

## **In the Name of the People**

### **Presidency Council**

Pursuant to the decision of the Parliament and in accordance with Article (61/ First) of the Constitution and due to the elapse of the legal period stipulated in Article (138/ Fifth / a) of the Constitution the following Law has been issued:-

### **No. (64) Of 2007**

### **Law of Private Investment in Crude Oil Refining**

#### **Article -1**

This Law aims to encourage the private sector to participate in the economic development in Iraq and to take part in building the industrial infrastructure through engagement in the activity of crude oil refining.

#### **Article -2**

**2.1** The private sector may establish refineries for refining crude oil and possess their facilities and operate and manage them and market their products but may not possess the land.

**2.2** For the purposes of this Law, the private sector shall mean any Iraqi company set up according to the provisions of Companies Law No. (21) Of 1997 or foreign company or group of companies, individually or in association with each other, which possess financial and technical capability to establish refineries to refine crude oil to the best international standards.

#### **Article -3**

Iraqi personnel shall constitute a minimum of (75%) seventy-five percent of the number of employees of the investing company in accordance with this Law.

#### **Article -4**

The refinery shall be of an advanced technical level producing a maximum of (20%) twenty percent heavy oil products.

#### **Article -5**

The Ministry of Oil shall supply the refineries with sufficient crude oil for their operating capacity under a contract to be signed between the Ministry of Oil and the investing company at prices based on the following formula [the export price of Iraqi crude oil delivered to the international markets on FOB basis minus (1%) one percent minus the cost of transporting the crude oil from the nearest delivery point to the refinery].

#### **Article -6**

**6.1** The refinery shall be supplied with the crude oil from the nearest appropriate point to the refinery defined as the delivery point through transporting pipelines.

**6.2** The investing company shall undertake to construct, at its own expense, the crude oil transporting pipeline connecting between the delivery point referred to in sub-Article **6.1** hereof and the refinery and shall undertake the full responsibility for its operation and maintenance.

**6.3** The Ministry of Oil shall install its own measurement and control facilities for the crude oil and shall be responsible for their operation and maintenance.

## **Article -7**

The measurement and control facilities shall be subject to periodical inspection and calibration by a specialized third-party nominated by the investing company with the approval of the Ministry of Oil.

## **Article -8**

**8.1** The investing company is not entitled to trade neither in the crude oil received from the Ministry of Oil nor in the oil products produced by the governmental refineries.

**8.2** The special ministerial committee for investment in the field of crude oil refining, referred to in sub-Article **17.1** hereof, shall impose appropriate penalties in case the investing company violates the terms of the contract and the articles of this Law.

## **Article -9**

Projects established in accordance with this Law shall enjoy the privileges granted to those established in the free zones in Iraq.

## **Article-10**

**10.1** The investing company may determine the prices of its oil products and it may sell them inside Iraq or export them to foreign markets according to the regulations applicable in the free zones.

**10.2** The Ministry of Oil shall have priority to purchase its requirements of the products stipulated in sub-Article **10.1** hereof.

## **Article -11**

The investing company shall submit periodical financial and technical reports to the Ministry of Oil in accordance with the form prepared by the Ministry of Oil and with the instructions issued by the Minister of Oil.

## **Article -12**

**12.1** The Ministry of Finance undertakes to allocate suitable land for the investing company through leasing for a period not exceeding (40) forty years extendable and at an annual rent rate to be agreed upon by both parties. Said lease shall be exempted from the provisions of the Law of Sale and Lease of State Property No. (32) Of I 986.

**12.2** Notwithstanding the provisions of sub-Article **12.1** hereof, the investing company may choose to lease lands required for the project which may be either owned freehold by the state or owned by the municipalities in districts for investment or it may lease private lands according to a contract which determines the rights and obligations of the investing company and the land owner.

**12.3** The investing company is not entitled to exploit leased lands for purposes other than the refinery project and its related services.

