



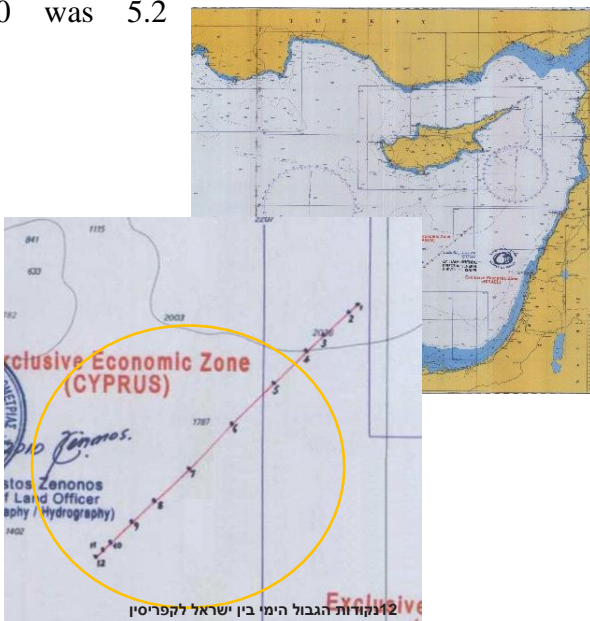
Israel – Lebanon: Dispute or Accommodation?

The offshore oil and gas fields discovered in the off-shore areas between Israel, Cyprus and Lebanon have significant economic and political significance for each of the States. However the dispute between Lebanon and Israel relating to the maritime economic zone prevent progress in the exploitation of the fields for the mutual benefit of the parties.

In 2010 the United States Geological Survey (USGS) which estimated the oil and natural gas reserves in the eastern Mediterranean basin at 1.7 Billion barrel of oil and 122 Trillion metric cubes of natural gas, being 1.220 BCM. For the most part, these fields are located off-shore from Israel, Cyprus and Lebanon, in what is known as the Levant Basin. The Israeli gas fields, Tamar, Dhalit and Leviathan were estimated at 714 BCM. For comparative purposes, Israel's natural gas consumption for the year 2010 was 5.2 BCM.

The potential arising from the discovery of oil and natural gas in the off-shore maritime economic zones of Israel, Cyprus and Lebanon have significant economic, political and strategic significance for the states in the area which have initiated the processes required in order to acquire ownership and the recognition of such ownership over the gas fields situated in their respective off-shore areas. Presently it is possible to recognize the interests of the USA in the unexploited reserves in the area and the USA interests in influencing Lebanon in order to circumvent Iranian involvement in the area. This has resulted in a series of efforts and meetings, as illustrated by the proposal of the USA under Secretary of State for the Mediterranean,

David Satterfield as from 2018, to resolve the dispute between Israel and Lebanon (which has been met with a refusal by Lebanon) and from a series of meetings held with Lebanon and Israeli interests. If these effort will succeed in bringing Lebanon and Israel to the negotiating table, this will result in a dramatic change in the traditional Lebanese approach which is a refusal to negotiate with what it describes as an "occupying entity" in the area.





What are the issues? The relevant off-shore rights recognized by the international maritime law convention (UNCLOS) as "economic" waters, which prima facie are the waters extending 200 miles from the shore line ("the baselines") of each state. Under the Convention each state has the right to exploit for its purposes, the natural resources situated in the "economic" waters themselves or in the underlying sea bottom and ledges. The Convention also permits the adjoining states to establish installations in the "economic" waters relating to the exploitation of resources in their economic zone.

The Convention relates to and takes into account of disputes with adjoining states or states situated opposite each other, in order to establish what waters constitute the economic zone of each such states. In these circumstances the Convention obliges the relevant states to arrive at an "equitable solution" in a spirit of "understanding and co-operation". In the absence of a solution, the convention provides for a number of solutions, such as "conciliation", international arbitration, the international tribunal – "ITCOS" or a referral to the "International Court of Justice" – the ICJ.

In the light of the above background, the "players" in the area are– Turkey, Cyprus, Lebanon and Israel and as is typical of the eastern Mediterranean each "player" has its internal dichotomies and various conflicting interests: Cyprus which does not recognize "Turkish" Cyprus is subject to a Turkish threat and does not recognize the Turkish waters economic zone; Lebanon which has a Christian – Maronite population, a Muslim-Shiite population, a Muslim – Sunni population, a Druze population and a Syrian refugee population, is in a situation of political stagnation and also has to contend with the political independence of the Hisbollah faction and Israel which officially is in a state of war with Lebanon as of 1948, with the resulting absence of diplomatic relations between them. Lebanon in practice and effect does not recognize the state of Israel which it describes as an "occupying force" or the "Zionist entity".

The Disputed Area

In 2007 an agreement was signed between Lebanon and Cyprus for the division of "economic" waters between them.

