



THE ROLE OF THE LEGAL SYSTEM IN STRENGTHENING MECHANISMS FOR ATTRACTING FOREIGN OIL INVESTMENTS: A CASE STUDY OF ALGERIA

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ABSTRACT:

This study aims to shed light on the role of the legal system in strengthening the mechanisms and means of attracting foreign oil companies in Algeria, by identifying the most important facilities and measures taken to ensure their continuity and stability and evaluating the indicators of these policies, as the problem of research revolves around the effectiveness of the role of these mechanisms in attracting and facilitating Procedures before foreign oil companies under the Algerian Law for Oil Investments No. 01-13 issued on 02/20/2013 amending and supplementing Law 07/05 of 2005.

INTRODUCTION

Investment is considered one of the basic factors in the development of the national economy in light of the new international conditions, and in light of the movement of money transfer that directly affects the policy of countries that have become dependent on sustainable development on the use of non-renewable natural resources in a way that does not lead to their death or deterioration.

Algeria, like other oil-producing countries, has endeavored to develop a strategic plan and comprehensive perceptions about attracting administrative, technological, technical and financial capabilities and capabilities from outside the sector in order to reach an optimal exploitation of the natural resources generated by the oil sector, in order to achieve a better economic and social return for the state in all stages. Exploitation of these wealth, This also helps to provide a greater opportunity for this main sector to contribute more effectively

to the efforts to develop the national economy and support national security in the short and long term, in implementation of what was stated in the Algerian constitution, as we find it stipulated in Article 12 that: "The state's sovereignty shall be exercised over its field. The state also exercises its sovereign right recognized by international law over each of the various maritime areas to which it belongs.

Article 17 of the Constitution also states: "Public ownership is the property of the national community and includes the subsoil, mines, quarries, natural energy resources, and natural and living mineral resources in the various areas of the national marine property, waters, and forests, as well as rail transport. Railways, maritime and air transport, post, wire and wireless communications and other properties specified in the law " (Presidential Decree No. 96-438 of Rajab 26, 1417 H November 28, 1996 AD, Official Gazette No. 76, amended by Law No. 2-3 of 2002 AD, Official Gazette No. 25, and Law No. 8-19 of 2008, the Official Gazette Issue 63).

The reasons and justifications for attracting foreign oil companies are due to the fact that all of Algeria is looking for the best suitable options to implement the production strategy that has been adopted by its governments, which provides for an increase in production capacity by between 02 and 03 million barrels per day, as part of this increase will be obtained. It contains reservoirs and fields of greater complexity than the productive fields and require know-how, knowledge and techniques that are not available to the national administration of these countries, and a number of current reservoirs have passed the first stage of production and require development processes of a high degree of complexity that experience is not aware of Local.

The process of managing oil reservoirs in the best scientific way and in an optimal economic way is one of the most important responsibilities of the oil sector, and the use of international oil companies will allow access to the best methods used in managing oil reservoirs in the world, and the transfer of modern technology to the oil fields in Algeria. This would increase the quantities of recoverable crude oil.

Therefore, it is more expedient to seek foreign expertise to operate these technologies in order to ensure the achievement of the production levels approved by the strategic plans of these countries at the lowest cost to the state, in a way that benefits them and makes them in a suitable position in the oil market.

It is worth noting that the legal factors play a distinct role in attracting foreign oil investments, their growth and development, so that a non-national investor, whether an individual or a company, will not invest outside the borders of his country unless he has adequate legal protection (Abdul Wahid Al-Far, 1985, p. 12), through an integrated legal organization as much as possible for this. The type of investment, such as: issuing internal legislations to regulate this type of investment, starting with methods of attracting it, passing through its treatment and protection (guarantee) and ending with its liquidation.

Objectives Of The Study:

The objectives of this topic at the scientific level are to enrich existing scientific knowledge and work to find new information to be added to the knowledge balance and to be referenced through the following:

- 1- Knowing the mechanisms for attracting oil companies that were stipulated by the legislature to protect the foreign contractor in oil contracts in Algeria.
- 2- Knowing the extent of the effectiveness of the role of these mechanisms in attracting and facilitating procedures for foreign companies.
- 3- Evaluating the indicators of these mechanisms stipulated in Algerian legislation.

Research Importance:

- 1- The issue is linked to a sensitive sector, which is the hydrocarbons sector, from which the state generates large resources.
- 2- Identifying the problem of oil contracts in particular, and it is a problem that is constantly represented by the existence of a gap and dissonance between the host country and the foreign contractor (oil companies) caused by the complexity and difficulty of the procedures that must be taken by foreign companies to employ their capital in the host country.

RESEARCH METHODOLOGY:

To study such a topic in a comprehensive manner for all points, we require the assistance of a set of approaches, such as the historical curriculum that helped us study the historical development of the various petroleum legal systems in the country under study, as well as the analytical method for mentioning the characteristics and conditions of the contractual relationship and its legal effects in the hydrocarbons sector, as well as how to facilitate The process of resorting to arbitration as a tool to practice protection in oil contracts, in addition to following the comparative approach that allowed us to identify similarities and differences between the stages of the development of the investment system in the country under study (Algeria) with regard to facilities and methods of settling its disputes through amendments in the legal system for oil investments.

This, of course, without forgetting to mention our dependence on the desktop scanning method, through our discussion of literature and previous studies that dealt with subjects related to the subject of our study.

Research Problematic:

Considering that the subject of this study deals with the mechanisms of attracting foreign oil investments in Algeria, Will these measures and policies taken attract foreign oil companies? Have these mechanisms succeeded in ensuring a stable oil investment climate in Algeria?

To fully answer this problem, and to shed light on the development of the legal system for the mechanisms and means of attracting foreign oil companies in Algeria, the study plan was divided as follows: The first topic is entitled the transaction system, in which we deal with the monetary and administrative facilities. As for the second topic, we presented In it, the legal guarantees that the national legislator can motivate foreign oil companies through the obligation to grant exclusive rights in oil investment contracts, the customs and tax system (reducing the burden of tax), and the regulation of procedures for expropriating foreign investment, and labor laws.

The First Topic: The Treatment System.

Before directly addressing the mechanisms and means of attracting foreign oil investments, we must clarify what the framework philosophy and its basic elements can be that define those oil activities, and in which foreign investments can be opened to develop their revenues and finance, and here we will be exposed to a number of The elements of the oil investment climate, they do not differ much from the investment elements in general, as they are represented in the political, economic, and legal elements (the legal and institutional framework), and they can be addressed as follows:

- 1- The political component: The political and social stability plays a fundamental role in securing the establishment of investment projects, especially foreign ones.
- 2- The economic component: it generally represents the size of the internal or regional market that affects the investment decision, the lack of investment, or the weakness of foreign investment.

LEGAL AND INSTITUTIONAL FRAMEWORK:

The Legal Framework For Oil Investment:

It is the set of legal rules that regulate the operations of oil exploitation in a known place and time, and according to a legal oil agreement that clarifies and specifies in its articles how the exploitation of oil is carried out between the parties concerned (Yaqoub Ali Janafi and Alam El Din Abdullah, 2006, p.301).

Governmental Institutions In Charge Of Foreign Oil Investments:

The creation of this type of institution represents a very positive factor in the development of foreign investments, but in Algeria, it enjoys a very general mandate and has various functions, but in its entirety it has administrative functions represented in assigning licenses such as the National Agency for the Valuation of Oil Resources and the Hydrocarbon Control Authority in Algeria (The National Agency for Oil Resources Assessment and the Fuel Control Authority Text of Article 12 of Law No. 07-05 promulgated 04/28/2005 AD, amended and supplemented by Order No. 10-06 issued on 07/29/2006, amended and supplemented by Law No. 13-01 promulgated by 02/20/2013, Algeria, Official Gazette, Issue 11, The Fiftieth Year, 02/24/2013).

The First Requirement: Monetary And Financial Facilities.

Algeria seeks to attract the largest amount of foreign oil investments by providing incentives that encourage the foreign investor to choose Algeria as an investment country, and given the importance of this topic, we tried in this topic to address the monetary and financial facilities in the first requirement and exposure to administrative facilities in the requirement the second, and that will be as follows:

The Algerian legislation on the hydrocarbon sector has changed several times since independence, and each time the new law came with a relatively different regulatory and contractual framework from the prevailing framework in the previous phase, this is what made the sector's performance and results differ in turn at each of these stages.

It is possible to identify six main stages through which the hydrocarbon sector has developed in Algeria since independence. Each of the six phases was distinguished by its own features, and in almost every one there was a contractual and legal system that differed greatly from the other contractual and organizational systems, especially in the field of guarantees approved by the Oil Investments Law for the foreign investor, as these phases are represented in the phase of the rule of the concessions system (1962-1971 AD) (Ordinance No. 71-22, dated 04/12/1971 AD) The stage of nationalization and the control of Sonatrach over the activity (1971-1986AD), followed by the stage of the great oil crisis (1986 AD -1991AD) (Law No. 14-86 dated 08/19/1986 AD amending and supplemented with Law 21-21 of December 4 1991), followed by the stage of reforms (1991-2005AD), then came the stage of 2005-2006 AD) as a point An important twist, because in 2005 AD the controversial Law No. 05-07 was issued, whose basic provisions were amended a year after that, before it was implemented after being amended and supplemented by Order No. 10-06(Law No. 07-05 of 2005 amending and supplemented by Ordinance 06-10 of 07/29/2006), which in turn was amended and supplemented by Law No. 13-01 (Law No. 01-13 of 02/20/2013 amending and supplementing Law 07-05 of 2005) .

