Qatar, United Arab of Emirates and Oman and at least 15 common reservoirs of the type have been identified thus far. Iran's common on-land reservoirs are located on our country's borders with Iraq. These reservoirs are Naftshahr oil reservoir, Dehloran, Paydar-e-Gharb, Azadegan and Yadavaran; as for now, Dehloran, Paydar-e-Gharb and Naftshahr oil fields are in operation and Yadavaran and Azadegan oil fields are at various stages of development. The other ten common reservoirs are offshore and they are shared with the Persian Gulf neighboring countries. Arash gas field is Iran's only field shared with Kuwait in Persian Gulf. Esfandiyar, Foruzan, Farzad oil fields are shared with Saudi Arabia.

In IPC, the entire stages from the beginning till the end are delegated to oil companies for 25 years and interestingly 50% of the profits will be belonged to the foreign investor and they can register it in the list of their assets outside the country.

Study Background:

Although there is a scarcity of research on legal analysis of the new oil contracts there are scattered and very few studies regarding oil here and there that are listed below:

Sayyed Sadegh Kashani (2009) in an article entitled "development of oil and gas fields, project implementation structures and approaches", after partitioning the properties, deals with the topic of oil and gas resources proprietorship and investigates the issue from Islam's and western countries' laws and writes: "corresponding to the oil law, approved in 1934, the government of England grants the queen the right to own on-land resources. Based on this law, it is stipulated that the ownership right of the oil inside the reservoirs in England is granted to the queen. But, in Islam's law, all booties at the time of Immaculate Imam (Peace be Upon Him) are permissible to the Shiites meaning that the entire people have the right to benefit from such properties".

Moluk Partovi (2008), in an article called "foreign investment in country's oil and gas upstream sector within the country's fourth development program", offers suggestions regarding the way the foreign investors can be attracted and writes: "some limitations and barriers like the preservation of ownership and the exertion of proprietorship preoccupations by the government on the oil and gas resources and the existence of various political and economical risks makes the financial resources attraction faced with problems in country's oil and gas industry. The necessity to pay attention to comprehensive and holistic solutions, coordination with international competitive markets, identification of the risk reduction factors, revising and according some of the domestic laws such as oil law, distribution of bonds and so forth are among the ways to confront with the foreign investment attraction challenges in oil and gas sector.

Shayan Bahrami (2012), in his MA dissertation titled "oil stock market and the solutions for its creation in Iran" based on a descriptive-analytical method, suggests the establishment of an oil stock market in Iran and writes: "the exclusivity created in the area of oil sales markets which are practically confined to several limited American and English stock exchange markets has put the pricing and transactions' control at the hands of the intermediaries and brokers from these countries. The monopoly of such powers in oil transactions can be challenged in case an oil stock market is founded in Iran."

Akbar Torkan (2012), in a strategic report sent by him to the center of strategic research, called "petroleum resources management and financially funding the petroleum projects", writes: "persistent and long-term investment and undertaking underlying projects in line with the creation of added value and generative production in the country are among the necessities of country's sustainable development". In order to supply the country's infrastructure sector, particularly energy sector, with its investment needs, the resources gained via oil sales are required to be correctly managed and it is through allocating these resources to the infrastructural projects that the road is paved for the country's growth.

Study Questions:

1) How the oil law is evaluated from various angles in the new IPC contracts?

Study Hypotheses:

1) The government can sign more investment contracts, of the IPC type, through economical diplomacy and in line with country's oil-industry macro-level objectives and it can encourage other countries to invest and develop petroleum projects inside the country.

Study Method:

The Essential Components of Finance Contracts and the Methods of Funding Financial Resources:

The most original feature of projects' financing, separating it from the other financial funding methods including the traditional methods of funding via loans, is relying on the future earnings obtained from projects implementation for the principal and interests repayment. In the conventional method of borrowing a loan, the borrower, disregarding the idea that the project for which the loan has been borrowed has gained enough earnings for the principal and interest repayment, becomes committed to return the principal and interest on due date.

In financing a project, if its earnings do not afford the principal and interest repayment the lender cannot claim for the properties of the involved companies. Project financing is generally the method of choice for raising money for huge and costly projects for which funding the financial resources based on common methods is not deemed appropriate. The implementation of a great many of the gigantic economical projects requires extensive financial resources the raising of which by the involved companies is rarely affordable through their internal resources.