Under the Agreement the boundary of the "economic" waters is the line which transgresses six Points from the south to the north with the southernmost point being "Point 1". Cyprus ratified the agreement in 2009 but Lebanon did not do so presumably in order not to "antagonize" Turkey which does not recognize any agreement concerning Cyprus economic waters which does not include the "rights" of Turkish Cyprus.

In May, July and October 2009, Lebanon filed, with the Secretary General of the United Nations, a list of co-ordinates defining what it considered to be its "economic waters" which differ from those agreed upon by Lebanon and Cyprus which in particular, include two further co-ordinates which are not in Lebanon's agreement with Cyprus (co-ordinate 23 in the area of the border with Israel and co-ordinate 7 in the North).

In 2010, Israel and Cyprus established the division of "economic waters" between them. Under this agreement the boundary is that which passes through 12 co-ordinates from north to south. The most northern co-ordinate in the Cyprus – Israel agreement is the southernmost co-ordinate in the agreement between Lebanon and Cyprus with the effect that the economic Sea Zone between Israel and Cyprus starts with co-ordinate No.1 and continues south.

In this manner the northern boundary of Israel's "economic waters" is the southern boundary of the Lebanese economic waters, as agreed between Lebanon and Cyprus.

In 2011 Israel lodged with the Secretary General of the United Nations a list of co-ordinates constituting its "economic waters" as a state having a sea board.

As arises from the letters and documents sent by each of the States to the Secretary General of the United



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Nations over the years, it is possible to identify the nature of the disputes and areas of disagreement between Israel and Lebanon, as follows:

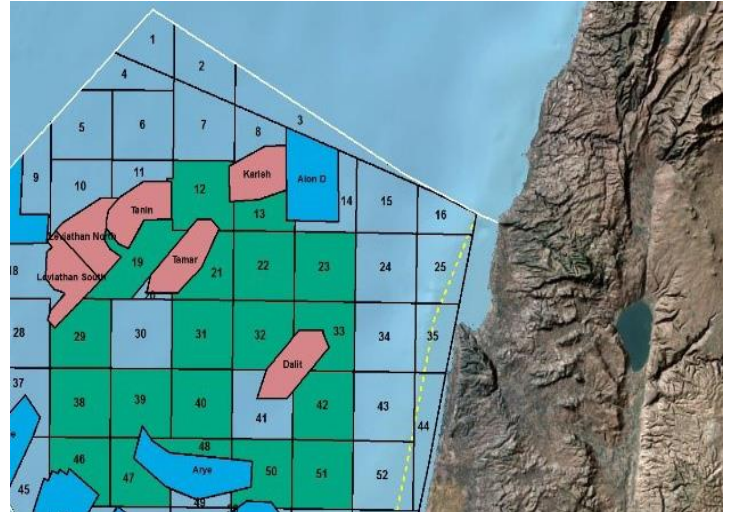
Israel claims that the northern point of its economic zone extends from Point 1 in the west (in the sea) to a specific point on the shore at Rosh Hanikra (known as point 31) whilst Lebanon contends that the southern border of its economic zone extends from Point 23 in the west at sea to a specific point ashore known as "Ras Nakorah" being Point B1.

In fact, the shoreline distance between the Israeli Point 31 (north to south) and the Lebanese Point B1 is only 25.55 meters (north – south).

The Israeli-Cyprian (Lebanese) and Lebanese Point 23, as alleged, is 12.60422 kilometers. In this manner the disputed sea area is 850 square kilometers.

This area extends over Blocks 1, 2 and 3 in the map of licenses for the exploitation of gas of the Israeli Ministry of Energy of 2016 and whilst the Lebanese contend that the disputed areas are Blocks 8, 9 and 10.

Accordingly, prima facie, according to the Israeli map for the licensing exploration and the exploitation oil and gas of the Ministry of Energy, in practice no activity of exploration and exploitation have taken place in the disputed areas of Blocks 1, 2 and 3. The closest fields are "Karish" and north "Karish", which are exploited by Energean Oil & Gas which also exploits the "Tanin" field and adjacent thereto the oil search and exploitation area known as "Alon D/367" under a license granted in 2009 to "Noble Energy", Delek Drilling and "Avner Oil Exploration" which license was extended from time to time to the maximum period allowed, being seven years, namely until March 2016.



Block 1, Block 2, Block 3 in the disputed area, from the map of licenses, for the discovery and exploitation of gas and oil fields – Ministry of Energy

The decision in the appeal of the license granted to "Alon D" indicates that the "Director" for the exploration of oil instructed the license holders not to drill in the area covered by the License at the request of the Foreign Ministry, the Defence Ministry and the "Malal" all of which for political and security considerations wished to prevent disputes in the matter of Israel's maritime economic zone, with a "hostile" state (Lebanon) – the result being that for seven years no oil exploration took place and no discoveries were made and as it was not possible to further extend the period of the license, the Director determined that the validity of the license had expired.