It is worth noting that the hydrocarbons law No. 13-01 promulgated on 04/20/2013 amending and supplementing Law No. 05-07 of 2005 AD, is considered a legal text, and came to review many of the issues that Sonatrach reports have unanimously agreed, as it has become a factor that repels foreign companies Given that the strict legal provisions restrict the investing companies, and these materials made Algeria lose 4.5 billion dollars in its dispute with Anadarco (Samira Balamri, 11/04/ 2012).

It is known that the hydrocarbons law, which came into effect in December 2006 AD, stipulated with retroactive effect that the oil companies with Sonatrach at their head (Andarco - Cepsa - Eni - British Petroleum - Repsol - Total - Conoco - and Australian BIGB) pay monthly taxes according for their shares, whenever the price of oil on the global market exceeds \$ 30 a barrel.

In view of the strictness of Law No. 05-07 of 2005 AD, amended and supplemented by Order No. 10-06 issued on 07/29/2006, whether at the level of the transaction system, or at the level of incentive mechanisms such as granting exclusive rights in oil investment contracts, the customs and tax system, and the regulation of The procedures for expropriating foreign investment, which are legal guarantees, that the national legislator can motivate the largest foreign petroleum companies that were notably reluctant to participate in the third exploration tender that was organized in March 2010 under the hydrocarbon law No. 05-07, and this is what called for Amendments to the latter according to Law No. 01-13 of 02/20/2013.

In view of the monetary and financial facilities, we find that Article 12 of Law 13-01, which has been amended, stipulates that two national agencies with legal personality and financial independence shall be established, claiming the two fuel agencies, providing each agency with an account governor to monitor and approve its accounts, to be appointed in accordance with the legislation And the regulation in place.

Each agency shall be provided with an account manager to monitor and approve its accounts, to be appointed in accordance with the legislation and regulation in force.

The president can delegate all or part of his powers.

The Secretary-General of the concerned hydrocarbon agency, under the authority of the chairman of the managing committee, is tasked with assisting the chairman of the managing committee in running the agency and managing it.

The Secretary General shall attend the works of the managing committee and take over its technical secretariat.

The remuneration of the committee chairman, its members, and the secretary general is determined by organization.

It is worth noting that Article 13 of Law No. 13-01 of 2013 AD, added many important amendments, which we mention as follows:

- The fuel control authority, with regard to the hydrocarbon activities governed by this law, in particular, is charged with ensuring respect for:
- The technical regulation applicable to the activities governed by this law,
- The regulation related to the application of tariffs and the principle of free use by third parties of transport facilities by means of channels and storage,
- To regulate in the field of health, industrial safety and the environment, and to prevent and manage major dangers, especially watching over the protection of the watery layer and the stratum that contains water on the occasion of the activities under this law,
- Regulation in the field of the use of chemical materials within the framework of the activities subject to this law,
- regulation related to carbon dioxide,

- The book of conditions for the realization of transport facilities by pipelines and storage,
- Monitoring the conformity and quality of petroleum products,
- Applying the standards and standards prepared on the basis of the best international application, and these standards and standards are determined by the organization,
- The amounts and methods of applying the fines and penalties stipulated in this article are determined by regulation.

The Second Requirement: Administrative Facilities.

Due to the many amendments that have occurred to the Algerian hydrocarbon system, especially with regard to the regulatory framework and the manner of administrative management of the oil sector, it has led to the performance of the latter and its results differing in turn at each stage of the amendment and from that it is possible to address what came in the hydrocarbons law No. 05-07 Dated on 04/28/2005 AD in order to formulate new legal texts aimed at making the hydrocarbon sector an open sector conducive to investment, and this law increases the importance of research within areas that are deficient or non-exploration in the mining field. This law also allowed the establishment of two hydrocarbon agencies, a national agency for appraising Hydrocarbon resources (oil) and a national agency to monitor and control activities in the hydrocarbon sector (the Fuel Control Authority) (Ministry of Energy and Mines, 2006, 06).

The new arrangements included in the law are many and numerous, but the most important of them are:

- The complete separation of Sonatrach's activity from the state,
- Abolishing the production-sharing system,
- Adopting a new contracting system,
- Edit cross-channel transmission,
- Adopting a new tax system,

But what interests us here is everything related to administrative facilities, and this is what we will try to address in some detail as follows:

Complete Separation Between State Activity And Sonatrach's Activity:

The most important provisions in the text of Law No. 05-07 of 2005 AD, are those that stipulate a complete separation between the state's work and the activity of Sonatrach and establish a clear legal distance between the state and the company, and clarify the powers of each party, and for that Article 12 of Law 05 stipulates -07 on the creation of two new fuel agencies, enjoying the legal personality and financial independence to which the previous Sonatrach powers were entrusted (We find that each of the two fuel agencies has a moral personality and financial independence, which makes them eligible for litigation, whether they are a plaintiff or a defendant for any disputes of the control powers in the hydrocarbons sector, and this is what we will deal with in Chapter Two related to legal protection and arbitration in oil disputes).

The National Agency For The Valuation Of Petroleum Resources:

Article 14 of Law 05-07 stipulates the administrative tasks entrusted to the National Agency for Petroleum Resources Valuation, represented in the management and updating of data banks for research and the exploitation of fuels, the delivery of exploration licenses, the conduct of the bidding process for competition and the evaluation of related offers In research and / or exploitation activities, granting research areas and exploitation areas, concluding research and / or exploitation contracts, following up and monitoring, in its capacity as a contracting party, implementing research contracts and / or hydrocarbon exploitation in accordance with the provisions of this law, studying development plans, approving and updating them. Periodically, to ensure that the exploitation of fuel resources is carried out within the respect of the optimal preservation of them, determine and collect the royalty and re-pay it to the public treasury starting from the working day following the day of its collection, after deducting the amounts specified in Article 15 of Law 05-07, ensuring that the customer has paid the fee On oil income and survey fees, as well as paying fees related to burning gas and using water when necessary, in accordance with Articles 52 and 53 of Law 05-07.

Article 20 of Law 05-07 also affirmed that the National Agency for the Valuation of Hydrocarbon Resources may grant a prospecting license to every person requesting the implementation of hydrocarbon exploration works in one or more areas. This license is granted for a maximum period of two (2) years according to procedures and conditions determined by regulation.

Also, Article 22 of Law 05-07 stipulates that all data and results resulting from exploration work must be placed at the disposal of the National Agency for Valuation of Hydrocarbon Resources, according to procedures prepared by regulation.

Article 29 of Law 05-07 stipulates that any change to the customer must be subject to the prior approval of the National Agency for Fuel Valuation, and the National Agency for the Valuation of Fuel Resources shall monitor the burned quantities and ensure that this fee is paid by the customer. (Article 52 of Law 05-07).

Article 31 of Law 05-07 stipulates that a person or persons gathered in the capacity of a contractor individually or collectively, can transfer all or part of their rights and obligations in the contract between themselves or any other person. And the National Agency for Valuation of Fuel Resources must agree in advance for this transfer to be valid and be embodied in the appendix to this contract that is approved.

As for Article 33, it stipulates that the National Agency for the Valuation of Fuel Resources can be determined for each area, the subject of the announcement of the competition, in order to conclude a research and exploitation contract. Each criterion from among the following criteria is accepted as a sole criterion for selecting offers, according to each case:

- The minimum level of the works program prepared during the first phase of the hydrocarbon search.
- The non-deductible amount of the bonus paid to the public treasury upon signing the contract.
- The proposed royalty percentage is above the minimum set by this law.
- Envelopes are opened in an open session and the contract is concluded immediately with the best bidder.
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We also find that Article 34 confirms that, in order to conclude exploitation contracts for the previously discovered reservoirs, the National Agency for Valuation of Fuel Resources announces a tender for competition in two stages:

A *First Stage*: it is called a technique, aimed at determining the technical reference offer that will be taken as a basis for preparing the economic proposal, which must meet the criteria set by the National Agency for the Valuation of Fuel Resources and consists in particular of:

- The percentage of recovery of existing reserves.
- Raise production to its maximum level.
- Capacity of production facilities.
- Delaying the completion of the necessary investments.
- The minimum guaranteed amount for investments based on standard costs reported by the National Agency for Valuation of Hydrocarbon Resources.
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A *Second Stage*: called economic, allowing one of the contractors to be selected. The National Agency for Valuation of Fuel Resources determines, and as soon as the first stage starts, any of the following two criteria will be accepted as the sole selection criteria.

- The proposed royalty percentage is above the minimum set by this law, or
- An amount of the non-deductible premium from the bonus paid to the public treasury upon signing the contract.
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The envelopes for the economic phase are opened in an open session, and the contract is concluded immediately with the best bidder.

In addition, the National Agency for the Valuation of Fuel Resources may exceptionally grant, for a limited period not exceeding ninety days, a license to burn gas at the request of the customer (Article 52 / F1).

The National Agency for Valuation of Fuel Resources also undertakes monitoring of the burned quantities and ensuring that this fee is paid by the customer (Article 52 / F3).

Among its administrative tasks is that the National Agency for Valuation of Fuel Resources (oil) monitors the quantities used and ensures that this fee is paid from the customer (Article 53 of Law 05-07).

