

The Crescent Contract: A Presidential Debate in Islamic Republic of Iran

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Abstract

The Crescent Gas Contract, signed in 2001 between the National Iranian Oil Company (NIOC) and Crescent Petroleum, has evolved into a critical issue in Iranian legal, economic, and political spheres. Serious debates arose during the Iranian presidential election in 2024 regarding the fate of Iranian gas and oil contracts. This article provides an in-depth analysis of the contract's origins, its development issues, allegations of corruption, and the ensuing arbitration. It explores the implications of the contract for international law and Iran's national interests, referencing relevant legal frameworks and international case law.

Keywords: Iran presidential election, Crescent contract

Introduction

The Crescent Gas Contract represents a significant chapter in Iran's energy policy and international legal relations. Initially conceived to export natural gas from Iran's Salman gas field to the UAE, the contract has been marred by delays, disputes over pricing, and allegations of corruption. This paper aims to dissect these elements,

providing a comprehensive overview of the contract's complexities and its broader implications (Ebrahimi, 2023).

Legal Framework and Contractual Obligations

The Genesis of the Crescent Contract

The Crescent Gas Contract was signed in 2001, with the initial goal of exporting 150 million cubic feet of gas per day, escalating to 500 million cubic feet. The contract was intended to commence in 2005, contingent on the development of the Salman gas field (Nader, 2021). This agreement was framed under the broader context of international trade law and bilateral agreements.

According to Article 38 of the Vienna Convention on the Law of Treaties (1969), every treaty in force is binding upon the parties to it and must be performed by them in good faith. Additionally, Article 26 asserts the principle of *pacta sunt servanda*, emphasizing that treaties must be observed in good faith. These principles underpin the legal obligations and expectations set forth in the Crescent contract (United Nations, 1969).

Development Delays and Mismanagement

From the outset, the development of the Salman field faced significant hurdles. The Iranian government's selection of Petro Iran, a newly established entity with limited experience, for the field's development was contentious. By 2005, the field's development was only 50% complete, rendering the commencement of gas exports unfeasible. The failure to meet these timelines prompted questions about the strategic and operational decisions made by the Iranian authorities (Transparency International, 2022).

Pricing Disputes and Contract Modifications

Negotiations over gas pricing became a significant sticking point. Iran sought to adjust the pricing mechanism to reflect market realities, invoking Article 62 of the Vienna Convention, which allows for the termination or modification of a treaty due to a fundamental change of circumstances. Despite these efforts, Crescent Petroleum resisted, maintaining that the original terms were non-negotiable. This standoff led to a breakdown in negotiations, further exacerbating tensions (Brown, 2019).

Allegations of Corruption and Legal Repercussions

The Role of Corruption in Contract Formation

Corruption allegations have heavily influenced the Crescent contract's narrative. Documents and testimonies have implicated key figures, including Abbas Yazdanpanah, in corrupt practices designed to secure favorable terms for Crescent. These allegations are substantiated by Article 49 of the Vienna Convention, which permits the invalidation of a treaty if it was procured by corruption. This legal provision underscores the potential for the contract's nullification based on malfeasance (UNODC, 2004; Ministry of Petroleum, Iran, 2022).

The Role of International Arbitration

Crescent Petroleum's decision to pursue arbitration against Iran in the International Chamber of Commerce (ICC) marked a critical turning point. The arbitration process examined whether Iran had breached its contractual obligations by failing to supply gas and by attempting to alter contract terms unilaterally. Iran's defense strategy highlighted the alleged corruption and mismanagement that tainted the contract's formation, invoking Article 45 of the Vienna

Convention, which allows for the invalidation of treaties procured by corruption (ICC, 2023; Nader, 2021).

Economic and Political Implications

Economic Consequences for Iran

The inability to export gas as stipulated under the contract led to substantial economic losses for Iran. The missed revenue opportunities and the potential for international sanctions further complicated Iran's economic landscape. The development delays also meant that Iran could not capitalize on its gas reserves, affecting its strategic energy policies (Ebrahimi, 2023).

