With potential for huge underwater natural gas fields in the eastern Mediterranean Sea, Lebanon stands poised to reap new energy wealth and to achieve possible energy independence. In 2010, the U.S. Geological Survey estimated that the Levant Basin, a region of the Eastern Mediterranean Sea bordering Syria, Lebanon, Israel, Gaza, and portions of Cyprus and Egypt, contains about 122 trillion cubic feet (tcf) of potential reserves of recoverable natural gas. Lebanon’s southern neighbor, Israel, began commercial natural gas production from the Basin and is expected to switch from being a natural gas importer to an exporter. For Lebanon, initial seismic surveys in its southern waters estimate that unexplored potential reserves off the coast could contain 25 tcf of gas that could be worth billions.

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Sea Change in the Levant Basin

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Despite the promise, Lebanon has yet to drill even an exploratory well in the basin.

Blocking the path to energy wealth is a series of external and internal roadblocks. Externally, maritime claims by Israel are hindering Lebanon’s plans to tap offshore gas fields along its boundary. Further, regional dynamics, which range from byzantine relations to outright war, make exploration and pipelines to the European markets uncertain. Internally, Lebanon’s political rivalries have left the country without a president for the past year, blocking forward movement with needed energy legislation. Additionally, Lebanon’s financial sector, a historic strong point for the country, confronts tighter international scrutiny and concerns of money laundering and terrorism financing.

The coexisting promise and peril in Lebanon from offshore gas create legal and practical issues for development.

Disputed Israel-Lebanon Maritime Boundary among Offshore Gas Fields

One risk to offshore gas development is the recognition of Lebanon’s Exclusive Economic Zone (EEZ) boundaries. Overlapping EEZ claims between Lebanon and Israel in the eastern Mediterranean create a disputed triangle-shaped sliver of roughly 850 square kilometers floating above potentially valuable gas reserves beneath the seafloor.

Under the United Nations Convention on the Law of the Sea (UNCLOS), coastal states have rights to explore, exploit and manage natural resources, including oil and gas within its EEZ. UNCLOS provides some pointers on what to do when EEZ claims overlap as they do between Israel and Lebanon. In such situations, Article 74 of the Convention calls for equitable solutions through the application of international law. Not very helpful.

Lebanon and neighboring Cyprus are parties to UNCLOS, whereas Israel and Syria are not. Turkey, which objects to offshore drilling and maritime claims by the Republic of Cyprus, also is not a party to UNCLOS. Despite who is in or out, the principles of maritime boundary delimitation codified in UNCLOS generally are considered binding as customary international law.

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The problem here is at the intersection of international law and geometry, represented in this case by the unsettled tripoint that delimits the EEZs among Cyprus, Israel, and Lebanon. Both Lebanon and Israel have separate agreements with Cyprus stipulating their respective maritime boundaries. Lebanon’s 2007 agreement with Cyprus declared EEZ boundaries measured by equidistance, but Lebanon never ratified the agreement. Israel, too, declared its maritime boundary with Cyprus in 2010.

Beyond bilateral Cypriot agreements, both Israel and Lebanon submitted EEZ coordinates to the UN Secretary-General. Israel submitted its coordinates despite not being a party to the Convention. The Israeli submission to the UN is consistent with the coordinates that the Israeli cabinet approved as its maritime boundaries in July 2011 based on the Cyprus-Israel agreement. In 2010, Lebanon deposited its coordinates with the UN and reiterated the figures in 2011 by a chart and coordinates proclaimed in its laws. The tripoint used by Lebanon at the UN differed from that which Israel submitted to the UN for its northern boundary and according to the Israel-Cyprus maritime agreement.

Lebanon objected to the Israel-Cyprus maritime boundary agreement and Israel’s EEZ coordinates with the UN, arguing that the delimitation encroaches on Lebanese
territorial rights. Lebanon claimed that the Israel-Cyprus agreement uses a point too far north. However, the Israel-Cyprus agreement's coordinates, the subject of Lebanon's objection, match with coordinates in the earlier Lebanese-Cyprus maritime agreement.