According to the text of Article 59 of Law 05-07, in addition to the tasks specified in Article 14 of the same law, the National Agency for Valuation of Fuel Resources is charged with the following:

- 1- Maintaining and updating a list of gas reserves, a disclosure of gas needs to meet the needs of the national market, and a disclosure of the quantities of gas available for export,
- 2- Determining periodically, according to Article 61 of Law 05-07, a reference price for gas, which is called in the main text the "reference price".
- 3- Ensuring the supply of the national market by the contractors.
- 4- Handing over exceptional gas burning licenses and ensuring that the special fee is paid as stipulated in Article 52
- 5- Providing and publishing studies for the various contractors on the gas market.
- 6- Organizing periodically a forum for consultation and exchange of information on the gas market, in which gas producers in Algeria and abroad, contractors who have discovered gas reserves that have not yet been developed, as well as representatives of the Fuel Control Agency and the Electricity and Gas Distribution Control Committee are invited to participate.

Fuel Control Authority:

Article 13 of Law 05-07 stipulates the administrative tasks entrusted to the control authority, which are as follows:

The fuel control authority, in particular, is tasked with ensuring respect for:

- The technical regulation applicable to the activities governed by this law.
- The regulation related to the application of tariffs and the principle of free use by third parties of transport and storage facilities by means of channels.
- Regulation in the field of health, industrial safety and the environment, and the prevention and management of major risks.
- The book of conditions for the realization of transport facilities by pipelines and storage.
- Application of standards and standards through the organization.

It is also charged with the following:

- Study the applications for granting a concession to transport by pipelines, and make recommendations to the Minister in Charge of Petroleum
- Submit a recommendation to the Minister in charge of hydrocarbons to withdraw the concession for transport by pipelines in case of serious failure with regard to the provisions stipulated in the concession contract, according to the conditions determined by regulation.
- Managing the Tariff Equalization and Compensation Fund for the transportation of fuels and petroleum products, this determines the modalities for its operation through regulation.
- Cooperating with the Minister in charge of hydrocarbons in the field of sectorial policy and preparing regulatory texts that govern hydrocarbon activities.

Article 69 of Law 05-07 affirmed the following:

- Each application for a concession for pipeline transportation is subject to the Fuel Control Authority, which drafts a recommendation to the Minister in charge of Hydrocarbons.

- 1- In the event that the request is issued by a contractor with the aim of transferring his hydrocarbon production, the fuel control authority shall formulate a recommendation addressed to the Minister in charge of hydrocarbons to grant the concession to this contractor.
- 2- In the case concerning other concession applications, the fuel control authority shall formulate a recommendation addressed to the Minister in charge of fuel:
 - Either to grant this privilege to the person who requested it.
 - Either to submit an application to a competition to grant this privilege.
- 3- Within the framework of the National Plan for the Development of Pipeline Transport Structures, the Fuel Control Authority proposes to the Minister in charge of hydrocarbons to resort to a tender for the award of any concession that was not the subject of a request.

As for Article 70 of Law 05-07, we find that it states the following:

In order to grant a concession for transportation by pipelines as indicated in paragraphs 3 and 4 of Article 69 of Law 05-07, where an application for competition is required for it, the Fuel Control Authority submits an application to competition in which the only criterion for selection is the tariff of transport by pipelines on the basis of the reasonable return of investment required by the hydrocarbon control authority, while respecting the technical texts of the Tender.

While Law 01-13 issued on 02/20/2013, amending and supplementing Law 05-07 of 04/28/2005 AD, came with important amendments, we mention them as follows:

National Agency For Valuation Of Fuel Resources:

Article 14 of Law 13-01 states: “The National Agency for the Valuation of Fuel Resources, in particular, shall be charged with the following:

- Evaluating the mining field related to hydrocarbons, especially by carrying out studies on basins.
- Promotion of investments in the field of research and exploitation of hydrocarbons.
- Running and updating data banks for research and exploitation of hydrocarbons, under the responsibility of the minister in charge of hydrocarbons.
- Handing over exploration licenses.
- Bidding and evaluation of offers for research and / or exploitation activities.
- Conclusion of research and / or exploitation contracts.
- Monitoring and monitoring, in its capacity as a contracting party, the implementation of search and / or exploitation contracts in accordance with the provisions of this law.
- Study development plans, approve them and update them periodically.
- Monitoring and respecting the optimum governorate in the context of the exploitation of fuel resources.
- Compiling a medium and long-term plan for the hydrocarbons sector based on medium and long-term plans for the contractors and sending it to the Minister in charge of hydrocarbons in January of each year.

- Cooperating with the interests of the Ministry in charge of hydrocarbons in the field of sectorial policy and preparing the regulatory texts to which the hydrocarbon activities are subject.
- Encouraging scientific research activities in the field of activities that are subject to this law.
- Follow up, control and audit costs related to the activities that are the subject of research and / or exploitation contracts.
- Determining the royalty, collecting it, and re-paying it to the public treasury, starting from the business day following the day of its collection, after deducting the amounts specified in Article 15 of the same law.
- Ensure that the customer, as specified in Article 29 of Law 13-01, has paid the fee on the oil income and the survey fee, and, if necessary, the fees related to burning gas and water use, in accordance with Articles 52 and 53 of Law 13-01.
- Cooperating with the tax administration in exchanging tax information regarding search and / or exploitation contracts, in order to be able, in particular, to gain access to the information elements used in the Petroleum Tax Account in accordance with the provisions of this law.
- Article 20 of Law 13-01 stipulates that the National Agency for the Valuation of Hydrocarbon Resources (oil) can be granted a license to explore after the approval of the Minister in charge of hydrocarbons, for every person requesting to carry out exploration work for hydrocarbons in one or more areas.
- The prospecting license is granted, according to the procedures and conditions specified by the regulation, for a period of two (2) years, renewed once for a maximum period of two (2) years.

In the event that an area that is the subject of an exploration license is placed in a tender for the conclusion of the search contract and the exploitation of hydrocarbons, the persons who have accomplished or are still carrying out exploration work in this area shall enjoy the right of preference, provided that they participate in this tender and adhere during the session to the best offer of this area.

In this case, exploration expenditures previously approved by the National Agency for the Valuation of Hydrocarbon Resources (oil) are considered as research investments.

Article 22 added a second paragraph of Law 13-01, considering these data and results as the property of the state, and the National Agency for Valuation of Fuel Resources guarantees its management and preservation.

As for Article 29 of Law 13-01, I emphasized in the second and third paragraphs that during the period of exploitation, the role of the dealer is guaranteed to conduct petroleum operations by each person who is the contractor or by any joint body agreed upon by the persons who make up the contracting. It was previously approved by the National Agency for Valuation of Hydrocarbon Resources.

Any change of the customer must be subject to the prior approval of the National Agency for Valuation of Fuel Resources.

Article 33 of Law 01-13 stipulates that the National Agency for the Valuation of Fuel Resources can be specified for each of the areas subject to the tender, to conclude a research and exploitation contract, and it specifies the standard or criteria required to select the offers.

Envelopes are opened in an open session, and the contract is entered into with the contractor who accepted its presentation.

An amendment was also included in Article 34 of Law 13-01 in the second paragraph, which stipulates the possibility of determining the National Agency for Valuation of Fuel Resources, and setting the standard or criteria required for the selection of offers as soon as the first phase starts, and the envelopes for the economic phase are opened in an open session, as well. The contract is entered into with the contractor who accepted its offer.

As for Article 59 of Law 01-13, Article 5, which is (providing various contractors with studies on the gas market and publishing them), and Article 6, which is (periodically organizing, a forum for consultation and exchange of information on the gas market, is called to participate in it). Gas producers in Algeria and abroad, contractors who have discovered gas reserves that have not yet been developed, as well as representatives of the Fuel Control Agency and the Electricity and Gas Distribution Control Commission).

Fuel Control Authority:

Among the functions that have been added to the control authority in Article 13 of Law 13-01:

- Study requests to practice refining, storage, and distribution of petroleum products, and submit a recommendation to the Minister in charge of hydrocarbons to grant a license to practice these activities.
- Monitoring of pressure machines (steam presses and gas press machines) and electrical equipment.
- Rehabilitation of expert offices in charge of regulatory control for the purpose of granting them accreditation from the Minister in charge of hydrocarbons.
- Participating with the interests of the ministry in charge of hydrocarbons in the field of sectoral policy and contributing to the preparation of regulatory texts and technical regulations that govern hydrocarbon activities.
- Preparing, at the beginning of each year, a national program for the development of transport facilities by pipelines, according to each liquid, to be sent to the Minister in charge of hydrocarbons.
- The Fuel Control Authority organizes within it an interest to reconcile the differences resulting from the implementation of the regulation, especially those related to entering into the pipeline transportation system and storing petroleum products and tariffs.
- The Fuel Control Authority shall establish an internal system for the conduct of this interest.

In view of the state's need to attract foreign oil investments, it has worked on the text in its national legislation on a number of guarantees aimed in reality to

provide a good climate to face the various obstacles that foreign oil companies may encounter, and to encourage and motivate them to invest in them. Perhaps this is what will be addressed Below:

The Second Topic: The Legal Guarantees That The National Legislator Can Motivate Foreign Oil Companies.