An appeal filed by the holders of the license was considered by then Minister of Energy Yuval Steinitz who ruled that as the license holders were instructed not to engage in drilling in the area of the license granted and as the purpose of the license was to permit exploratory drilling, it was not possible to "blame" the license holders for not finding oil reserves in the "Alon D" area. Accordingly the Minister determined that during the period that exploratory drilling was not permissible, the period of the license was frozen. The effect of the prevention of drilling was that the license was extended for 32 months.

The Ministers decision added to the license, for the benefit of the holders, that it was recognized that until



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further notice there are circumstances which prevent drilling. However the Lebanese contention, as expressed in its letter to the Secretary General of the United Nations in January 2018 is that drilling activity in the Karish and Alon D area will derogate from assets situated in the Lebanese underwater shelf and accordingly Lebanon warned Energean Oil Gas to refrain from appropriating such assets by means of drilling in the area of the above shelf.

In order to place the economic interests in their correct perspective, it should be noted that, in a notice issued by Energean in April 2019, in London, the estimate arising from exploratory drilling in Karish field, indicated that the production of natural gas was between 28 to 42 BCM.

In a prior notice appearing in Israel press, Energean signed supply contracts with Israeli interests for the annual supply of natural gas of more 4 BCM from the Karish and Tanin fields .

The Lebanese contention relating to the relevant place is constituted by the point of the sea border at the shoreline, being Point B1 and is based on the mapping of the border by England and France in 1923 – by means of a joint committee, headed by Paulet (France) and Newcombe (England) under which the Lebanese contention was added in the cease-fire agreements following the Israeli War of Independence, in March 1949.

The Paulet – Newcombe committee was preceded by negotiations between England and France dating from 1919, following the peace negotiations after the first World-War (when England believed that the French contribution to the war effort was not as expected) having regard also to the Sykes-Picot agreement (which was concluded during the war in 1916) and the circumstances and interests – such as the British Declaration expressed by the British Foreign Minister, Lord Balfour, relating to the establishment of a Jewish state in Palestine and the necessity of establishing water sources for Jewish

population in the Galil which necessitated a re-definition of the border not related to the areas controlled by Britain and France, the British standpoint being the adoption of the Biblical description of the Jewish kingdom as being from the Dan river to Beersheva and that the border was from the Latini river extending east to the slopes of Mt. Hermon. In 1923 Britain and France adopted the conclusion of Paulet-Newcombe committee in relation to the border of the British and French mandates. However in practice the area was demarcated by temporary border stones and in military maps on a scale of 1:100,000 which do not permit an exact demarcation of the border between the two countries.

In March 1949 Israel and Lebanon signed a cease-fire agreement under which Israel relinquished 14 villages which it had captured during the War of Independence in an area extending north to the Litani river whilst the Lebanese relinquished Rosh-Hanikra. The boundaries of the cease-fire agreement follow those of Paulet-Newcombe committee, however a cease-fire agreement is by its nature, a temporary arrangement between the warring parties and does not constitute an agreed and binding boundary between two states which formally recognize each other.

The result is that in relation to the shore-line boundary of Lebanon, the Lebanese contentions are based on an alleged border demarcation which is not definitive and which in any event has not been agreed as a definitive binding boundary with the neighboring state to the south (Israel) which Lebanon in any event does not recognize.

In relation to the sea boundaries contended for by Lebanon, this is in conflict with the boundary points agreed by Lebanon and Cyprus in an agreement which was ratified by Cyprus and any departure therefrom would impinge on the seaboard economic zone of Cyprus. A further difficulty facing Lebanon is that Israel, as opposed to Lebanon and Cyprus, has not ratified the



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UNCLOS Convention, precluding Israel from being subject to the jurisdiction of the judicial institutions stated in the Convention. However Israel should take into account that it has delineated its economic maritime zone which it has exploited in terms of the instructions contained in the Convention and also that the provisions of the Convention also constitute customary international law.

It is important to note that in another matter and context, a French Court ordered Israel to constitute an Arbitration Tribunal in order to arbitrate with the National Iranian Petrol Company rejecting the Israeli contention that as the parties had not exercised the pre-arbitration discussions between them so that the Arbitration Tribunal could not be constituted. The French Court's rejection of the Israeli argument was that this would constitute a "Denial of Justice". However it appears that the central obstacle before Lebanon was whilst the Convention is based on the principle of mutual recognition and co-operation obliging the parties to act "with mutual understanding and co-operation", Lebanon does not recognize Israel's right of existence and characterizes it as an "occupying power."