**12.4** The Ministry of Finance shall withdraw the land referred to in sub-Article **12.1** hereof from the investing company in case of exploiting it for purposes other than the refinery project and its related services or not exploiting it during the period agreed upon in the contract.

## **Article-13**

The investing company is committed to provide by its own means the entire requirements for electrical power, utilities and all other supporting facilities of the project.

## **Article-14**

Notwithstanding the provisions of Article **13** hereof, the investing company may utilize the public facilities (such as depots, export terminals, ports and pipelines....) in accordance with contracts to be

signed between it and the Ministry of Oil or the relevant ministries and companies to regulate the rights and obligations of the concerned parties.

#### **Article-15**

The investing company shall comply with the environmental and industrial safety laws and regulations.

#### **Article -16**

The products of the refineries set up according to the provisions of this Law shall comply with all relevant laws and regulations for standardization and quality control.

#### **Article -17**

**17.1** A committee shall be set up under the name of "the special ministerial committee for investment in the field of crude oil refining" reporting to the Council of Ministers. Members of the committee shall include the Ministers of Oil<sup>1</sup>, Finance<sup>2</sup>, Environment<sup>3</sup>, Industry<sup>4</sup>, Electricity<sup>5</sup> and Planning and Developmental Cooperation<sup>6</sup>. The head office of the Committee will be located in the Ministry of Oil.

**17.2** Additionally, a member representing a Region or a Governorate not forming part of a Region shall have membership of the Committee for the case of refineries established through investment within the boundaries of the concerned Region or Governorate.

**17.3** The Minister of Oil shall name one Ministry of Oil official bearing the title of director general as reporter of the Committee.

**17.4** Regions or Governorates not forming part of a Region may grant licenses to establish refineries to, and set up direct contact with investing companies interested in establishing refineries within their boundaries, in coordination with the ministerial committee referred to in sub-article **17.1** hereof.

#### **Article -18**

The Minister of Oil may issue instructions to facilitate the implementation of this Law.

#### **Article -19**

This Law shall take effect on the day of its publication in the Official Gazette.

### **Due Causes for issuance of this Law**

In compliance with the new economic transformations in Iraq and with a view to increase investment opportunities for the Iraqi and foreign private sectors in the field of crude oil refining and to satisfy the need to increase the local production capacity of oil products, improve their quality, achieve flexibility and reduce the cases of oil products' shortages and congestion in governmental refineries, this Law was enacted.

## **Instructions No. (1) of 2009**

Pursuant to the provisions of Article (18) of Law of Private Investment in Crude Oil Refining (No. 64 of 2007), we hereby issue the following instructions No. (1) Of 2009.

### **Instructions for the implementation of the provisions of law No. 64 of 2007**

The Investment Committee of Crude Oil Refining shall grant a license to construct a refinery for crude oil refinement inside Iraq according to the provisions of this Law, in pursuance of the instructions stated below:

#### **First: - Procedural Issues:**

- 1.** To submit an application to the Ministry of Oil – Directorate of Studies, Planning and Follow up expressing willingness to establish a crude oil refinery according to the above Law signed by the owner of the company or whomever he authorizes with an authorization letter.
- 2.** To submit the certificate of incorporation of the Iraqi or foreign company(s). For the Iraqi company (s), the certificate shall be according to the provisions of Companies Law No. (21) Of 1997.
- 3.** To submit a brief profile of the company (s) about their qualifications, experience and capabilities to construct crude oil refineries.
- 4.** The investing company (s) or any member in a consortium shall not be black-listed.

5. The investing entity shall undertake to employ Iraqi personnel to constitute no less than 75% of the total employees.
6. The investing company shall undertake not to trade in the crude oil received from the Ministry of Oil nor the oil products produced by state owned refineries or imported by the public sector.
7. The investing company shall obtain a preliminary approval from the governorate (or the province) where the refinery will be constructed.
8. The investing company shall obtain a preliminary approval from the Ministry of Finance to allocate a suitable land through lease to build the project on a State owned land. If the land is owned by the private sector, the investing company shall submit a lease contract signed with the owner of the land certified by the notary public, stating the area of the leased land and the period of the lease.
9. The Economic and Financial Directorate shall follow up with the competent ministries to facilitate the procedures of submission and obtaining the required approvals.