Due to the fluctuation and ambiguity of most of the legal texts, a feeling of danger and a lack of confidence and reassurance for the foreign investor is born, which leads to alienation of the latter and its direction to an appropriate investment environment that provides it with legal guarantees that can encourage it, and Algeria has sought to do so through the enactment of The amendment of many laws related to oil included in them as much as possible the legal guarantees through which foreign oil companies can be attracted, and given the importance of this topic, we decided in this topic to address the legal guarantees that the Algerian legislator can motivate foreign oil companies through the following demands:

- The first requirement: the obligation to grant exclusive rights in oil investment contracts.
- The second requirement: the customs and tax system (reducing the burden of tax).
- The third requirement: Regulating the procedures for expropriating foreign investment.

The First Requirement: The Obligation To Grant Exclusive Rights In Oil Investment Contracts.

The obligation to grant exclusive rights is a fundamental condition in oil contracts, and regional exclusivity allows the foreign investor to have a monopoly that enables him to achieve high numbers in the regional scope specified in the contract, as he achieves the exclusive exploitation of oil in the area of the contract. Accordingly, the state or other investors are prohibited from exploiting the exclusive territory.

The content of the obligation to grant exclusive rights takes two aspects, the first being the state's abstention from all licensing contractual transactions for others, and the second with the state's restricting the exclusivity of the investor. And controlling exclusivity makes the state an arbitrator among investors, preventing any of them from exceeding its territorial scope at the expense of the other (Saad Allam, 1977, p. 299).

Oil contracts usually give oil companies the exclusive right to practice the activity of oil exploration and production within the area specified in the contract along the term specified for the agreement, and for this the host country is obligated to ensure that the foreign company enjoys the exclusive right to practice the activity of oil exploration and production in addition to its obligation to guarantee the rights accompanying and inherent in the works of the right to explore for and produce oil.

In addition, the oil agreements generally grant the oil company rights to search for, explore for and produce oil, and then develop the discovered oil field within the area of the contract throughout the period specified in the contract, and most oil contracts have guaranteed this right, as they entitle the company to the right to explore for oil. And then produce and market it during the contract period, and this is what we will try to address in the following:

The Algerian government has proposed a new draft law for oil and gas No. 10-06 of 2006 that reconsiders the oil law No. 05-07 of 2005 AD. It came to amend 19 legal articles. Article 2 of Ordinance No. 06-10 of 2006 stipulates that: "And the provisions of Articles 5-9-12-20-32-34-44-46-48-52-53-58-68-69-70-75-77-88-91 of Law No. 05-07 of 28 / 04/2005 ".

He called for a return to the 51% system announced by "President Houari Boumediene" in February 1971, and which was abolished in 2005. The government restored the right to grant licenses to exploit oil and gas fields to the national oil company "Sonatrach" once again, justifying this with the need to achieve sustainable development and protect Algeria's wealth for the benefit of future generations.

As for the exclusive right, articles 05, 20, and 48 of Ordinance 06-10 have been amended. Article 05 of this law states that: In the concept of law, the following is intended:

- The holder of the concession: the National Corporation, Sonatrach, a company with shares, which benefits from the concession of transportation by pipelines and bears the risks, costs and losses resulting from that.
- The contractor: The National Corporation, Sonatrach, a company with shares, or the National Corporation Sonatrach, a company with shares, and every person who signs a research and exploitation contract or a hydrocarbon exploitation contract.
- Person: every foreign legal person as well as every legal person subject to the Algerian private or public law, including the national institution Sonatrach, a company with shares, who has the financial and / or technical capabilities required under this law and the regulatory texts taken to implement it.

With regard to retail activities, the concept of a person includes a natural person who has the financial and / or technical capabilities required under this law and the regulatory texts taken to implement it.

As for Article 20 of Ordinance 06-10, it stipulates that the National Agency for the Valuation of Hydrocarbon Resources may be granted an exploration license to every person who requests to carry out hydrocarbon exploration works in one or more areas, after the approval of the Minister in charge of hydrocarbons. These licenses are granted for a maximum period of two (2) years, according to procedures and conditions determined by regulation.

Article 48 of Ordinance 10-06 includes amendments that include the possibility of specifying each search and exploitation contract concluded with the contractor, the percentage of participation of the National Corporation,

Sonatrach, a company with shares, as defined in Article 32, as well as the method of financing research investments and their conditions.

The National Corporation Sonatrach, a company with shares for each commercial discovery, shall bear all investment and exploitation costs, according to the percentage of its participation related to the development plan for this discovery, which was approved by the National Agency for Valuation of Hydrocarbon Resources.

These costs must be approved by the National Agency for Valuation of Fuel Resources in advance.

After the lapse of thirty (30) days at the most from the approval of the plan to develop the commercial discovery, the National Corporation Sonatrach, a company with shares and other persons who make up the contractor, must conclude an operations agreement attached to the contract, and this agreement specifies the rights and duties of the national institution Sonatrach, a company with shares And the other persons who make up the contractor, and explain the methods of paying future costs within the framework of the contract, as well as the amount and methods of paying the research costs mentioned in the previous paragraph by the National Foundation Sonatrach, a company with shares.

After the approval of the National Agency for the Valuation of Fuel Resources of the Operations Agreement, it is approved by a decree issued in the Council of Ministers and will enter into force on the date of publication of the approval decree in the Official Gazette of the People's Democratic Republic of Algeria. The agreement relating to operations between the National Corporation, Sonatrach, a company with shares, and the contracting persons must obligatorily include a clause for the joint marketing of any gas extracted from the discovery in the event that this gas is destined for marketing abroad.

The People's National Assembly enacted the amendment of the law, which granted the First National Oil Company Sonatrach no less than 51% of the share of exploration, operation and refining by foreign companies, as Article 77 states:

- The National Corporation, Sonatrach, can be a company with shares, alone or in partnership. Anyone can carry out refining activities. When the National Corporation Sonatrach, a company with shares, conducts these activities in partnership with anyone, the percentage of its participation is limited to at least 51%.
- Anyone can engage in fuel conversion activities.
- - The procedures for obtaining the licenses required for the realization of the facilities and their exploitation are determined through regulation.

As for Law No. 01-13 of 2013 AD, the second article stipulated that: "The provisions of Articles 5-7-9-10-12-13-14-17-18-19-20-21-22-24 are amended and supplemented. 25-26-29- 31-32-33-34-35-37-38-43-45-46-47-48-49-50-51-52-53-54-55-58-59-60- 63-68-69-71-72-73-75-77-78-82-83-84-85-87-89-90-91-101-109 of Law No. 05-07 of 04/28/2005 ".

Perhaps what interests us here regarding the exclusive rights granted to the parties to the contract is what is stipulated in Article 24, which stipulates that the contract for the search and exploitation of fuels authorizes the contractor the exclusive right (It is noticeable that the term exclusive right was used after the amendment because it was not mentioned in the same article contained in Law No. 05-07 of 2005).

To practice what comes in the space specified under this contract:

Research activities

- Exploitation activities in the event of discovery, the contractor declares its commercial nature, and after approval

National Agency for Valuation of Hydrocarbons Resources on the development plan related to the aforementioned discovery.

- The exploitation contract related to a reservoir or several previously discovered reservoirs authorizes the contractor the exclusive right to exercise, within the area specified by the said contract, exploitation activities at the geological level or levels specified in the development plan approved by the National Agency for the Valuation of Fuel Resources,

The Algerian legislator added the following paragraphs in Article 24 related to spontaneous discoveries, as it stated that:

- If the contractor makes a spontaneous discovery at the geological level or levels of the subject of his development plan, during the implementation of the development plan approved by the National Agency for Valuation of Hydrocarbon Resources, he can claim a right to this spontaneous discovery.

Spontaneous discovery means every deposition of hydrocarbons not included in the development plan approved by the National Agency for the Valuation of Fuel Resources (Article 24 of Law No. 13-01 issued on 02/20/2013).

There are other contracts that grant these rights in two steps:

- The first step and its relatively short period guarantees the company the absolute right to drill for oil exploration in the contract area, and the second in which the host country pledges to grant the oil company (for a longer period starting from oil exploration in commercial quantities) the absolute right to produce oil in the contract area if this discovery is achieved. The stockpile during the period imposed for that (Daniel (J), 1994, p221), for example, the first step is to grant a two-year term to the right to search for, discover and prospect for oil. And its production is in the area of the contract and it is called a search and exploration license, and the text includes granting the oil company absolute rights to search for, explore and prospect for oil in the area of the contract, and the other is for a period of (forty years), and the text includes the host country's pledge to grant the oil company the right The exclusive and absolute in oil production from the contract area, if oil is discovered within the period specified in the search and exploration license.

This is what was expressly indicated by Article 20 of Law No. 05-07 amending and supplemented by Law No. 01-13, stating that: "The National Agency for the Valuation of Hydrocarbons Resources may grant an exploration license after the approval of the Minister in charge of hydrocarbons, for every person requesting the implementation of works Exploration for hydrocarbons in one or more areas.

The exploration license is granted, according to the procedures and conditions specified by regulation, for a period of two years, renewed once for a maximum period of two years” (Article 20 of Law No. 13-01 of 2013 AD).

The provisions of the new Law No. 13-01 of 2013 AD included extending the periods of searching for and exploiting non-conventional fuels, and the contract relating to search and exploitation for this type of hydrocarbons pertains to two periods, the first relating to research, limited to 11 years at most, starting from the date of entry into force of the contract in an initial phase Estimated at three years.

This stage was defined as the first stage of the research, followed by two other phases lasting for two years each. In addition to these three phases, another typical phase lasting at most four years is added to allow one of the research phases to be extended.