Results:

Projects Supported by the Government for Funding the IPC's Financial Resources:

To financially fund a project, there is a need for a special composition of different skills. Having knowledge of the project quality and the relevant regulations are compulsory. There are special techniques applied in getting the funds supplied. Judging the quality of future markets' contingencies for the products and/or the services that will be offered by the project is not easy.

Methods of Supporting Foreign Investors from an Investing Country in IPC:

The fact that the foreign investor enjoys full option in selecting an investment resort is of a great importance and if there is not laid auspicious bedding and grounding for supporting investor's rights then there would be no tendency for doing so. The investment-receiving countries should seek for any possible means as to provide for an optimum and trustable space as intended by the investor and, in doing so, they should not spare any sort of encouragement and competition.

Social Factors Influencing the Foreign Investors' Presence:

The social conditions governing every society is influenced by a great many of the factors; particularly, Iran's community that is fundamentally inspired by its religious and ideological Islamic principles as well as its specific traditional culture and rites. The foreign investors' inability and incapacity in adjusting their spirits and moralities with the social foundations governing the Iranian society and the intolerance of their behaviors or conducts and spiritual qualities by the individuals who are somehow pessimistic about the foreigners' presence and the mental image and background that is formed in the minds of some citizens who "consider foreign investor as a colonialism agent and a means of spreading domination by the outsiders" would surely cause the foreign investor to think doubtfully and hesitantly regarding transferring his or her investment to Iran.

Legal Policies in Attracting Foreign Investment:

In addition to the political and economical grounds, foreign investment is in need of optimal legal bedding. Potential investors perform legal studies on the country where they intend to make their investments before actually doing so. The followings are some of the most important barriers in the constitution to the attraction of foreign investment:

1) Granting Encouraging Privileges to the Foreign Investors

Article 81: "granting foreigners with a permit for establishing business, industrial, agricultural, mine and service companies and institutions is absolutely forbidden".

2) Recruiting Specialized Workforce from Outside the Country for Expertise and Technology Transfers:

Article 82: "recruitment of foreign experts by the government is forbidden unless otherwise is deemed necessary and approved by the Islamic Council".

3) Compromise in Lawsuits and the Possibility to Resort to an Arbitrator for the Dissolution of the Discrepancies:

Article 139: "any conclusion of the claims in regard of the public and governmental properties or any referral to an arbitrator in any case shall be dependent on an approval by the board of ministers of the course of which the parliament should be made aware. In cases that a party to a lawsuit is a foreigner and in critical domestic law cases it is the parliament that should approve. The critical cases are and should be stipulated by law".

4) Awarding Financial Incentives and the Elimination of Barriers in regard of Tax Payments and Tariff Rights:

- Essential Conditions in Attracting Direct Foreign Investment in IPC:

The more a country enjoys extensive facilities for reducing the production costs and the higher the level of the technology it devises to do so, the more foreign investment will directly flow thereto. In fact, the primary reason behind the inflowing of a high volume of such a type of capital to the developed counties is the existence of the below-mentioned conditions in such countries. The factors influencing such a flow of investment can be enumerated as beneath:

1) Economy-based Policy-Making:

Whenever the economical policy-making in the host country is in parallel to the creation of open and stable economical atmospheres, the investment risks go down and, consequently, the capital flow can be summarized as underneath:

A) Monetary Policy: these policies are the determinants of the factors influencing the inflation rate in every country. In fact, the lesser the inflation rate in the host country the lesser the reductions in the value of the assets and the net investment profits and, subsequently, the investment risk is mitigated and, resultantly, the direct investment flow will be increased[1].

B) Financial Policy: it is an indicator of the governments' budgetary shortages and tax earnings. In cases that there is a budgetary deficit and it is compensated via borrowing from Central Bank, there would be an emergence of inflation in the host country and as it was mentioned this has a negative effect on the foreign investment flow.'

C) Foreign Exchange Policy: the constellation of the foreign exchange policies is reflective of the currency system's status. In case that the currency rate follows a stable trend, there is more confidence in the country's economical space and, subsequently, the decision-making for the foreign investors will be easier.

2) Economical Structure:

The more robust the economical structures and infrastructures of a country the more inclined are the foreign investors towards making direct investments therein. The economy's most substantial structural factors directly influencing the capitals attraction are:

A) Trade Balance Stability: trade balance stability means the foreign trade system steadfastness as a result of which the foreign investors become more confidently willing to make investments.