A major cause—or result—of the dispute, depending on the side, is that Lebanon's deposited coordinates differ from its unratified agreement with Cyprus. Lebanon stands by its UN coordinates, asserting that they represent the actual Cyprus-Israel-Lebanon tripoint. Despite nearly ritualized positions of disagreement, at least both countries agree on equidistance as the established method for delimiting coordinates under international law. Despite the agreed manner of measurement, the dueling-applications result is an overlapping area that both countries declared as part of their respective maritime zones. The triangular overlap also just happens to be the area with the greatest potential for new offshore natural gas discoveries in the Levant.

The reasons for the difference in Lebanon's coordinates are subject to speculation. Officially, the delimit of a smaller EEZ in the Cypriot agreement was an interim way around an ostensibly impossible agreement and was expressly intended to leave the door open on settling the EEZ through bilateral negotiation, as called for in international law, in a future agreement with "neighboring countries." Unofficial explanations suggest that Lebanon took a cautious approach in the Lebanon-Cyprus agreement to avoid incurring another military action just months after the 2006 war with Israel. Other suggested explanations include pressure from a third party, such as Turkey, or merely a fumbled diplomatic maneuver.

Lebanon's maritime dispute could theoretically go to the International Court of Justice (ICJ) or, alternatively, to the International Tribunal for the Law of the Sea (ITLOS). Either tribunal's jurisdiction is unlikely. Neither Israel nor Lebanon will consent to ICJ jurisdiction, which is a prerequisite. Lebanon is a member of the ITLOS, but again, Israel would have to consent to the Tribunal's jurisdiction, which is not likely. The maritime dispute is only a part of the story here. Its resolution is not necessary to propel the drama forward.

**In the Wake of Israel's Rapid Development**

Preempting resolution of the maritime boundary, Israel acted swiftly to explore and develop the offshore gas reserves. Large discoveries in Israeli waters, including the Tamar field in 2009 and the Leviathan field in 2010, transformed the region's energy outlook and prompted Israel to stir the lingering conflict by unilaterally installing a line of buoys in 2010 to mark the boundary with Lebanon. Israel placed the buoys based, in part, on the Israel-Cyprus treaty and identified leasing blocks along the disputed maritime boundary. Lebanon protested the Israeli encroachment into its waters to the United Nations.

Israel's fast clip of development meant that Tamar began production in less than five years, which is a remarkably short period of time. Its estimated recoverable reserves of 10 tcf could meet present levels of Israel's demand for decades. The Leviathan field's estimated reserves of 19 tcf, the largest new deepwater offshore gas find worldwide in a decade when it was discovered, could provide enough natural gas to meet Europe's needs for a year. One of the concerns is that the rapid development of offshore gas fields in Israel will spur drilling closer to the disputed boundary, increasing the risk of tapping interconnected reserves with Lebanon.

Then came a plot twist. In a ruling at the end of 2014, Israeli antitrust authorities effectively halted Israel's gas development. The antitrust regulators were concerned by a gathering cartel led by U.S.-based Noble Energy and Israeli oil company Delek. The regulatory ruling could impact budget and revenue aspirations by slowing the development of historic offshore gas finds back by years while Israel recalculates how to ensure increased competition. Legal uncertainty is menacing in hydrocarbon development, which requires large, upfront investment and capital.

**The Promise of Offshore Gas Potential**

The events involved are relatively recent. Offshore gas in the Levant Basin began to show promise around the early 2000s. The estimated 25 tcf of gas in Lebanon's southern waters and the proven fields in neighboring Israel provide a sense of optimism for finding abundant offshore gas in Lebanon's waters. Further, Lebanese officials have stated that the offshore gas potential could be significantly more than the estimated amounts and could allow for gas exports. Lebanon's Ministry of Energy and Water estimates that the country could profit from roughly 95 tcf of offshore gas.