As for the period of exploitation, the text specifies the period of production of liquid non-conventional fuels (shale oil) at 30 years, while the period of production of non-conventional gaseous fuels (shale gas) is estimated at 40 years. The period of exploitation of shale gas and oil can be extended by an additional 05 years at the request of the contractor, and it may be followed by another optional extension for a period of 05 years as well. And in the event that the research phase is not exploited, the exploitation period will be raised to a period equal to the period of the relevant period.

With regard to conventional gas and oil, the terms of contracts related to research and exploitation remained the same, that is, a search period for a period of 7 years, with an initial stage lasting 3 years, and this is according to Article 35 of Law No. 13-01 of 2013 AD. One, and the estimated period of exploitation is 25 years in addition to a period of 05 years to exploit the natural gas fields.

In the pre-production stage of hydrocarbons, the provisions of Law No. 13-01 of 2013 grant the right of preference to establishments that carry out exploration works in areas that are subject to tenders, provided that they are adapted to the best offer obtained. And foreign partners can take advantage of the right of accidental exploration in the geological levels replaced by the field development plan.

Article 35 of Law 01-13 amending and supplementing Law No. 05-07 stipulated the stages of the search and exploitation contract, which included two phases, the research phase and a period of seven (07) years, and the exploitation phase and its duration of 25 years, starting from the date of notification of the approval of the scheme. Development by the National Agency for the Valuation of Fuel Resources (Oil) (Article 35 of Law No. 13-01 amending and supplementing Law No. 07-05).

Many of those interested in the development of hydrocarbons laws in Algeria believe that Law No. 13-01 of 2013 amending and supplementing Law No. 05-07 of 2005 AD, is a legal text aimed at correcting many of the situations that

Sonatrach reports unanimously agreed, that it has become a factor that repels foreign companies considering the strict legal provisions are restricting foreign investing companies. Moreover, these materials made Algeria lose 4.5 billion dollars in its dispute with Andarko (Samir Balamari, 2012).

Law No. 13-01 of 2013 opened the way for foreign dealers, which will encourage the exploration process and contribute to the transfer of new technologies in this field to Algeria, especially in the field of transportation and pipelines, so that Algeria will turn into one of the largest countries in the field of prospecting and exploration (Articles 68-69-71-72-75 of Law No. 01-13).

Abdel Malek Mubarak Saray confirmed that the new law will give new breath to exploration operations as it will contribute to a large extent in the arrival of foreign companies wholesale to invest in the hydrocarbon sector, and will give the Algerian economy as a whole a strong impetus by improving Sonatrach's services, which has witnessed a significant decline in recent years, by devoting a new vision to the policy of exploration and scientific research in Algeria.

While Mr. Abd al-Rahman Mabtoul pointed out that despite the amendments made to the hydrocarbons law, which are important catalysts in this sector to serve and revive the national economy, the new measures are not sufficient to attract foreign investment, for example the new hydrocarbons law No. 01-13 issued on 02/20/2013 did not cancel the rule adopted in the framework of the procedures for regulating foreign investment contained in the Supplementary Finance Law for the year 2009, with regard to 49% compared to 51%, which represents the main point of contention between Sonatrach and foreigners.

In the same context, Mr. Abd al-Rahman Mabtoul stressed that the amendments introduced by the new oil law are important privileges for the national company Sonatrach, especially after the latter remained for a period of three rigid years and no discoveries were made as a result of recording a severe shortage of tires after the migration of many of them and the application of the law Retirement when reaching 60 years of age, including a lack of experience.

For his part, Mr. Murad Pror added that the hydrocarbons law No. 01-13 includes important amendments that basically allow the strengthening of the country's supply of hydrocarbons and tax arrangements to encourage exploration for and exploitation of hydrocarbons in areas that are not subject to exploration or those that require the use of complex means, while the same law came in parallel. Nevertheless, the amendments do not concern the fields currently in production and which remain subject to the current tax system (Al-Fajr, 2013).

Mr. Murad Pror defended the procedure relating to granting the authority to transport only to the Sonatrach complex, as it was stated in the law: "Sonatrach alone has the right to transport fuels by pipelines. Law No. 13-01 stipulates that: "Subject to the provisions of Article 73 of this law, the activities of transporting fuel by pipelines shall be carried out by the National Corporation, Sonatrach, a company with shares, or one of its subsidiaries that benefited from a concession granted by a decision of the Minister in charge of hydrocarbons.

As for the periods of search and exploitation at the level of non-traditional oil fields, the provisions of Law No. 01-13 included the extension of the search and exploitation periods for non-conventional fuels, and the contract related to research and exploitation for this type of hydrocarbons pertains to two periods, the first relating to research, limited to 11 years at the most starting From the date of entry into force of the contract in an initial phase estimated at three (3) years. This stage was defined as the first stage of the research, followed by two other phases lasting for two years each. In addition to these three stages, another typical stage lasting at most 4 years allows for an extension of one of the stages of the research.

The application for a concession to transport by pipelines is presented to the Fuel Control Authority, which makes a recommendation to the Minister in charge of hydrocarbons.

The National Corporation, Sonatrach, a company with shares, or one of its subsidiaries, guarantees the transfer of all fuel production from the point of entry to a pipeline transportation system.

As for the period of exploitation, the text specifies the period of production of liquid non-conventional fuels (shale oil) at 30 years, while the estimated period of production of non-conventional gaseous fuels (shale gas is 40 years). The period of exploitation of shale gas and oil can be extended by (05) additional years at the request of the contractor, and it may be followed by another optional extension for a period of (05) years as well.

Article 35 states: “..... The research and exploitation contract for non-conventional fuels includes two phases:

- The research phase and its duration is eleven (11) years at most, starting from the date of entry into force of the contract, taking into account the provisions of Articles 37 and 42 below, with an initial phase of three (03) years. This primary stage is considered as the first stage of the research, and it is followed by a second stage and a third stage for research, each of which lasts two (02) years, and joining these three stages is a stage called an exemplary stage, the duration of which is (04) years at most. One of the stages of the research can be extended, and the stage is granted This model is for a contractor by the National Agency for Valuation of Fuel Resources.

- Exploitation stage and duration:

Thirty (30) years for the exploitation of liquid non-conventional fuels.

Forty (40) years for the exploitation of non-conventional gasoline fuels

In the pre-production stage of hydrocarbons, the provisions of the new law grant the right of preference to establishments that carry out exploration work in areas that are the subject of tenders, conditions for adaptation to the best offer obtained, and foreign partners can benefit from the right of accidental exploration at the geological levels in place of the field development plan.

The provisions of the new Law No. 01-13 of 02/20/2013 also open the way for Sonatrach to participate in the exploration of fields that are not contracted in when necessary.

Each search and exploitation contract concluded with a foreign contractor must indicate the percentage of Sonatrach's contribution to the project. If Sonatrach decides to contribute to financing research investments, the contract must indicate the level of funding on its account (Article 35 Law No. 13-01 promulgated on 02/20/2013, the Official Gazette of the Algerian Republic, No. 11, 2013, p. 12).

The Second Requirement: The Customs And Tax System (Reducing The Burden Of Tax)

In view of what Algeria has suffered as a result of the economic crisis that afflicted it due to the decrease in its revenues from oil levies in 1986 AD, it led to its initiatives to undertake deep reforms in all political, social and economic fields, to mitigate the negative effects resulting from this crisis, mainly represented in the budget deficit Public debt, the accumulation of internal public indebtedness, the deterioration of the volume of public investment, the decline in the gross domestic product, the spread of unemployment and inflation.

To reduce dependence on oil taxation as a primary source of state revenue, it had to restore consideration to the role of regular collection by reconsidering its tax policy. For the Algerian state to undertake a comprehensive reform of its tax system in 1991, to give the tax an economic and social role, enabling it to raise the cost-effectiveness of oil levy and make it a catalyst factor for attracting foreign oil companies, so what is the role and reflection of the Algerian oil tax system on the process of stimulating and attracting foreign oil companies? This is what will be covered in the following:

The new fees on the exceptional profits that Algeria imposed on foreign companies (according to the opinion of the objectors) will reduce their turnout for exploration and exploitation tenders, because their profits will clearly decline, that is, it is a factor that is not encouraging to increase oil investments (this fee has already sparked protests and criticism of some companies. However, matters did not reach the point of leaving the country and giving up on the continued exploitation of Algerian hydrocarbons.

The hydrocarbons law, in its new, amended and complementary version, to the hydrocarbons law passed by Ordinance No. 10-06 issued on 07/29/2006 AD, introduced serious changes in the oil sector and Sonatrach's relationship with foreign companies operating in Algeria and the General Directorate of Taxes, because the largest part of The amendment and most of the articles concern the reduction in fees, including the exceptional tax on the profits of foreign companies invested in the Algerian oil field, in addition to the part related to the exploitation of shale gases. Chapter 8 related to the tax system applicable to search activities and / or hydrocarbon exploitation dealt from Article 83 to 99 of Law No. 05-07 promulgated 04/28/2005 as amended and supplemented by Order No. 10-06 issued on 07/29/2006 (Article 88) Amended and supplemented by Law No. 01-13 of 02/20/2013 from Article 83-84-85- 87-89-90-91 (Official Gazette of the Algerian Republic, No. 11, issued on 02/24/2013, pp. 18,21).