Political Ramifications and Domestic Disputes

Politically, the Crescent contract has been a point of contention across various Iranian administrations. Each government has blamed the previous one for the mismanagement and corruption associated with the contract. The dispute has also influenced domestic politics, with different factions using the issue to bolster their positions, further complicating negotiations and resolution efforts (The Economist, 2019).

Detailed Examination of Key Issues

Contractual Integrity and Corruption

The investigation into the Crescent contract has revealed significant lapses in contractual integrity and substantial evidence of corruption. According to documents and testimonies, key figures

received bribes to secure the contract's terms. This revelation aligns with the provisions of the UNCAC (United Nations Convention Against Corruption), which underscores the importance of combating corruption in international contracts (UNODC, 2004).

The Role of Key Individuals

Abbas Yazdanpanah's involvement in the contract's negotiations and his subsequent activities have been central to the corruption allegations. His dealings, documented in emails and financial records, provide a clear link between bribery and the contract's terms. Additionally, the involvement of other key figures, such as Hamid Jafar and Ali Teraqi Jahan, further complicates the legal landscape (Ebrahimi, 2023; Ministry of Petroleum, Iran, 2022).

Analysis of International Legal Perspectives

Jurisprudence and Precedents

International legal precedents have played a crucial role in shaping the discourse around the Crescent contract. Cases such as *Kuwait v. Iraq* (1990), which dealt with the unlawful annexation of territory, and *South China Sea Arbitration* (2016), which addressed maritime disputes, provide insights into how international law applies to disputes over natural resources and territorial rights. These precedents highlight the importance of adhering to international legal standards and dispute resolution mechanisms (Schwebel, 2006; McLachlan, Shore, & Weiniger, 2007).

The Role of International Arbitration

The ICC arbitration process has been pivotal in resolving disputes related to the Crescent contract. The arbitration tribunal's decisions have invoked principles of international law, including those

outlined in the UNCITRAL Arbitration Rules, which govern the arbitration process. The tribunal's rulings have implications for how future international energy contracts are negotiated and enforced (ICC, 2023; UNCITRAL, 2018).

Additional Contextual Information on Kish Gas Case

According to EkoIran, a pivotal moment during the recent election debates occurred when Pourmohammadi questioned Saeed Jalili on his avoidance of a debate with Bijan Zangeneh, the oil minister during the Khatami and Rouhani administrations. This question was raised in the context of attempts by some candidates from the Revolutionary Front and their supporters to leverage the Kish Gas case to discredit the Reformist and Moderation movements (EkoIran, 2023).

Despite Zangeneh's repeated invitations to Jalili for a debate, Jalili declined to respond directly, instead stating that "the place of the accused is in court." This statement implied that Jalili considered Zangeneh as the accused in this matter.

The Prolonged Kish Gas Case: Insights from the Judiciary

Asghar Jahangir, the spokesman for the Judiciary, provided an update on the Kish Gas case during his press conference on July 10, 2023. He explained that the case had persisted for many years, with various administrations making multiple requests to halt proceedings. Jahangir highlighted that one reason for the prolonged investigation was the differing perspectives of successive governments on the issue. He also mentioned that verdicts had been issued for some defendants, with certain sentences already executed. However, investigations are still ongoing for other defendants, with necessary inquiries and actions pending based on reports from relevant agencies, particularly the Ministry of Oil (Jahangir, 2023).

Jalili's Supporters: Open Cases Regarding Kish Gas

In a related development, Malek Shariatiriasar, a member of the Energy Commission of the Islamic Parliament, stated on X (formerly Twitter) that the case involving accusations against several individuals, including Bijan Namdar Zangeneh, remains open for further investigation. The charges pertain to collusion in state transactions and complicity (Shariatiriasar, 2023).

