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**International Reconstruction and Investment** by **Yuriy Vilner** |  
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**I**nternational efforts to rebuild postwar Iraq generated a breadth of legal issues. Since reconstruction investments are often managed by US-based entities, most arising legal claims and disputes have involved American citizens. Many of the prominent reconstruction disputes arose from the awarding of US government service contracts to American firms. As early as December 2003, JURIST Guest Columnist **Joost Pauwelyn** challenged the legality of restricting reconstruction and relief contracts to "firms from the United States, Iraq, Coalition partners and force contributing nations." Pauwelyn argued that such practices were inconsistent with the World Trade Organization's (WTO) non-discrimination principle as applied to the **Government Procurement Agreement**.

No-bid contracts have been commonplace throughout the Iraqi reconstruction process, generating multiple US Department of Justice (DOJ) inquiries. Oil conglomerate Halliburton has been the **focus** of several fraud investigations. Halliburton subsidiary Kellogg, Brown and Root (KBR) **faced** accusations regarding a five-year contract for oil field repair in November 2005. KBR was **forced** to pay US\$4 million to settle potential claims of fraud in August 2006. Additionally, an executive of Halliburton subsidiary Eagle Global Logistics (EGL) **pleaded guilty** to making false statements and violating the **Anti-Kickback Act** in connection with the company's Iraq shipping contracts.

Following these scandals, the US government began a comprehensive crackdown on war profiteering in post-invasion Iraq. In March 2007, the US Department of Defense (DOD) **began** to monitor contractors involved in Iraqi reconstruction with heightened scrutiny. A federal probe was also **initiated** in September 2007 to respond to numerous complaints of fraud and related offenses against US government personnel and contractors. However, a 2008 DOD audit **revealed** that the US military failed to ensure that over US\$8 billion dollars in Iraqi reconstruction contracts, awarded between 2001 and 2006,

complied with federal anti-fraud laws.

The DOJ has also prosecuted individuals for extreme abuses of the contract assignment process, as in the **2007 case** of former Coalition Provisional Authority (CPA) comptroller Robert Stein, who is currently serving a sentence for conspiracy, money laundering and bribery. Individuals were also prosecuted under the **Foreign Corrupt Practices Act**, as in the 2006 case of **Faheem Mousa Salam** who was a translation contractor working for Titan Corporation.

These drawbacks notwithstanding, Iraq's petroleum sector has largely recovered since the invasion. In January 2007, Iraqi legislators **proposed** formal parameters on the development and distribution of the national oil reserves. No agreement was **ever reached**, but the Iraqi Ministry of Oil awarded service contracts to develop seven separate oil fields between June 2009 and February 2010.

Some US oil companies benefited from no-bid contracts during this time period, which was described by JURIST Contributing Editor **Haider Ala Hamoudi** as "unusual in the industry and particularly unusual given the global demand for oil." Hamoudi went on to identify Iraq's lack of independent and qualified counsel throughout the contract assignment process:

It seems inconceivable to me that a competent lawyer (in the government, on a USAID contract or otherwise) if handed an oil contract and told that it is a contract between Iraq and an unnamed oil company and then asked to comment thereon on behalf of the Iraqi government would provide any comment further than "hire a lawyer."

Should all current service contracts reach their stated targets, Iraq will have an oil production capacity comparable to that of world leader Saudi Arabia. Iraq's finance, private security, and telecommunications sectors have also reached unprecedented heights owing to the post-invasion period. As the international community sends resources and aid devoted to Iraqi reconstruction, the law continues to define clear rules according to which such efforts will proceed.