Perhaps the most important amendments mentioned in Ordinance 06-10 to the tax system applicable to research and / or exploitation activities are what was mentioned in the following articles:

- Article 46 of Ordinance 06-10 stipulates that the contractor who discovered a reservoir may, after the approval of the Minister in charge of hydrocarbons, benefit from a license for pre-production from one or several wells, for a period not exceeding twelve (12) months from the date of Handing over the license to the National Agency for Valuation of Fuel Resources.

- This license allows the contractor to specify the specifics necessary to prepare the development plan.

- And this pre-production is subject to the tax system stipulated in this law.

As for Article 52 of Ordinance 06-10, it stipulates that gas flaring is prohibited. However, the National Agency for Valuation of Fuel Resources (oil) can, on an exceptional basis, grant, for a limited period not exceeding ninety (90) days, a license to burn gas at the request of the customer.

- The customer who requests to benefit from this exception must pay the public treasury a special, non-deductible fee, amounting to eight thousand dinars (8,000 dinars) for every thousand cubic meters returned, without prejudice to the provisions of Article 109 of the same law.

- The National Agency for Valuation of Fuel Resources monitors the burned quantities and ensures that this fee is paid by the customer.

- The drawing is updated according to the following formula:

- The exchange rate of the United States dollar in dinars for the month preceding each payment issued by the Bank of Algeria is divided by eighty dinars (80 AD), and multiplied by the specified fee. And the updating of this fee is applied to standardization according to the formulas of the activity.

- Article 53 of Ordinance 06-10 confirms that: In the event that the development plan proposed by the contractor and approved by the National Agency for the Valuation of Fuel Resources (oil) provides for the use of water to ensure a subsidized recovery, the customer must pay A special, non-deductible fee called "a fee for the use of public property to deduct water for a fee", and it shall be allocated according to the legislation and regulation in force. This special fee, which is paid according to the provisions established through regulation, is set at eighty dinars (80 AD) for every cubic meter used.

This fee is subject to standardization according to the formulas of the activity. The National Agency for Valuation of Fuel Resources monitors the quantities used and makes sure that this special fee is paid from the customer.

As for Article 88, it stipulated that everyone who is a party to the contract must be subject to a supplementary tax on output (VAT), determined at a rate of 30% according to the terms and conditions in force at the date of payment and the depreciation rates stipulated in the appendix to this law. Every person who

participates in the contract and invests in the activities, the subject of the law related to electricity and gas distribution by channels, and in the activities of the petroleum industry infrastructure, can benefit from the reduced rate of the supplementary tax on output, set at 15%.

Article 91 states that: The production value of the hydrocarbons extracted from the reservoir or reservoirs included in the area of exploitation is equal to the product of the quantities of hydrocarbons subject to the royalty at the base prices specified in Article 90, minus the tariff of transport by pipelines between the measurement point and the Algerian port of shipment or the Algerian border that it is issued from it, and if necessary between the point of measurement and the place of sale in Algeria.

The annual shares of investment benefit from a calendar that is determined as follows:

Evaluation percentage: twenty percent (20%).

Annual investment quota: ten percent (10%) corresponding to a period of ten years.

Article 101 emphasizes the necessity of applying an indisputable fee on the exceptional profits achieved by foreign partners on their production share when the monthly numerical mean of Brent oil prices exceeds thirty (30) dollars per barrel, with regard to the partnership contracts concluded between Sonatrach and one or more foreign partners within the framework of Law No. 14-86 of 08/19/1986 AD. This fee shall be applied as of 08/01/2006.

The percentage of this fee applied to production that belongs to foreign partners is 05% as a minimum and 50% as a maximum.

Sonatrach, in order to pay this fee to the public treasury, deducts the amount of fuel corresponding to the amount of this fee from the production share that belongs to the foreign partners concerned.

The procedures and conditions for applying this fee shall be determined, taking into account the level of production as well as the methodology for calculating it through the organization.

Law No. 13-01 of 2013 amending and supplementing Law 05-07 of 2005 AD included tax arrangements to encourage exploration for and exploitation of hydrocarbons in areas that have not been subjected to exploration or ATCAD, or those that require the use of complex means, and this is embodied in the text of Article 83: "The tax system applicable to research activities and / or the exploitation of fuels specified by the provisions of this law is the only one ... and the texts of articles 84-85-87-87 bis, 88-88 bis, 90, 91, 92, 97 bis".

Article 25 of Law 13-01 stipulates that: the hydrocarbons extracted within the framework of the search and / or exploitation contract are considered the property of the contractor at the point of measurement, and are subject to a royalty according to the terms and conditions specified by the said contract.

Article 26 of Law 13-01 adds that this royalty is paid through a bank check or by any other means of authorized payment that can be done by electronically transferring funds, and the National Agency for Fuel Valuation can request the contractor Pay the royalty in kind in accordance with the provisions of the contract.

This royalty is calculated on the basis of the quantities of fuel produced and deducted after treatment operations at the field level at the point of measurement.

Article 31 of Law 13-01 stipulates: “..... Each transfer is subject to the payment of an indisputable right in the public treasury of the person or persons assigning it, the amount of which equals one percent (1%) of the transaction value”.

Article 52 of Law 13-01 states: “The dealer who applies to benefit from this exceptional license must pay the public treasury a special, non-deductible fee of eight thousand dinars (8,000 dinars) for every thousand ordinary cubic meters of burnt gas”.

Exempt from the payment of this special fee are the quantities of gas burned during the matching period stipulated in the provisions of Article 109 of the same law, as well as the quantities of gas burned during the search phase when conducting test operations for exploration and / or identification wells.

It also excludes, from the payment of this special fee, the quantities of gas burned during the start-up phase of the facilities for periods not exceeding the limit set by the National Agency for Valuation of Fuel Resources.

The National Agency for Valuation of Fuel Resources shall monitor the burned quantities and ensure that this fee is paid according to the following formula:

- Divide the average exchange rate of the United States dollar when selling in dinars for the month preceding each payment, issued by the Bank of Algeria, by eighty dinars, and multiplied by the amount of the fee specified above.
- The update of this special fee is applied at the beginning of each year.
- In addition, this fee is subject to standardization according to the formulas of the activity.

Article 53 of Law 13-01 stipulates: “In the event that the development plan proposed by the contractor and approved by the National Agency for the Valuation of Fuel Resources (oil) provides for the use of water for petroleum operations, the customer must pay a special fee. Non-deductible, it is called "the royalty for the use of public property of water by deducting water for a fee", and it is allocated according to the legislation and regulation in force.

Water is used by deducting it from the public property of water for non-traditional fuel operations, under a license or concession issued by the administration in charge of water resources and in coordination with the National Agency for the Valuation of Fuel Resources, in accordance with the legislation in force.

Article 84 of Law 01-13 stipulates that the customer pays the annual survey fee in Algerian dinars or in the dollar of the United States of America that is determined by the Bank of Algeria on the day of payment, and this fee is calculated on the basis of the contractual area of the due date of each payment. Also, 85 of Law 13-01 stipulates that all quantities of fuel extracted from each exploitation area are subject to a royalty, and it is determined in accordance with the provisions of the 26 of this law.

Article 87 of Law 01-13 specifies how to calculate the fee on petroleum income (RDB) related to the exploitation areas subject to the hydrocarbons search and exploitation contracts concluded in the framework of this law. As for Article 90 of the same law, it stipulates the base prices used to calculate the royalty, tax, rights and fees mentioned in Article 91 of Law 13-01 which states: "The production value of the hydrocarbons extracted from the reservoir or reservoirs included in the area of exploitation is equal to the product of the quantities of hydrocarbons. Subject to royalty at base rates minus pipeline tariffs".

The Third Requirement: Regulating The Procedures For Expropriating Foreign Investment

What concerns us regarding this requirement are the most important developments in the issue of organizing procedures for expropriating foreign investment, or what is also called nationalization? We will try to answer this question through the following points:

What concerns us regarding this requirement are the most important developments in the issue of organizing procedures for expropriating foreign investment, or what is also called nationalization? We will try to answer this question through the following points:

Among the rights arising from the partnership agreement is the right of the foreign partner to waive the share: - Either for the benefit of the national partner contracted with him, and this assignment is total or partial, according to the will of the foreign partner, or - the foreign partner waives his shares for the benefit of others, and this The presumption is invalidated by Law No. 14-86, because the legislator requires in this waiver to obtain a license from the Ministry of Energy, which requires that the assigners have sufficient technical and financial capabilities, and from it we find that the foreign company has the right to waive as a general principle without having the right to choose Assignee. The assignor must also occupy the place of the assignor in the rights and obligations, or by completing the completion of the participation, in the absence of the foreign partner, but taking into account his interests, and this right is fulfilled upon the acceptance of the will management of the proposed partner by the foreign partner (khalef omar, 2006, pp2,5).

Reforms (1991-2005)

Article 7 of Law 07-05 of 2005 states that "Only those who obtain a research, exploitation or exploitation contract, or whoever obtains a concession to transport fuels by pipelines, may benefit from the following rights:

Expropriation according to Law No. 91-11 of 1991 defining the rules relating to expropriation for the public benefit, supplemented by Article 65 of the Finance Law of 2005.

The necessary procedures to grant the right of expropriation shall be initiated by the competent authority to transfer these rights from the agency to control and control activities in the field of hydrocarbons, in case the right to transport by pipelines is privileged, or by the National Agency for Valuation of Oil Resources in the case of a search contract and / Or exploit.