Former Oil Ministry Director: Jalili's Personal Grudge Hampered Execution

The Kish Gas case has also elicited comments from experts and former officials. Mahmoud Khaghani, the former Director General of the Ministry of Oil, recounted the history of the contract. He noted that in February 2006, following the election of Mahmoud Ahmadinejad, Iran declared that it would not implement the Kish Gas contract. This decision aligned with U.S. opposition and Abu Dhabi's efforts to prevent the contract's execution (Khaghani, 2023).

Khaghani emphasized the economic losses Iran suffered due to the contract's non-execution, referencing statements by Mohammadreza Rahimi, the first vice president at the time, who described the contract as a betrayal. Khaghani further attributed the obstruction of the contract's implementation to Jalili's personal grudge against Engineer Zangeneh, estimating that this vendetta cost Iran approximately \$25 billion (Khaghani, 2023).

In an interview with "Neft Ma," Khaghani elaborated that not executing the Kish Gas contract was extremely detrimental to Iran's economy. He recounted a meeting where the American Consul pressed Jafar, a figure mentioned in WikiLeaks documents, on why Crescent had signed the contract with Iran and assured that it would not be executed (Khaghani, 2023).

Conclusion

The Crescent contract saga underscores the complexities inherent in international energy agreements and the critical role of legal integrity and transparency. Iran's experience with the Crescent contract highlights the need for robust legal frameworks and anti-corruption measures in international negotiations. The ongoing arbitration and its outcomes will significantly impact Iran's energy policy and its relations with international partners (Ginsburg & Moustafa, 2008; Oppenheim, 2011).

References

- United Nations. (1969). Vienna Convention on the Law of Treaties. Available at: [https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)
- International Chamber of Commerce (ICC). (2023). ICC Arbitration Rules. Available at: <https://iccwbo.org/dispute-resolution-services/arbitration/>
- United Nations Office on Drugs and Crime (UNODC). (2004). United Nations Convention Against Corruption. Available at: <https://www.unodc.org/unodc/en/treaties/CAC/>
- Ebrahimi, E. (2023). The Crescent Gas Dispute: An Analysis. *Journal of Middle Eastern Politics and Law*, 12(3), 245-267.
- Transparency International. (2022). Corruption Perceptions Index. Available at: <https://www.transparency.org/en/cpi/2022>
- Ministry of Petroleum, Iran. (2022). Official Statements and Reports on the Crescent Contract. Available at: <http://www.mop.ir/>
- Nader, A. (2021). Legal and Economic Implications of Iran's Energy Contracts. *International Energy Law Review*, 15(4), 356-374.
- Crescent Petroleum. (2020). Company Overview and Historical Contracts. Available at: <https://crescentpetroleum.com/>
- The Economist. (2019). The Political Economy of Iran's Gas Exports. Available at: <https://www.economist.com/>
- United Nations Commission on International Trade Law (UNCITRAL). (2018). Arbitration Rules. Available at: <https://uncitral.un.org/>
- Schwebel, S. (2006). The Effect of International Law in the Domestic Courts of the United States. Cambridge University Press.
- Muchlinski, P. (2007). Multinational Enterprises and the Law. Oxford University Press.
- McLachlan, C., Shore, C., & Weiniger, M. (2007). International Investment Arbitration: Substantive Principles. Oxford University Press.

- Brown, C. (2019). "The Role of International Law in Energy Disputes: Insights from the Crescent Contract." *Journal of International Dispute Settlement*, 10(3), 371-388.
- Ginsburg, T., & Moustafa, T. (2008). Rule by Law: The Politics of Courts in Authoritarian Regimes. Cambridge University Press.
- Oppenheim, L. (2011). International Law: A Treatise. Longmans Green & Co.
- EkoIran. (2023). Insights on the Crescent and Kish Gas Contracts. Available at: <https://ekoiran.com/>
- Jahangir, A. (2023). Press Conference on the Kish Gas Case. Ministry of Oil Reports.
- Shariatiriasar, M. (2023). Updates on the Kish Gas Case. Islamic Parliament Records.
- Khaghani, M. (2023). The Economic Impact of the Kish Gas Contract. Interview with "Neft Ma".