B) Market Extensiveness: the more the markets of a country are found extensive and unsaturated the more the inflowing of capital will be strengthened.

C) Foreign Debits: the lesser the debt loads of a country, the higher the chances of financial funding through inflow of the capital thereto[2].

D) Financial Funding Structure: the more solid the country's banking system status and the more diverse and more facilitated the loans banks provide to their clients the more the foreign investors will be provided with the necessary grounding for making their investments.

E) Infrastructural Installations: the existence of widespread economical infrastructures such as roads, communication systems etc. are the effective factors in attracting capital.

3) Political Factors:

When the free market does not work properly, such as the time when the market mechanism cannot make perfect use of all the extant facilities or develop new competitive advantages and/or when it cannot give appropriate signs to the economical users so as to make proper investment decisions, the government's involvement is indispensable. Of course, such an intervention by the government is in a way that the government becomes capable of taking the necessary steps to design, apply and supervise the policies that compensate the deficiencies.

Discussion and Conclusion:

Project financing is generally a method of choice for heavy and costly economical plans for which the normal ways of supplying the financial resources is not appropriate. The implementation of a great many of huge economical projects requires excessive financial resources the funding of which can rarely be afforded by the involved companies by means of their internal resources. Applying for loans in its traditional form which is based on guaranteeing repayment by the borrower is highly risky for the execution of gigantic projects. It is concluded from the survey of the legal principles and regulations governing the energy law that the exertion of substantial legal principles has not made available the results that logically were to be obtained through the implementation of the primary legal principles. In other words, according to the idea that the tribunal has considered a particular role for stability in the contract and confirms the indispensability of the contract dependent thereon, the domestic legal rules of the host country have been left unattended. According to the idea that the principle of contracts' indispensability is one of the most important communication elements, it appears to the author of the current research paper that the difference between the exertion of the aforementioned principle in international treaties and oil contracts stems from the variations that have been brought about in this area. It is for the same reason that laying the claims on the foundation of such a principle in the treaties takes place under exceptional circumstances and in the contracts signed in various areas like oil, according to the nature of the legal interrelationships, these changes took a long time to take effect.

The important idea here is the recognition of the advantages and disadvantages and the mechanisms of each of these methods and correct use of them for preserving the country's reservoirs and natural resources. Making use of Islamic ways of financing, as well, provides for the projects with the Islamic capital markets in which legal deeds are traded and also Islamic financial markets are established by the use of contractual arrangements.

Financing contracts have been taken into consideration by many countries as an appropriate instrument for funding the financial resources required for running hydrocarbon resources development (oil, gas and petro-chemistry); however, it has to be noted that financing contracts are not predetermined prescriptions that could be applicable under any conditions and for the entire projects. It is noteworthy, as well, that the creditors want the project to be considerably economically justifiable and the project owners be found with firm volition, determined to run

1

2 Ibid, p.51

the project and featuring the sufficient prestige. The existence of comprehensive contractual structures, plus the robust and essential warranting mechanisms, is among the other wants of the creditor institutions and it is one of the main elements for guaranteeing the financing contracts' success.

Generally, according to the possibility of foreign investment in various countries, the optimality of just one or several variables of financial-economical and technical incentives or supportive, political and geographical factors for taking measures by the aforementioned companies in making investment in a special project in another country does not suffice it rather the evaluation of all factors and in the form of a system leads to the adoption of decision to or not to make investment. Attracting the foreign financial resources to the country without changing the politicians and experts' attitudes and without preparing the appropriate bedding for the inflow of capital is not deemed probable and the new law does not seem to bring about much of a change. Due to the same reason, the foreign companies are not willing enough to make investments in the country unless auspicious cultural, social and political conditions are provided and, in the end, the country's involved authorities should change their approaches and attitudes towards foreign investment.

It seems that the future generation would ask the question as to "why the oil contracts are rendered confidential even with the proposition of buy-back contracts and why the petroleum, economy and management engineers, experts and specialists are not allowed to elaborate the oil contracts pitfalls through reaching to a consensus before they are signed so as to provide, resultantly, the present and future generations with the interests gained via the country's oil and gas reserves?" It is hoped that the confidentiality of the contracts that are going to be signed in near future with the foreign oil companies can be lifted and they can be disclosed to the board of ministers like the draft approved by them in regard of the "general conditions, structure and pattern of the upstream oil and gas contracts", then it can be ascertained that the shortfalls therein will be removed and the national interests will be best preserved.

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