The CSI (Common Space Initiative) situated in Beirut, published a "working paper" in 2014, which was financed by the Norwegian embassy in Beirut and the Berghof Foundation of Berlin (which engages in the reconciliation of interstate disputes). Although it contains an historical and legal analysis of the Lebanon-Israeli dispute and in relation to the possibilities open to Lebanon, proposes a narrow solution, suggesting that after the correction" of technical and legal "mistakes" in the agreement between Lebanon and Cyprus, Lebanon could request of Cyprus that the agreement between Lebanon and Cyprus be amended and, after a new agreement is signed, Lebanon can request Cyprus to amend its agreement with Israel. The result would then be that Israel would recognize the southern-western part of Lebanon's maritime economic zone "through" Israel's agreement with Cyprus.

The "working paper" suggests that until the foregoing is accomplished, Lebanon should agree

with the companies active in the Israel economic Maritime Economic Zone to refrain from any action under which the Lebanese gas and oil interests would be affected and to issue a formal protest to the United Nations. This would mean that whilst the Israeli standpoint as presented to the Secretary General of the United Nations is to the effect that Israel is open to a dialogue and co-operation with its neighbors in relation to the northern border of its territorial waters and its maritime economic zone in accordance with the principles of international maritime law, Lebanon's attitude would be that the Israeli attempt at mediation is in fact a "politicalisation" of the conflict which would "draw" Lebanon into direct talks covering the broader question of peace in the area. Additionally, Lebanon would contend that direct talks are impossible in view of the animosity between the parties and any peace in the area should include Palestinian and non-Palestinian elements. Accordingly, if the USA Administration is successful in bringing Lebanon to the negotiating table with Israel, this would be a substantial departure of its formal standpoint which does not permit for such discussions.

The foregoing well illustrates that the Norwegian Government and a German Foundation endorse the Lebanese standpoint which not only abrogates regional co-operation, but also completely negates the very possibility of direct discussions between Lebanon and Israel regarding their respective economic maritime zones, Lebanon fearing that such discussions will lead to formal peace discussions in the area.

It is paradoxical that of the three states, Cyprus, Lebanon and Israel, Lebanon has the greatest interest in such regional co-operation in that, not only does the political situation in Lebanon prevent it from producing oil and gas from within its economic maritime border also, the only land connection of Lebanon with Europe is through an unstable Syria.



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This suggests that a common pipeline through Cyprus and Greece or liquid gas installations serving the three countries would certainly serve Lebanon's interests if Lebanon intends to exploit the energy sources at the bottom of the sea in its economic maritime zone and enable it to be an "energy" exporter with all the influence that this would attract.



The area for the collection of leakages from the tapline pipe, situated at the hatbani stream site. photo: Yoav Harris

If one were to adopt the practical economic approach, emanating for example from the "White-House", it should be borne in mind that the dispute between Israel and Lebanon centers on an area of sea of 860 square kilometers, from which it is possible to exploit energy resources having substantial financial values .

Leaving the area in a dispute and undeveloped does not serve the interests of any of the parties, and developing the area, under any division will only improve the existing economic positions of both parties. A willingness to enter into a compromise agreement would result in substantial economic benefit. Accordingly there are substantial reasons for such an agreement and compromise. However the problem is however Lebanon's unwillingness to do so as a matter of its declared policy.

The USA as a super power having substantial energy needs clearly has an interest on developing energy sources. Accordingly, it is necessary to consider whether the interests of the USA will complement

those of Greece, Cyprus and Israel and lead to a situation where Lebanon will accommodate and co-operate with what it describes as an "occupying force" and the "Zionist entity."

For those concerned with the matter, who according to publications in the press, are about to engage in an additional round for an accommodation between the interested parties – it is possible to relate to the following "story" which appears in the website of the Israeli "Nature and Parks" for those visiting the "Shnir" stream (the "Chatsbani" stream) in the site .

In 1947 an American company began the laying of the "Tapline", the "Trans Arabian" Pipeline for the carriage of oil from the west of Saudi Arabia to Lebanon. The establishment of the State of Israel complicated the original intention of laying the pipeline to the port of Haifa and the pipeline's course was changed to pass through the area known as the "Golan Heights" which at the time was controlled by Syria and from there to the port of Sidon. At the time, 1950, the pipeline was the largest in the world carrying half a million barrels of oil per day through Saudi Arabia, Syria, Jordan and Lebanon .

Following Israel's victory in the "Six Day War", that part of the pipeline which traverses the Golan Heights for a distance of 47 Kilometres became under Israeli control. However Israel permitted the continued use of the pipeline through the Golan Heights and the pipeline was in active use until 1976 when it was replaced by the use of oil tankers which transited the Suez Canal .

If one so wishes, the use of the "Tapline", as above, constitutes an example of co-operation (albeit passive) between Saudia Arabia, Jordan, Lebanon and Israel in the context of the exploitation and use of energy sources. We will have to wait and see if history, in the above context will repeat itself.

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