And he bears the expenses necessary for this procedure and the costs involved in it:

- The contractor, in the event of a search and / or exploitation contract.
- The concessionaire, in the case of a pipeline transportation concession.

Article 27 of Law 05-07 affirms that the contract of research and / or exploitation does not give the right to own the land specified by the said contract.

It is noteworthy that the Algerian legislator has devoted the entire seventh chapter of Law No. 05-07 of 2005 AD to the process of transferring ownership at the end of the contract or the term of the concession, as Article 80 of the same law states that: "Upon the expiration of the term of a search and / or hydrocarbon exploitation contract, the transfer is made, Ownership of all establishments that allow the continuation of activities for the benefit of the state. The National Agency for Valuation of Fuel Resources will inform the contractor of the list of structures and establishments whose ownership the state does not wish to transfer within a period of at least three years before the end of the term of the search and / or exploitation contract.

This transfer is made without any costs incurred by the state. Upon carrying out the conversion process, the facilities that the contractor will transfer must be operational and in good working condition.

With regard to all establishments whose ownership the state does not wish to transfer, the contractor must bear all the expenses involved in the process of abandonment and / or renewal of the site stipulated in the contract, in accordance with the regulatory provisions in the field of industrial security and the environment" (Law 05-07).

Article 37 of Law 05-07 states that: Upon the end of the search phase, the search contract shall be canceled automatically and by the force of law, if the contractor does not declare the commercial characteristic of the reservoir or if he does not select an area, the subject of application of Article 42 of the same law.

The contractor may request an exceptional extension of the research phase for a period of up to six (6) months in order to be able to complete the drilling and / or evaluation of a research well that had started during the last three (3) months, before the end of the research phase. The National Agency for Valuation of Hydrocarbon Resources grants this extension according to a justified request submitted by the contractor, and expressed before the end of the research phase.

Article 81 of Law 05-07 affirms: “Upon the expiration of the concession period for pipeline transportation, ownership of all structures and facilities that allow the exercise of operations shall be transferred to the state free of charge and without burdens.

The Fuel Control Authority informs the concessionaire of the list of establishments whose ownership the state does not wish to transfer within a period of three (3) years at least before the end of the concession period.

When carrying out the transfer process, the establishments that the state does not wish to transfer ownership of, the franchisor must bear all the expenses involved in the process of abandonment and / or renewal of the site provided for by the franchise, in accordance with the regulatory texts in the field of industrial security and the environment.

As for Article 82 of Law 05-07, it states that each contract or concession specifies the terms and conditions that allow the contractor or the franchisee to build up supplies during the term of the contract or concession to meet the costs of abandonment and / or repair of the site, in accordance with Articles 80 and 81 From the same law.

The contractor must also pay every civil year a reserve in a reservation account to meet the costs of the process of abandonment and returning the places to their original condition, which should take place at the end of exploitation. This provision is considered as utilization cost deducted from the taxable results for the title of the fiscal year. These operating costs are determined according to each production unit on the basis of the recoverable reserves remaining at the beginning of each civil year.

Also, the program of abandonment and restoration of sites to their original state, as well as the related budget, must be an integral part of the development program for contracts for research and / or exploitation of hydrocarbons. The National Agency for Valuation of Fuel Resources determines the amount of this supply on the basis of an experience study, and the National Agency for Valuation of Fuel Resources shall ensure that it is paid into the reservation account.

The abandonment and restoration of the site to its original state is monitored by the National Agency for Fuel Valuation in cooperation with the Fuel Control Authority and the Ministry in charge of the environment.

With regard to fuel transportation pipelines and associated facilities, the concessionaire must pay an amount of provisions for each civil year in a reservation account to meet the costs of abandonment and return the site to its original state, which must be done at the end of the exploitation period. This provision is considered as utilization cost deducted from the taxable results for the title of the fiscal year. It should take into account the tariff of transportation by pipelines at the beginning of each civil year, this cost for each unit transported.

The abandonment and site repair program, as well as the related budget, must be an integral part of the development and exploitation program for fuel transportation pipelines and their associated facilities.

The fuel control authority determines the amount of this supply on the basis of an experience study, and the fuel control agency shall ensure that it is paid into the seizure account.

The abandonment and return of the site to its original state shall be monitored by the fuel control authority in cooperation with the Ministry in charge of the environment.

Important Amendments To Law 01-13 Of 2013:

It is worth noting that no amendment has been made regarding articles (07-27-37-80-81-82 of Law 05-07 related to expropriation in Ordinance 06-10 of 2006 AD, while we note that there have been important amendments in Law 01-13 of 2006). 2013 AD, as we find that Article 7 (07) stipulates the possibility of the contractor or the recipient of a concession of transport by pipelines, and in order to continue to achieve his goals and accomplish the facilities necessary for his activities, to benefit from the right of expropriation in accordance with the conditions and forms stipulated in the legislation in force:

“- The National Corporation, Sonatrach, a company with shares alone, can acquire lands by assignment or expropriation in accordance with the legislation in force. The contracting or the concessionaire remains subject to all applicable legal and regulatory obligations, Concession, the benefit from expropriation for the public benefit.

Benefits from the acquisition of lands are granted by means of assignment or expropriation, in accordance with the legislative and regulatory provisions in force.

The necessary procedures to grant the right of expropriation shall be initiated by the competent authority to authorize this right from the National Agency for Monitoring and Control of Fuels in the case of a privileged right to transport by pipelines, or by the National Agency for Valuation of Fuel Resources in the case of a search and / or exploitation contract.

He shall bear the expenses necessary for this procedure and the costs involved in it: the contractor in the case of a search and / or exploitation contract, the concessionaire in the case of a pipeline transportation concession” (Article 07 of Law No. 05-07 amended and supplemented by Law 01-13).

The state, by force of law, has the right to terminate the oil investment contract if certain exploration and drilling operations are not carried out within the period specified in the agreement, and this is confirmed by Article 37 of Law 13-01 promulgated 02/20/2013 stating that: “When the search phase ends, it ends. The search contract is carried out automatically and by the force of law if the contractor does not declare the commercial characteristic of the reservoir or if he does not select an area that is the subject of the application of Article 42

below (Article 37 of Law No. 05-07 amended and supplemented by Law No. 01-13).

Also, important amendments were made to Article 82 of Law 13-01, which stipulated that each contract or concession specifies the terms and conditions that allow the contractor or the franchisee to create supplies during the term of the contract or concession to meet the costs of the abandonment and / or repair of the site, according to the provisions of Articles 80 and 81 of Law 05-07 of 2005 AD.

The contractor must pay every civil year in a reservation account in accordance with the applicable regulation, to meet the costs of the process of abandonment and returning the sites to their original condition, which must take place at the end of exploitation. This supply is considered as utilization cost deducted from the taxable results in the title of the fiscal year. This exploitation cost is determined by a unit of production on the basis of the remaining reserves that can be recovered at the beginning of each civil year. The site abandonment and repair program, as well as the budget related to it, should be an integral part of the development plan for research and / or exploitation contracts.

The National Agency for Valuation of Fuel Resources determines the value of this supply on the basis of an experience study. And the National Agency for Valuation of Fuel Resources shall ensure that it is paid into the reservation account. At the end of the exploitation and after completing the abandonment and restoration of the sites to their original condition, the remaining amounts shall be paid in the reservation account to the public treasury.

The abandonment and restoration of sites to their original condition is monitored by the National Agency for Valuation of Fuel Resources, in cooperation with the Fuel Control Authority and the Ministry in charge of the Environment.

The concessionaire must also pay every civil year a supply in a reservation account in accordance with the applicable regulation, to meet the costs of abandonment and repair of sites to be carried out at the end of exploitation, pipelines, transportation of fuel and its related facilities.

This provision is considered as utilization cost deducted from the taxable results for the title of the fiscal year.

The tariff for transportation by pipelines at the beginning of each civil year must include this cost for each unit transported.

The abandonment and site repair program, as well as the related budget, should be an integral part of the program for developing and exploiting fuel pipelines and their associated facilities. And the fuel control authority determines the value of the supply on the basis of an experience study.

The fuel control authority shall ensure that it is paid into this seizure account. Upon the end of the exploitation of the fuel pipelines and their associated facilities, and after completing the abandonment operations and returning the

sites to their original condition, the remaining amounts shall be paid in the reservation account to the public treasury.

The abandonment and restoration of sites to their original condition is monitored by the fuel control authority in cooperation with the Ministry in charge of the environment (Article 82 of Law 05-07 amended and supplemented by Law No. 01-13).

Fourth Requirement: Labor Laws

Work relations in the petroleum industry in oil-producing countries raise three main problems. The first of these problems is related to the policy and programs of the franchisor in training employees (Albert Y. Badre, Simon G. Siksek, 1970).

The second concerns his treatment of workers and the level of wages.

The third concerns the application of labor laws and settlement of labor disputes ().

Given the importance of these issues, we will try to find out the position of the Algerian legislator through the following points:

- The franchisee's policy and programs for employee training.
- Treatment of employees and the level of wages.
- Application of labor laws and settlement of labor disputes.

The Franchisee's Policy And Programs For Employee Training:

Most of the agreements affirmed the need for the franchisor to set up programs to train patriots on specialized technical and administrative work, to create advanced skills that allow the implementation of the contractual requirements for replacing foreigners with patriots, and at the same time allow the host country, upon the expiration of the agreement, the choice between whether or not it By managing its national petroleum industry without relying on foreign expertise, or by adopting the way of contracting with foreign experts in known patterns.