Statistics are not required to understand two points that shape perceptions. One is that the ballpark estimates are large in relative terms. While the Levant Basin holds only a fraction of the current global supply and is unlikely to rival Lebanon or Israel to the status of Qatar, these are, nevertheless, game-changing finds. A second point about perception is that, given these kinds of estimates, regardless of how much hydrocarbons actually exist in the Levant Basin or the amount of treasure spent or gained, the current projections of potential are enough to compel a belief in a coming bonanza. Aspirational beliefs can be more powerful than unproven facts.
Possible energy independence and financial windfalls are magnetic. It is understandable, too, considering that Lebanon is saddled with a crippling public debt, a chaotic energy infrastructure, and a tenuous ability to keep the brownouts from going black. These may sound like hyperbole, but they are more likely understates. Lebanon relies almost exclusively on imports for its energy needs. It has been unable to include natural gas in its official energy mix, using instead refined petroleum products. The security situation in Sinai and tragedy in Syria have choked off the supply of natural gas as a commercially viable option for Lebanon.

Israel, too, had been significantly reliant on gas imports from Egypt. Around 40 percent of its gas supply came from Egyptian fields when the sounds of revolution began rising from Tahrir Square. The security vacuum in Sinai that followed cut the supply to the Arab Gas Pipeline, drying up the gas to the downstream markets of Israel, Jordan, and Lebanon—some of the most energy-starved countries (discounting renewable energy). Israel has already made arrangements to pump gas to Egypt, reversing the prior import-export relationship. The bottom line for proponents of offshore hydrocarbons is that these countries could see huge gains and positive externalities by the development of offshore resources.

**Lebanon’s Legal Framework**

Juxtaposed with Israel’s rate of development, Lebanon’s dearth of offshore exploration or production is notable. The waters may be still, but the issues run deep.

The Offshore Petroleum Resources Law, adopted in 2010, sets the Lebanese legal framework. The law provides some foundational contract terms for future production-sharing agreements, including the calculation of the government’s take of profits. It gives some duties to the Ministry of Energy and Water and establishes a Petroleum Administration as the regulatory body to manage offshore exploration and exploitation. The six-member Petroleum Administration, established in 2012, is intended to function independently, but the politicized Ministry remains involved until the licensing round for offshore blocks occurs.

The law calls for the government’s share of royalties and profits to accrue in a “sovereign wealth fund.” However, the fund is currently an empty vessel, without the necessary legal setup for managing money, should there ultimately be any to manage. When mineral rights are state assets, a sovereign wealth fund is a demonstrably constructive method for managing national revenue from hydrocarbons.

For Lebanon, a sovereign wealth fund has additional value beyond the money it manages. While money for the fund has its inherent value, so too does the management and administration of that money. The answers to the “how,” “what,” and “who” questions about the administration of the fund have a lot riding on them for rule of law and democratic institution-building. Additional legislation is needed to implement the framework law, but to get the legislation requires descending into Lebanese politics.

**Navigating Murky Political Waters in Lebanon**

Before companies can bid on rights to drill for offshore hydrocarbons, the government must pass two critical decrees that (1) identify the number of blocks for auction and (2) establish the revenue and tax mechanisms. The passing of these decrees seems perpetually delayed. Consequently, the licensing has been postponed each time it is due.

Moving forward from the prequalification stage is proving to be a challenge. The political process of developing Lebanon’s interests in the Levant Basin is not necessarily stagnant—rather, it is more of a melee of delays. The presidential crisis—that is, the crisis arising from the failure to decide on a president and the cascading effect on the politics and governance—both causes and results from Lebanon’s dysfunctional system of governance. The absent presidency has an arresting effect on legislation and decision making. Where there are decisions to be made, informal actors often have a significant role in Lebanese affairs. Adding energy money into a mix of Lebanon’s politics does not lend itself to transparency, but an interesting political and legal vignette of regional and global politics still plays out for observers.

The unfinished scaffolding for Lebanese offshore energy law is, in no small part, a derivative of internal politics. Lebanese politics in recent years tends to be discounted as fickle or oversimplified into two sides, a narrative of vying March 8 and March 14 political coalitions. The coalitions are big-tent alliances of political parties divided into two camps based, in part, on the legacy of and ongoing relations with the Assad regime in Syria. Energy resource politics—the drama playing out as the domestic laws and international legal battles are getting set up—are no doubt caught up in the power plays among and within these political blocs and their friends at home and abroad.

In the current stalemate, absent a vested president, the prime minister does not have the consensus needed to put the pending two decrees to a vote. It may be easy to explain this conundrum as just the want of cash by those involved, but greed is not a sufficient explanation. Factional gains and losses are perceived as an exponential winner-take-all when
the rule of law is not infallible in recent memory.

