

Iraq-Turkey Pipeline Arbitration: Avoiding a Policy Train Wreck

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Brief Analysis

Baghdad is suing Ankara for giving the Kurds independent pipeline access, but the biggest loser may be Washington's pressure campaign on Iran.

The Iraq-Turkey Pipeline is jointly owned by both states and governed by international agreements. In Ankara's view, these agreements allow the Kurdistan Region of Iraq (KRI) to access the ITP directly, but Baghdad sees things differently and has sued Turkey in the International Chamber of Commerce. As the ICC arbitration approaches a ruling, Washington urgently needs to midwife a settlement that keeps Ankara from cutting off Iraqi oil exports—especially at a time when every barrel is needed on the market to replace sanctioned Iranian oil.

FROM AGREEMENT TO ARBITRATION

The ITP is a duo of large-volume oil pipelines that were developed so that Iraq could export over a million barrels of crude each day to the Mediterranean region via the Turkish port of Ceyhan. The two states signed the ITP agreement in 1973, with updates in 1976, 1985, and 2010. It states that the Turkish government “shall adhere to the instructions of the Iraqi side in relation to the movement of crude oil coming from Iraq in all centers of storage, disposal, and at the terminal.” In the 2010 extension agreement, Turkey confirmed that the “Iraqi side” is defined as the “Ministry of Oil of the Republic of Iraq,” with a provision that grandfathers this definition into prior ITP documents.

Since early 2014, Ankara has allowed the KRI to export oil independently of the federal Oil Ministry in order to replace withheld Iraqi budget transfers, tying in Kurdish pipelines to the ITP at the KRI-controlled border town of Faysh Khabur. This has enabled the KRI to sell its oil directly to market and pocket the revenues; [Baghdad views this](#)

practice as illegal (<https://www.washingtoninstitute.org/policy-analysis/view/putting-iraq-krq-oil-relations-on-solid-legal-ground>), but the Kurds see it as recompense for withheld salaries. In May 2014, the dispute spurred Iraq's State Oil Marketing Organization to file an ICC arbitration claim on behalf of the Oil Ministry. The defendant is the government of Turkey, represented by the state-owned pipeline operator BOTAS. The claim asserts that "by transporting and storing crude oil from Kurdistan, and by loading that crude oil onto a tanker in Ceyhan, all without the authorization of the Iraqi Ministry of Oil, Turkey and BOTAS have breached their obligations under the Iraq-Turkey Pipeline Agreement."

After years of quietly rolling along in the background—and adjusting to the death and replacement of Iraq's arbitrator—the case is now reaching its conclusion, with the ICC expected to make a ruling this November. Turkish courts are obliged to honor foreign arbitration awards, so a ruling against Ankara and BOTAS would compel them to follow Baghdad's instructions on the marketing and loading of all crude at Ceyhan, including Kurdish-operated crude produced by international oil companies. The initial ruling might also open the way for Baghdad to claim damages in further ICC sessions next year.

U.S. INTERESTS AT RISK

Such an outcome would jolt U.S. allies and policy imperatives alike. In Turkey, an unfavorable ruling would likely sting the pride of President Recep Tayyip Erdogan at a time when economic confidence in his country is dropping. In the KRI, the Kurds and their commercial oil partners would have no further incentive to export crude and every reason to threaten a production lock-in. And if either party were to shut down the ITP, the world oil market would lose nearly half a million barrels within a space of weeks.

In April, the ITP carried 392,000 barrels per day of KRI-operated crude and 86,000 bpd of federal Iraq-produced crude from Kirkuk, for a total of 478,000 bpd. The sudden loss of these flows would be felt keenly, in part because the United States recently accelerated its campaign to push Iranian oil exports to zero in response to the regime's regional and nuclear policies. An ITP cutoff would make it more difficult to wean Turkey and the Mediterranean medium-crude market off of Iranian oil. At present, the pipeline is Turkey's leading source of crude, providing 24 percent of its imports in March. Yet waiting in the wings to replace Iraqi market share are Russia and Iran, who provide 15 and 12 percent of Turkey's oil, respectively (along with 53 and 20 percent of its natural gas imports). Neither Washington nor Erdogan wants Turkey to be any more energy-dependent on those two players. Iran stands to gain the most from an ITP shutdown, which would boost its east-west energy export strategy over the **U.S.-preferred arrangement of south-north exports (<https://www.washingtoninstitute.org/policy-analysis/view/iraqs-energy-future-lies-to-the-north>)** from Iraq to Turkey.

In contrast, U.S., Iraqi, Turkish, and KRI interests would all be served by urgently freezing the ITP arbitration and settling the case. Ankara, the Kurds, and Washington have jointly sought to convince Baghdad to delay the arbitral award, but their efforts have failed thus far. The Iraqi government believes it is likely to win a favorable ruling at the ICC, so pausing the process would be politically difficult for Prime Minister Adil Abdulmahdi, who is already under criticism for striking a budget deal that transfers \$490 million a month to the KRI without immediate concessions in return. It is unrealistic to expect him to give up leverage on Turkey as well without some reciprocal concessions from Ankara.

Abdulmahdi is due to visit Ankara on May 14 for what would be the decisive meeting on this critical issue before the ICC's final hearings (in September) and ruling (November). The United States needs to make a compelling case if it hopes to overcome his caution and counter Iranian reinforcement of the domestic pressure he is facing. This means working actively and directly with all sides to ensure the Ankara meeting bears fruit, which Abdulmahdi can then use back home to justify freezing the arbitration.

Washington's relations with Ankara are not particularly good at the moment due to tensions on various fronts (e.g., Russian S-400 missile sales to Turkey; thorny security arrangements in north Syria). Even so, when U.S. officials meet with the Turkish leadership in the near term, they should prominently mention the ITP arbitration and urge Ankara not to overreact to an unfavorable ruling if the case proceeds. They can reinforce this message via European partners who have less contentious ties to Ankara; these allies should be more than willing to help, since few of them want to see the KRI plunged into economic crisis, Russia strengthened, or Turkey blacklisted for shutting down pipelines or ignoring arbitral awards.

Washington has better relations with Baghdad at the moment, so it may be able to convince Abdulmahdi to approve an arbitration delay in return for strong support on other issues. For example, U.S. officials could push for eventual removal of the Turkish military base in Bashiqa, Iraq, where Turkish troops occupied a new outpost overlooking Mosul in 2015. Abdulmahdi is sure to raise this subject during his visit to Ankara, but Turkey has been intransigent about it so far.

Washington could also offer to reward Iraq with another ninety-day waiver on **conditional purchases of Iranian gas and electricity** (<https://www.washingtoninstitute.org/policy-analysis/view/renewing-the-iran-sanctions-waivers-part-2-energy-and-afghan-trade>), which would be less harmful to U.S. interests than a collapse of northern Iraq's energy exports. Extending such waivers this summer would have the added benefit of denying Iran the opportunity to blame the United States for any seasonal power failures in Iraq.

Michael Knights is a senior fellow with The Washington Institute. ❖

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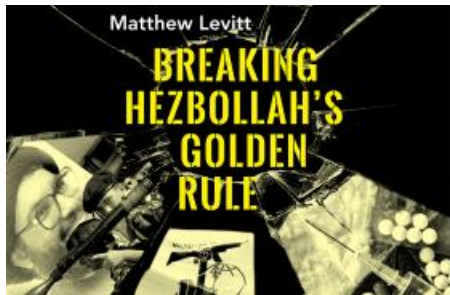
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