In view of the complexity of the petroleum industry operations, and the degree of precise specialization required for it, and given the relative backwardness of technical and specialized education in the oil-exporting Arab countries, the need for comprehensive in-depth training in the various fields of this industry, no matter how long it takes and no matter how much expense. Article 57 of Law No. 90-11 of 04/21/1990 AD related to labor relations, amended and supplemented by Law No. 91-29 of 12/21/1991 AD states that: "Every employee must undertake work related to training and improvement of the level for the benefit of Workers, according to a program that he presents to the Participation Committee to express an opinion, and he must, within the framework of the legislation in force, organize work related to apprenticeship to enable young people to acquire theoretical and practical knowledge necessary to practice a profession.

Treatment Of Employees And The Level Of Wages:

The petroleum agreements have granted the franchisor the right to employ foreigners. The requirements that restrict or regulate the entry of the franchisor and his foreign technical and administrative experts into the territory of the host country are not inconsistent with the established rules in international law, which recognize the sovereign state of freedom. A divorced woman is allowed to enter her territory or prohibit that, or set out regulations that guarantee the achievement of her supreme interests. And if the state has the right to regulate the admission of foreigners, then it seems logical that it has the authority to regulate their movement within its territory, and the foreigner also has the right to leave this region.

The state also has the right to remove it from it, and all these rules are in accordance with the requirements for the use of foreigners, which are included in the petroleum agreements (Ahmed Abdel-Hamid Ashoush, 1977, p. 18).

Article 5 of Law No. 90-11 of 04/21/1990 AD amended and supplemented with Law No. 91-29 of 12/21/1991 stipulated that workers enjoy the following basic rights: exercising the right of association, collective bargaining, participation in the employing body Social security and retirement, health protection, safety and work medicine, rest, contributing to the prevention and settlement of work disputes, resorting to strikes." As for wages and salaries, Article 87 stipulates that: "The national minimum wage determines the content applied in the sectors of activity. By decree, after consulting with the most representative labor and employee unions and trade union organizations ... "Article 88 of the same law states:" The employee shall pay wages to all workers regularly, upon his maturity date ".

Application Of Labor Laws And Settlement Of Labor Disputes

International law recognizes the right of every state to set a policy for the use of foreigners in its territory, according to the dictates of the political, economic and social circumstances in it, and since the policy of different countries varies greatly according to their circumstances, it becomes expected that the policies of countries towards the use of foreigners within their territory will vary.

This result has found its way to the petroleum agreements in the Arab countries whose economy is still going through a growing stage, so it bore some of the conditions that achieve protection for national workers, so it stipulated that the preference be for patriots in holding jobs, and some agreements went even further, as they also granted this preference to citizens of countries Arabic, as it required equality between citizens and foreigners in salaries and all other benefits when they performed the same work, as well as obligated the franchisee to provide certain services aimed at raising the standard of living for national employees (Ahmed Abdel Hamid Ashoush,, 1989, p.19).

And if some petroleum agreements have granted preference in employment to Arab citizens, which may indicate that it includes discrimination against foreigners, then international jurisprudence and the judiciary have recognized the permissibility of this discrimination if it is based on a reasonable justification, and there is no doubt that giving preference to Arab citizens for it is one of the reasons, Is justified. It seems that Algeria has not devoted a stand-alone law to regulating labor relations in the oil sector, just as the United Arab Emirates has adopted a labor law, unlike Kuwait, which has allocated a law to regulate labor relations in the oil sector.

- According to Law 10-81 of 1981, regarding the condition of employing foreign workers,
 - And according to Law 13-83 of 1983 AD related to work accidents and occupational diseases, as amended and supplemented,
 - According to Law 88-07 of 1988 relating to health protection, security and work medicine,
 - And in accordance with Law No. 90-11 of 1990 regarding labor relations, as amended and supplemented.
- Article 17 of Law 05-07 amending and supplemented by Law No. 13-01 of 2013 states that when carrying out activities, the subject of this law, strict respect for the instructions and obligations related to the following:
- The safety and health of workers.
 - Hygiene and public health.
 - The basic specifications of the terrestrial or marine environmental environment,
 - Archaeological interests.
 - The content of the laws and regulations in force in the field of environmental protection.

The first article of Law No. 91-29 stipulated that: "This law defines the methods of preventing and settling collective disputes at work, and the conditions and methods for exercising the right to strike resulting from a collective conflict."

CONCLUSION:

The hydrocarbons sector in general, and oil investment in particular, have played a major role in the national economy, and it still plays this role because it is the first sector from which the state has achieved large resources, as it symbolizes the independence of the state and the exercise of its sovereignty over its territory.

The study confirmed that the reasons for the dissonance between the two parties to the relationship in the oil contracts is the search for the interests of each of them, while the foreign investor seeks to accommodate the oil contracts in the arms of international law, the state is looking for confirmation of its sovereignty by accommodating the contracts in the embrace of its internal law.

It is worth noting that the oil laws of Algeria, Kuwait, and the United Arab Emirates were enacted at a time when it was not known whether the territories of these countries contained huge deposits of oil inside them, and for this reason the first oil laws were enacted aiming to encourage oil companies to explore

And exploration on the largest possible scale to reveal its oil potential in the shortest time, and thus most of its texts came in its first laws at the expense of parity between the parties to the relationship, especially in the issue of applicable law and means of resolving disputes, and it was in the interest of the foreign investor. A large degree, as it led to a rapid increase in exploration activity on oil.

It is noticeable that in studying the topic "The role of the legal system for oil investments in attracting and protecting foreign companies", it led to conclusions that can be obtained in the following points:

- The legal protection of foreign oil companies in their contracts with the countries under study varies in their mechanisms, as well as in the size and scope of guarantees and incentives granted to these companies, but even within the scope of one mechanism varies and the indicators of benefits and guarantees granted to foreign oil companies differ. For example, we find that the protection index for the arbitration mechanism differs from one judgment to another.

The expansion of the benefits and legal protection guarantees granted to foreign oil companies in their contracts with the countries under study have arranged a satisfactory measure of effective protection for these companies, and this has been clearly demonstrated in the effectiveness of the results of arbitration awards (awarding compensation) and the effectiveness of implementing these provisions (obtaining Compensation) in favor of these companies.

- The study revealed the protection mechanisms devoted by the various constructions of the countries under study that outperformed in effectiveness and mandatory protection mechanisms established by international law.

- The real justifications that had prompted the countries under study to undertake the nationalization procedures were stipulated in the political discourse, and therefore these procedures were subject to challenge in their legality due to their violation of the principle of equality and non-discrimination (at least in the eyes of foreign companies), a restriction imposed by international law.

- The study confirmed that the text on the tools of international law regarding the law applicable to oil contracts is an effective mechanism of legal protection mechanisms for the foreign investor, especially in the arbitration judiciary.

- The study concluded that it is possible to protect the foreign contractor in his contracts with the host country if the national law of the state is accepted as an applicable law, by relying on some private law principles devoted to this purpose, such as "the principle of the contract, the Shari'a of the contractors."

- The study confirmed that the conditions for legislative stability are correct and reassuring conditions for the foreign investor, and there is nothing that prevents the state from adhering to them as long as they do not conflict with the public interest and public order, provided that the host country can, by its own will, amend its internal legislation according to what It is required by its interests in light of the economic changes without any responsibility for it, as long as it does

not violate the provisions of international law, it only entails the right of compensation to the foreign investor.

- It must also be said that the economic developments that took place resulted in taking precautionary measures, as control authorities have been adopted in this sector that take on the task of managing and controlling this sector, and therefore they are considered tools for monitoring the state, and on this basis, the role of the state differed from what it was previously. After the state was interfering in most economic activities, it became a guiding officer in economic life as a result of opening all economic sectors to private initiative, this means that the state's intervention transformed from direct intervention to indirect intervention sanctioned through these bodies called control powers.

- In sum, the real and permanent guarantee of foreign oil companies with regard to their investments, whether in the countries under study or oil-producing countries in general, cannot be in the huge amount of international protection tools and the increase in national guarantee mechanisms, but rather in what the foreign oil investor can provide from a real contribution to the economy of these countries, because when the latter observes the active role of the foreign investor, their adherence to it increases, and only then does the foreign oil investment exceed the limits of non-commercial (political) risks. As for the oil companies to remain operating outside the economic and social goals of these countries, ignoring the reality of these countries, the means of national and international protection, even if they are multiplied, will not work whatever their source, and whatever their legal nature and mandatory character, It would be better for these companies to research the role that their investments should play, taking into account the interests of the countries hosting this type of investment as an economic partner, because stability and permanence are based on consensus of interests, and not on imposing legal conditions and restrictions for any party on the other party.

Through our findings as a result of our study of the issue of the role of the legal system for oil investments in attracting and protecting foreign companies, some of the following suggestions can be made:

- Developing strategic plans to provide the factors and reasons for promoting the partnership, especially with the giant oil companies, in order to achieve a significant and continuous level of growth, which helps to raise the total demand, which is an important factor for getting out of economic crises
- Attempt to achieve a balance between the interests of national companies and the interests of foreign companies working to achieve the largest share of production.
- Giving more importance to the rest of the fields such as petrochemicals and refining, which need to establish partnership relations to gain previous experiences.

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