Speaker of Parliament Nabih Berri has been in the news pushing for the decrees. News reports indicate an understanding exists between Berri’s Amal Movement and Michel Aoun of the Free Patriotic Movement, both parties belonging to the March 8 coalition. The understanding reportedly addressed whether initial auctioning of offshore blocks should start with uncontested areas or should include blocks near or overlapping the disputed zone with Israel, which are, coincidentally, the most promising blocks for finding commercially viable fields. The temporary understanding shores up a united approach for the March 8 coalition for the time being. Hezbollah, another member of the March 8 coalition, has indicated its assent as well.

The significance of this lineup is that the portfolio for offshore energy has been in March 8 hands. Foreign Minister Gebran Bassil, who happens to be Aoun’s son-in-law and fellow party member, is active in offshore matters. He was previously the point person as Minister of Energy. The current Minister of Energy is also of the same bloc. At this stage, the political bloc in control of the Ministry effectively holds sway over the relevant activities of the Petroleum Administration, which equates to control of the management of offshore resources.

This may all seem like inside baseball, but all politics is not local in Lebanese affairs, especially when it comes to getting the gas to market. Take, for instance, the possibility of exporting gas to Europe, which is not unrealistic. If Lebanon were able to pipe gas out, the route would likely go through Syrian coastal territory to Turkey into Eastern Europe. This gas could both benefit and challenge Russian and Syrian regime interests. March 8’s perceived amicability to Syrian interest, and Russian by proxy, could be politically expedient to offshore gas private interests. This is merely an example of the chessboard political interests at play among the patrons and constituencies of intricate Lebanese political parties.

Lebanon also could explore exporting gas through possible offshore and onshore infrastructures, including liquefied natural gas facilities in Cyprus or Egypt. Israel is already using the existing Arab Gas Pipeline to reorient the flow of gas to Egypt. Lebanon could likewise use the line to export, to Jordan for instance.

Practical Aspects of Energy Business in Lebanon

Putting the intrigues of geopolitics aside, Lebanon is still a challenging market in terms of the legal and practical aspects of business. The gap between expectations and realities of how things work can be frustrating to those unfamiliar with it. Aside from the opaque commercial dealings, a practical set of risks stem from the unfortunate but persistent insecurity. Either reason has implications for legal work. Another is that the energy infrastructure tends to be conspicuously on the list of targets during the depressingly episodic wars with its Israeli neighbor.

All politics is not local in Lebanese affairs, especially when it comes to getting the gas to market.

Then the issues come down to money, as they usually do. Sinking large amounts of front-loaded funds for energy projects, extracting revenue, or negotiating loan syndicates requires a close relationship between actors in the energy market and the financial sector. However, the spotlight of global financial authorities is on Lebanon due to anti-money laundering and terrorism financing concerns. For example, the U.S. Treasury in 2012 accused the Lebanese Canadian Bank of money laundering and supporting terrorist funding. The case increased U.S. financial authorities’ focus and pressure on the Central Bank of Lebanon to improve its oversight.

Well-needed, ramped-up regulation for financial crimes also affects non-neighborful actors. For attorneys and their clients, additional regulatory involvement may add frictions to transactions. Global finance watchdogs are not the only liability exposure when involving local financial institutions. Litigation under the Anti-Terrorism Act, which allows certain victims of terrorism to sue in U.S. courts, raises further concerns about exposure to potential litigation for actors in Middle East finance, as is reflected in recent cases such as one against Arab Bank. See Linde v. Arab Bank, PLC, No. 1:04-cv-02799-BMC-VVP, 2015 WL 1565479 (E.D.N.Y. Apr. 8, 2015).

Conclusion

The monetization of hydrocarbons has proven transcendent of political uncertainty and even war. Energy markets rarely wait. By the nature of the multiple moving parts on the legal and practical aspects of offshore gas development in the Levant Basin, pretty much everything could change in a short time. It may not be clear if the tide is coming in or out on offshore gas for Lebanon, but advocates and advisers have to be forewarned about the difficulties of finding their way. ❖