**Second: - Financial Requirements:**

1. Financial report of the company for the last three years.
2. The credit proficiency and financial qualifications of the company.
3. Expected funding resources.
4. Expected total investment amounts to construct the project.
5. Preliminary economic feasibility study of the project.

**Third: Technical Requirements:**

1. The refinery shall utilize advanced designs to maximize both gasoline and gas oil yield or at least one of them to ensure that the production of fuel oil shall not exceed 20% by volume and to ensure that the design shall fully conform to industrial safety and environmental rules and regulations.
2. Companies intend to carry out technical and economic feasibility studies shall be named.
3. Definition of refinery products, their percentage to crude oil input and their main specifications in addition to preliminary approval of processes and production specifications which shall comply with Euro-4 specifications as a minimum requirement.
4. Location and area of the refinery shall be indicated.
5. Statement of the approximate time schedule envisaged for the implementation of the project.

**Fourth:** The Ministry of Oil shall study the project and present the preliminary recommendations to the ministerial committee for approval.

**Fifth:** Following the approval of the ministerial committee to carry out the project, the investing company shall submit the final technical and economic study of the project.

**Sixth:** The investing company shall apply to the Investment Commission for an investment license to establish the project in pursuance of chapter

six of Article (19) of the Investment Law No. 13 of 2006, supported by the following documents:

- The approval of the ministerial committee of the construction of the project.
- The technical and economic study of the project approved by the Ministry of Oil.
- The approvals of Ministry of Environment, Ministry of Finance and of all relevant authorities.

**Seventh:** Upon the issuance of the project license by the Investment Commission, a contract shall be signed between the Ministry of Oil and the investing company to supply the refinery with crude oil (according to the price formula stipulated in attachment No. 1 hereof) through the transportation pipelines of the Ministry of Oil, from the nearest suitable point to the refinery agreed upon by the parties in adequate quantities for the approved operational capacity.

**Eighth:** The supply contract of the crude oil shall indicate the minimum quantities that the Ministry of Oil undertakes to supply and the supply period.

**Ninth:** The supply of the crude oil shall commence after the announcement of the operation of the project.

**Tenth:** The Ministry of Oil shall undertake to install its own measurement and control instruments, upon notification of the completion of the construction of the project and it shall be responsible for operating and maintaining them.

**Dr. Hussein AL-Shahristani**

**Minister of Oil**

**Appendix No. (1)**

$$P = P1 - D - B (A1 - A2) - C$$

The symbols of the formula shall have the following meanings:

P = Final price of one barrel of crude oil supplied to the refinery during the loading month.

P1 = Monthly average of the Brent crude oil (DATED) price published in PLATTS bulletin.

D = An amount determined monthly by SOMO which equals to the price difference between Brent crude oil (DATED) and the crude oil needed to be priced (Kirkuk or Basrah light).

B = An amount equals to the value of one density degree measured by the American Petroleum Institute (API) degrees for the supplied crude oil. This amount shall be deducted from or added to the monthly average of the price of one barrel of the supplied crude oil, to compensate the buyer (the owner of the refinery) or the seller (SOMO) for the difference between the

density of the crude oil stipulated in the contract (A1) measured by the degrees of the American Petroleum Institute (API) degrees and the actual density for the supplied crude oil (A2) with the same measurement. This amount shall be calculated on the basis of the value of one API degree estimated according to the same applicable amount of the exported Iraqi crude oils.

C = It represents the transportation cost needed to be compensated by:

An amount deducted from the monthly average of the price of one exported barrel and it equals to the total cost of transporting one barrel by pipeline from the refinery supplying area to the tanker in the port of export.

The final price of one supplied barrel determined in the above formula shall be subject to a discount of 1% according to Article (5) of the Law.